

IN THE ENVIRONMENT COURT
CHRISTCHURCH

ENV-

I MUA TE KOOTI TAIAO O AOTEAROA
I TE ŌTAUTAHU ROHE

IN THE MATTER of the Resource Management Act ("Act")

AND

IN THE MATTER of clause 14(1) of Schedule 1 of the Act

BETWEEN **KIWIRAIL HOLDINGS LIMITED**

Appellant

AND **TIMARU DISTRICT COUNCIL**

Respondent

**NOTICE OF APPEAL AGAINST DECISIONS ON
THE PROPOSED TIMARU DISTRICT PLAN**

5 MAY 2026

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To: The Registrar
The Environment Court
CHRISTCHURCH

KIWIRAIL HOLDINGS LIMITED ("KiwiRail") appeals against parts of the decision of Timaru District Council on the Proposed Timaru District Plan ("**Proposed Plan**").

BACKGROUND AND DECISIONS APPEALED

1. KiwiRail made a submission on the Proposed Plan on 15 December 2022.¹ KiwiRail presented evidence and legal submissions in support of its submission.
2. KiwiRail received notice of the Council's decision on the Proposed Plan on 18 March 2026 ("**Decision**").
3. KiwiRail is not a trade competitor for the purposes of section 308D of the Act.
4. KiwiRail is a State-Owned Enterprise responsible for the management and operation of the national railway network. This includes managing railway infrastructure and land, as well as freight and passenger services within New Zealand. KiwiRail is also a Requiring Authority under section 167 of the Act for land designated for railway purposes throughout New Zealand.
5. KiwiRail's rail network in the Timaru district plays an important role in the regional and national transport network. KiwiRail has an interest in protecting its ability to operate, maintain and upgrade these lines now and into the future, as well as seeking to ensure the safety and amenity of those parties occupying land adjacent to the rail corridor.

SCOPE OF APPEAL

6. KiwiRail appeals the parts of the Decision that rejected or accepted only in part the following relief sought by KiwiRail:
 - (a) the inclusion of standards requiring new and altered buildings and structures to be set back 5 metres from the rail corridor designation boundary in all zones adjacent to the rail corridor;
 - (b) the inclusion of a Rail Vibration Alert Overlay in the planning maps to apply within 60m of the rail corridor; and

¹ Submission Number 187.

- (c) the amendment and inclusion of noise controls requiring acoustic insulation and ventilation to be installed in new (or altered) sensitive uses within 100m of the railway corridor.

GENERAL REASONS FOR APPEAL

7. The Decision:

- (a) will not promote the sustainable management of the natural and physical resources in the Timaru District ("**District**"), and is therefore contrary to or inconsistent with Part 2 and other provisions of the Act;
- (b) is inconsistent with other relevant planning documents, including the Canterbury Regional Policy Statement ("**CRPS**") and the Canterbury Land and Water Regional Plan;
- (c) will not meet the reasonably foreseeable needs of future generations;
- (d) will not enable the social, economic, and cultural wellbeing of the people of the District;
- (e) does not avoid, remedy or mitigate actual and potential adverse effects on the environment; and
- (f) is not the most appropriate way to achieve the objective of the Proposed Plan in terms of section 32 of the Act.

- 8. In addition to the general reasons outlined above, KiwiRail appeals the Decision for the specific reasons set out below.

SPECIFIC REASONS FOR APPEAL

Setback from rail corridor designation boundary

- 9. KiwiRail's submission sought a new permitted activity setback rule requiring all buildings and structures in all zones which adjoin the rail corridor to be setback 5 metres from the rail corridor designation boundary. This included a restricted discretionary activity status and new matters of discretion when there is a non-compliance with the setback.
- 10. Setbacks are a critical planning control to manage the interface between rail operations and development on adjacent land. Insufficient space between development and the rail corridor creates a critical safety risk to both the community and rail operations if people or objects enter the rail corridor.

11. The Panel accepted that the safety issue raised by KiwiRail was a serious one that needed to be addressed with an appropriate planning response.² However, it rejected in part KiwiRail's relief seeking a 5-metre setback for buildings and structures in zones which adjoin the rail corridor designation boundary, preferring a more targeted approach whereby the following standard is added to specific zones, being GRZ-S3, MRZ-SZ, LFRZ-S3, MUZ-S3 and TCZ-S3, and as a new standard within the CCZ:

Buildings must be setback from the boundary of designation
 KRH-1: a. a minimum of 2m where the building is a single storey;
 or b. a minimum of 5m where the building is two or more storeys.

12. Buildings not complying with this standard in all above zones are a restricted discretionary activity, with discretion limited to the following matters:

- i. the location and design of the building or structure as it relates to the ability to safely use, access and maintain buildings or structures without requiring access on, above or over the rail corridor; and
- ii. the safe and efficient operation of the rail network.

13. KiwiRail has several concerns with this aspect of the Decision, including:

- (a) It does not require both buildings and structures be setback from the boundary of KiwiRail's designation. The setback should also apply to structures which can also create a critical safety risk to the community and rail operations.
- (b) The setback standard does not apply in all zones which adjoin the rail corridor (including GRUZ, SETZ, GIZ, NOSZ, OSZ, SARZ, MPZ and PORTZ). In the Decision, the Panel did not provide any reasons for applying the setback standard in some, but not all, zones which are adjacent to the rail corridor (as sought by KiwiRail). KiwiRail considers a 5-metre setback needs to apply in each zone which enables development that could adversely impact rail. As discussed above, this is critical to managing the safety risk to both the community and rail operations if people or objects enter the rail corridor.
- (c) There was no evidence presented to the Panel that a 2-metre setback is an appropriate distance for single-story buildings. In the absence of an evidential basis supporting the tiered approach

² Proposed Plan Decision Report Part 3 at [48].

adopted by the Panel, KiwiRail considers a 5-metre setback for all buildings and structures is appropriate to reduce the likelihood of adjoining land users or objects entering the rail corridor.

Relief Sought

14. KiwiRail seeks the Proposed Plan be amended to include a 5-metre setback for buildings and structures from the rail corridor designation boundary in all zones adjacent to the rail corridor, as set out in **Attachment A** or such alternative or consequential relief that addresses KiwiRail's concerns.

Noise

15. KiwiRail's submission sought the inclusion of provisions requiring acoustic insulation and ventilation to be installed in new (or altered) sensitive uses within 100 metres of the rail corridor. These provisions are essential for ensuring the rail network is able to continue to operate and develop in the future without being compromised by reverse sensitivity effects.
16. The noise provisions sought by KiwiRail have been included in the Decision in part. However, KiwiRail seeks further amendments to ensure adverse health and amenity effects on noise sensitive activities located nearby to the rail corridor are appropriately managed, and potential reverse sensitivity effects of rail operations are addressed. The amendments KiwiRail seek to the noise provisions give effect to and are consistent with the higher order CRPS objectives and policies.³
17. The Panel has accepted KiwiRail's relief for noise controls requiring acoustic insulation and ventilation be installed in new (or altered) sensitive uses within 100m of the railway line.⁴ The Panel's reasons for applying the distance from the "railway line" was that the railway line equates with the rail tracks that are used by trains, as that is the source of noise that the proposed insulation requirements seek to address, not general rail yard activities.⁵
18. Consistent with planning provisions around the country, KiwiRail considers that the Proposed Plan should measure the noise controls from the rail corridor designation boundary, not the existing tracks. Within its rail corridor designation boundary, KiwiRail is legally authorised to use the entirety of the

³ For example, Objectives 5.2.1, 5.2.2 and Policies 5.3.1, 5.3.2, 5.3.7, 5.3.8 and 5.3.9.

⁴ Decisions – Appendix 3-41. NOISE, NOISE – R11.

⁵ Decision Report: Part 7 at [383].

designated land for rail activities and the use of that land for rail activities can generate noise effects.

19. To appropriately manage the potential for reverse sensitivity effects and protect communities from adverse health and amenity effects over the life of the Proposed Plan, it is appropriate that the area subject to the noise controls is measured from the boundary of the designation.

NOISE-R11

20. The Decision version of NOISE-R11 does not incorporate the provisions sought by KiwiRail to apply land use controls on noise sensitive activities within 100m of the rail corridor.
21. The following amendments are required to the permitted activity standards to manage health effects from rail noise and ensure the rule achieves an appropriate level of amenity for residents who live within 100m of the rail corridor, as well as protect rail operations from potential reverse sensitivity effects:
 - (a) PER-1: Apply the noise controls to buildings and alterations to an existing building used by a noise sensitive activity. The same controls should apply to both new and altered buildings for sensitive activities in light of the purpose of the controls being to reduce community noise exposure over time and address reverse sensitivity effects.
 - (b) PER-1.2: Rail specific acoustic insulation should be excluded from this standard, as KiwiRail seeks that rail-specific acoustic insulation requirements be included in NOISE-S3 (see below). These rail requirements differ from *ISO 717-1:2020 Acoustics – Rating of sound insulation*, which are included in PER1.2.
 - (c) PER-2: Increase the building setback required for sensitive activities from a railway corridor designation boundary from 20m to 50m where an acoustic barrier is relied on for acoustic mitigation.

22. The specific relief KiwiRail seeks is included in **Attachment A**.

NOISE-S3

23. The Decision version of NOISE-S3 does not incorporate the acoustic insulation requirements or the matters of discretion sought by KiwiRail. Pursuant to the Decision version of NOISE-R11, new buildings would be required to comply

with NOISE-S3 to be permitted pursuant to NOISE-R11. It is therefore critical this standard is designed appropriately to accommodate rail specific permitted activity conditions.

24. KiwiRail seeks the relief included in **Attachment A** to NOISE-S3 which:
- (a) provides two compliance pathways (ie achieve indoor noise levels not exceeding 35dB LAeq(1h) or be constructed in accordance with Table 25 of the Proposed Plan); and
 - (b) includes new matters of discretion for activities within 100m of a railway corridor designation boundary.

NOISE-S4

25. Technical amendments are required to the ventilation requirements and matters of discretion in the Decision version of NOISE-S4. As drafted, the matters of discretion in NOISE-S4 provide that noise effects might be adequately managed without providing acceptable temperature control.
26. KiwiRail seeks the relief included in **Attachment A** to NOISE-S4 which:
- (a) Add a temperature control to NOISE-S4 requiring ventilation systems (where installed) to provide cooling and heating that is controllable by the occupant and which can maintain an inside temperature between 18°C and 25°C. This ensures occupants can control the temperature without needing to rely on other methods that would increase exposure to rail noise.
 - (b) Amend the matters of discretion to remove any ambiguity that noise effects might be adequately managed without providing acceptable temperature control.

Vibration

27. KiwiRail sought the inclusion of a new Rail Vibration Alert Area Overlay to identify areas susceptible to rail vibration, within 60m of the rail corridor.
28. The Panel accepted the evidence of KiwiRail that there is benefit in adding an alert layer for vibration effects up to 60m from the railway line, but did not include the layer in the Decision version of the Proposed Plan, determining that it was better addressed as a "Non-District Plan Layer" which is a matter for the Council's administration of the Proposed Plan once operative.⁶

⁶ Proposed Plan Decision Report Part 7 at [386].

29. It is currently unclear how this non-district plan layer would work in practice, and whether it would achieve the relief sought in KiwiRail's submission. KiwiRail's main concern is to ensure the spatial layer clearly provides notice to prospective purchasers of land who are most likely to be affected by rail vibration. It is critical that the alert layer be clearly depicted on the Proposed Plan maps to ensure that potential purchasers are adequately informed of the vibration alert area at the point of property acquisition. Map based notification provides immediate visual identification of affected properties and ensures that the information is readily accessible during standard property due diligence processes, including on LIM reports.
30. A vibration alert layer has been accepted as an appropriate mechanism by Councils through various planning processes nationwide.⁷ The Environment Court has also accepted that such layers are an effective tool to manage effects in the absence of controls to manage vibration on sensitive uses.⁸

Relief sought

31. KiwiRail seeks the Proposed Plan maps be amended to include a vibration alert layer extending 60 metres either side of the railway corridor boundary including the text set out in **Attachment A** or such alternative or consequential relief that addresses KiwiRail's concerns.

ATTACHMENTS

32. The following documents are attached to this notice:
- (a) KiwiRail's proposed amendments to the Proposed Plan provisions (**Attachment A**).
 - (b) A copy of the relevant parts of the Decision (**Attachment B**).
 - (c) A copy of KiwiRail's submission (**Attachment C**).

⁷ For example, a vibration alert overlay has been accepted and adopted in the Whangarei District Plan, Waikato District Plan, Waitomo District Plan, Waimakariri District Plan, Marlborough Environment Plan, Tauranga City Plan.

⁸ *Kāinga Ora - Homes and Communities v Auckland Council* [2022] NZEnvC 218; *KiwiRail Holdings Ltd v Whangārei District Council* [2023] NZEnvC 004; *HD Land Ltd v Waikato District Council* [2024] NZEnvC 054.

- (d) A list of the relevant names and addresses of persons who lodged submission who are to be served with a copy of this notice (**Attachment D**).

KIWIRAIL HOLDINGS LIMITED by its solicitors
and authorised agents Russell McVeagh:



Signature:

L J E Rapley / K M Dibley

Date:

5 May 2026

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Advice to recipients of copy of notice of appeal

How to become a party to proceedings

1. You may be a party to the appeal if you made a submission or a further submission on the matter of this appeal.
2. To become a party to the appeal, you must:
 - (a) within 15 working days after the period for lodging a notice of appeal ends, lodge a notice of your wish to be a party to the proceedings (in form 33) with the Environment Court and serve copies of your notice on the relevant local authority and the appellant; and
 - (b) within 20 working days after the period for lodging a notice of appeal ends, serve copies of your notice on all other parties.
3. Your right to be a party to the proceedings in the Court may be limited by the trade competition provisions in section 274(1) and Part 11A of the Resource Management Act 1991.
4. You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing requirements (see form 38).

Advice

If you have any questions about this notice, contact the Environment Court in Auckland, Wellington, or Christchurch.

Attachment A: Amendments Sought

Base text (black) Decisions version

Amendments sought by KiwiRail in red underline / ~~strikethrough~~

ZONE CHAPTERS – BUILDING SETBACK FROM RAIL CORRIDOR

KiwiRail seeks the following new permitted activity standard to be included in all zone chapters for zones adjacent to the rail corridor (GRZ, MRZ, GRUZ, SETZ, LFRZ, MUZ, TCZ, CCZ, GIZ, NOSZ, OSZ, SARZ, MPZ, PORTZ):

New rule: Rail corridor setback

Activity Status Permitted

Where:

No building or structure may be located within 5m from the rail corridor designation boundary.

Activity status when compliance not achieved: Restricted discretionary

New rule:

Buildings or structures not meeting Rule XXX-RX

Activity Status Restricted Discretionary

Where:

The building is setback less than 5m from the rail corridor designation boundary

Discretion is restricted to:

1. The location and design of the building as it relates to the ability to safely use, access and maintain buildings without requiring access on, above or over the rail corridor; and
2. The safe and efficient operation of the rail network.

NOISE CHAPTER

NOISE-R11

Within 100m of the railway corridor designation boundary ~~line~~

PER-1

The building or alteration to an existing building is acoustically insulated and ventilated in accordance with:

1. NOISE-S3 and NOISE-S4; and

2. The acoustic insulation must be assessed in accordance with ISO717-1:2020 Acoustics – Rating of sound insulation in buildings and of building elements – Part 1: Airborne sound insulation, excluding acoustic insulation installed to address rail noise; or

PER-2

An acoustic design certificate signed by a suitably qualified acoustic engineer demonstrates either:

- a. the level of noise incident on the most exposed part of the exterior of any habitable room can be shown under a reasonable maximum use scenario to not exceed the following noise limits at all points 1.5m above ground level, and any part of the floor levels above ground:
 - i. less than 55 dB LAeq(1h) for rail noise; or
 - ii. less than 57 dB LAeq(1h) for road noise; or
 - iii. less than 57 dB LAeq(1 hr) for port noise; or
- b. the building is at least 5020m metres from all roads subject to the standard and/or the railway corridor designation boundary line and there is a solid building, fence, wall or landform that completely blocks the line of-sight from all parts of all windows and doors to all parts of any road surface subject to the standard, or all points above 3.8m metres for railway track; or

NOISE-S3

1.

Within 100m of a railway corridor designation boundary line

Add a new clause NOISE-S3.3

Within 100m of a railway corridor designation boundary:

1. Any habitable room in a new building used for a noise sensitive activity, or an alteration to an existing building that changes its use to a noise sensitive activity:
 - a. Is designed, constructed and maintained to achieve indoor noise levels resulting from the railway not exceeding 35dB LAeq(1h); or
 - b. Is a single-storey framed residential building with habitable rooms designed, constructed and maintained in accordance with the construction schedule in Table 25 – Minimum construction requirements for external building elements of habitable rooms to achieve an advanced level of acoustic insulation.
2. A report is submitted to the council demonstrating compliance with the above prior to the construction or alteration of any building containing an activity sensitive to noise. For 1(a), railway noise must be assumed to be 70 LAeq(1h)

at a distance of 12 metres from the track, and must be deemed to reduce at a rate of 3 dB per doubling of distance up to 40 metres and 6 dB per doubling of distance beyond 40 metres.

Matters of discretion are restricted to:

1. Whether the activity sensitive to noise could be located further from the railway network.
2. The extent to which the noise criteria are achieved and the effects of any non-compliance.
3. The character of, and degree of, amenity provided by the existing environment and proposed activity.
4. The outcome of any consultation with KiwiRail.

NOISE-S4

Within 100m of a railway corridor designation boundary line

2. Ventilation systems where installed must:
 - a. not generate sound levels more than ~~not exceeding~~ 35 dB LAeq(30s) when measured 1m away from any grille or diffuser; ~~and~~
 - b. provide an adjustable airflow rate of up to at least six air changes per hour; ~~and~~
 - c. provide cooling and heating that is controllable by the occupant and can maintain the inside temperature between 18°C and 25°C.

Matters of discretion are restricted to:

- ~~1. effects on the ability of existing or permitted activities to operate or establish without undue constraint; and~~
2. the effects of the non compliance; ~~and~~
- ~~3. the ability to provide the appropriate levels of ventilation through other means; and~~
4. ~~the amenity of present and future residents of the site.~~

Rail Corridor Vibration Alert Area Overlay

Include in the planning maps a new Rail Corridor Vibration Alert Area Overlay extending 60 metres either side of the rail corridor designation boundary with the following text:

The Rail Corridor Vibration Alert Area identifies the vibration-sensitive area within 60 metres each side of the rail designation boundary as properties within this area may experience rail vibration effects. No specific district plan provisions apply as a result of this Rail Corridor Vibration Alert Area. The Rail Vibration Alert Area Overlay is to advise

property owners of the potential vibration effects but leaves it with the site owner to determine an appropriate response.

Attachment B - relevant parts of the Panel's decision

IN THE MATTER OF Resource Management Act 1991

AND

IN THE MATTER OF Proposed Timaru District Plan

Decision Report – Part 3

Rural Zones, Urban Zones, Māori Purpose Zone, Open Space Zones

19 March 2026

Part 3 Rural, Urban, Māori Purpose and Open Space Zones

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1 MATTERS CONSIDERED IN THIS PART

[1] This Part of the Decision Report sets out the Hearing Panel's decisions on the submissions and further submissions relating to Rural Zones, Urban Zones, the Māori Purpose Zone and Open Space Zones.

1.1 ZONE TOPICS

1.1.1 Rural Zones

[2] The Rural Zones (in Part 3 of the Proposed Plan - Area Specific Matters) comprise three sub-chapters including the General Rural Zone (GRUZ), Rural Lifestyle Zone (RLZ) and the Settlement Zone (SETZ).¹

[3] As detailed in Mr Maclellan's s42A Report, the GRUZ Chapter enables primary production (including intensive primary production) and a range of ancillary and associated activities that support primary production such as rural industry activities; the RLZ Chapter provides for areas for predominantly a residential lifestyle within a rural environment on lots smaller than those of the GRUZ; and the SETZ Chapter provides for a number of small settlements dispersed throughout the rural area, including Acacia Drive, Cave, Ōrāri, Pareora, Winchester, Peel Forest, Blandwood and Woodbury.²

1.1.2 Urban Zones – Residential Zones

[4] The Residential Zones (in Part 3 of the Proposed Plan – Area Specific Matters) include the General Residential Zone (GRZ) and the Medium Density Residential Zone (MRZ). As summarised in Ms White's s42A Report, the MRZ applies to existing residential areas located near commercial centres, in Timaru and Geraldine, and the MRZ provisions anticipate further consolidation and intensification within this zone.³ The GRZ applies to the suburban areas within Timaru, Temuka, Geraldine and Pleasant Point, and the GRZ provisions provide for 1-2 storey residential units, with ample space around buildings for plantings and outdoor living areas, and good access to sunlight.⁴

1.1.3 Urban Zones - Commercial and Mixed Use Zones

[5] There are six proposed commercial zones (in Part 3 of the Proposed Plan – Area Specific Matters) including Neighbourhood Centre Zone (NCZ); Local Centre Zone (LCZ), Large Format Retail Zone (LFRT); Mixed Use Zone (MUZ); Town Centre Zone (TCZ); and City Centre Zone (CCZ).

[6] A detailed description of the purpose of each commercial zone framework is provided in Ms White's s42A Report⁵, essentially representing a hierarchy of commercial activity from the smaller in scale, to larger retail formats, to the commercial centre of Timaru.

¹ Andrew Maclellan, s42A Report: Rural Zones, 19 June 2024, Para 2.1.2.

² Andrew Maclellan, s42A Report: Rural Zones, 19 June 2024, Para 2.1.3 - 2.1.5.

³ Liz White, s42A Report: Residential; and Commercial and Mixed Use Zones, 18 June 2024, Para 2.1.2, 2.1.4.

⁴ Liz White, s42A Report: Residential; and Commercial and Mixed Use Zones, 18 June 2024, Para 2.1.3.

⁵ Liz White, s42A Report: Residential; and Commercial and Mixed Use Zones, 18 June 2024, Para 2.1.5-2.1.11.

1.1.4 Urban Zones - General Industrial and Port Zones

[7] The General Industrial Zone (GIZ) is in Part 3 (Area Specific Matters) of the Proposed Plan and primarily provides for both heavy and light industrial activities, and a range of ancillary and other activities that are generally compatible with the anticipated effects of industrial activities. The GIZ also includes provisions to manage the interface of the GIZ with sensitive zones such as the Residential and Open Space Zones.⁶

[8] The Port Zone (PORTZ) is a Special Purpose Zone in Part 3 (Area Specific Matters) of the Proposed Plan, designed to provide for the effective and efficient operation of the Port and surrounding activities. The PORTZ provisions enable the continued operation and development of the Port while also ensuring any significant effects from the Port, or other activities occurring within the zone are appropriately managed.⁷

1.1.5 Urban Zones – Special Purpose – Māori Purpose Zones

[9] The Māori Purpose Zone (MPZ) is applied to areas of land originally granted as Native Reserve for Māori occupation and use. The MPZ includes Māori Land. Māori Land is defined as, that, within the original Māori Reserves, land that is:

- a. owned by Te Rūnanga o Ngāi Tahu or Te Rūnanga o Arowhenua; or
- b. Māori communal land gazetted as Māori reservation under s338 Te Ture Whenua Māori Act 1993; or
- c. Māori customary land and Māori freehold land as defined in s4 and s129 Te Ture Whenua Māori Act 1993; or
- d. Owned by a person or persons with evidence of whakapapa connection to the land (where documentary evidence of whakapapa connection is provided from either the Māori Land Court or the Te Rūnanga o Ngāi Tahu Whakapapa Unit), or
- e. Is vested in a Trust of Māori incorporation under the Te Ture Whenua Māori Act 1993

[10] For other land within the MPZ, the GRZ provisions apply.

1.1.6 Open Space Zones

[11] Open Space Zones comprise the Natural Open Space Zone (NOSZ), the Open Space Zone (OSZ) and the Sport and Active Recreation Zone (SARZ).

[12] There is approximately 40,798 hectares of land included in the NOSZ, which makes it the largest of the open space zones. The majority of NOSZ land is public conservation land (PCL) administered by the Department of Conservation (DOC). The Canterbury (Waitaha) Conservation Management Strategy sets out objectives and policies for DOC's management

⁶ Alana Hollier, s42A Report: General Industrial Zone and Port Zone, 20 June 2024, Para 2.1.2.

⁷ Alana Hollier, s42A Report: General Industrial Zone and Port Zone, 20 June 2024, Para 2.1.7.

of activities in these NOSZ areas (as discussed further below). The remainder is land vested in the Timaru District Council (the Council).

[13] The OSZ encompasses neighbourhood parks, natural areas, and amenity parks where there is often landscaping and a low density of built development. Cemeteries, which are quiet and contemplative spaces, are also anticipated in this zone. The OSZ also contains two precincts, PREC4⁸ – Holiday Hut Precinct at Butlers, Milford, Rangitata and Stratheona and PREC5⁹, Te Aitarakihi Precinct located at 50 Bridge Street, Timaru, which includes the Te Aitaraki Multicultural Centre.

[14] The District's major sports facilities are located in the SARZ. The zone includes the Timaru International Levels Raceway on Falvey Road, the Southern Trust Events Centre, as well as other venues within the District. The zone includes PREC6, Caroline Bay recreation area.

1.1.7 Blandswood Rezoning

[15] Prior to Hearing B, a matter arose relating to the proposed inclusion of Blandswood in the Open Space Zone. Mr Collins, a submitter, raised concerns regarding Mr MacLennan's recommendations that the submissions relating to the requested rezoning of Blandswood and associated consequential amendments be transferred to the Open Space Zone topic hearing.¹⁰ Mr Collins considered this to be incorrect, as none of the submissions relating to Blandswood request rezoning to anything but the Settlement Zone. He asserted there was no jurisdictional scope provided in the submissions to amend the provisions of any other zones.

[16] In response to a Panel Direction¹¹, Mr MacLennan agreed he had misrepresented submissions in his s42A Report and that there are no submissions that sought consequential amendments to the Proposed Plan that achieve a similar outcome to the rezoning relief. He made corrections to his s42A Report. The submissions sought that any consequential amendments be made or that the Proposed Plan be adjusted accordingly.¹² However, he disagreed with Mr Collins that there is no scope provided in the submissions to amend the provisions of other zones.¹³ Relying on legal submissions¹⁴ from Ms Vella for the Council, Mr MacLennan remained of the view that there is scope within the submissions to make amendments to the OSZ to provide a greater ability to develop properties in the Blandswood area. However, he considered that the merits of amending the Open Space Zone rules are best considered in the Open Space Zone hearing.

[17] In legal submissions for the Council, Ms Vella confirmed that, following discussions with Mr Collins, the Blandswood submissions are allocated to Hearing B.¹⁵ In further legal submissions¹⁶, it was requested that the hearing of this matter be deferred to allow discussions

⁸ Now renumbered PREC9 in the Decision Version of the provisions.

⁹ Now renumbered PREC10 in the Decision Version of the provisions.

¹⁰ David Collins, Memorandum to Hearings Panel, 23 June 2024.

¹¹ Panel Minute 10: Directions regarding memorandum from David Collins, 25 June 2024.

¹² Andrew MacLennan, Statement of Evidence in response to Minute 10, 1 July 2024, Para 4-11.

¹³ Andrew MacLennan, Statement of Evidence in response to Minute 10, 1 July 2024, Para 12-19.

¹⁴ Jen Vella, Legal Submissions for Timaru District Council in response to Minute 10, 1 July 2024.

¹⁵ Jen Vella, Legal Submissions for Timaru District Council in response to Minute 10, 1 July 2024, Para 14-16.

¹⁶ Jen Vella, Legal Submissions for Timaru District Council, 12 July 2024.

between the 22 Blandswood submitters, DOC and the Council. The parties agreed to a way forward.¹⁷ We address our consideration of Blandswood in Section 2 of this Report.

2 RURAL ZONES

2.1 DEFINITIONS

2.1.1 Assessment

Primary Production

[18] We accept Mr MacLennan's analysis and recommendation on the definitions for 'cultivation'¹⁸ and 'land based primary production'.¹⁹ Federated Farmers [182.9] confirmed acceptance of the s42A recommendations.²⁰ We find it is appropriate to retain the definition of 'cultivation' as notified, and consequently the relief sought by Forest and Bird [156.12] on the definition of 'cultivation' is also satisfactorily addressed. We also find that it is not necessary to include a definition of 'Land based primary production' in the Proposed Plan, for the reasons given in Mr MacLennan's s42A Report.

[19] NZ Pork [247.2] considered the definition of 'primary production' needed to be amended to improve interpretation and administration of the Proposed Plan by including a nested definitions table akin to the approach adopted in the Canterbury Air Plan and as amended in the Hurunui District Plan. Te Rūnanga o Ngāi Tahu [185.11] considered that having six definitions for various primary production activities makes rule interpretation unclear. Federated Farmers [182.13 and 182.15] sought deletion of the intensive indoor primary production definition, and a broader definition of 'intensive primary production' and provided example wording to this effect. Hort NZ [245.11] sought to exclude greenhouses from the definition of Intensive Primary Production. Several submitters sought deletion or amendments to the definition of 'intensive outdoor primary production'.²¹

[20] Having considered these submissions, Mr MacLennan recommended that the definitions for 'primary production', 'intensive indoor primary production', and 'intensive primary production' are retained in the Proposed Plan.²² However, he considered that 'intensive outdoor primary production' could be removed from the Proposed Plan and that the definition of 'intensive primary production' could be amended to capture the content of the deleted definition.²³ We note that as a consequential amendment he recommended that MPZ-R19 is amended to replace 'intensive indoor primary production' and 'intensive outdoor primary production' with 'intensive primary production'. We find these amendments to be appropriate.

¹⁷ Panel Minute 12: Directions to Council and Submitters in relation to Blandswood, 17 July 2024.

¹⁸ Andrew MacLennan, s42A Report, 19 June 2024, Para 7.2.3-7.2.5.

¹⁹ Andrew MacLennan, s42A Report, 19 June 2024, Para 7.3.2-7.3.3.

²⁰ Angela Johnston, Hearing Statement, undated.

²¹ Keen, Oliver, Forbes et al [46.1], Dairy Holdings Ltd [89.2], Silver Fern Farms [172.5, Alliance Group [173.5], Federated Farmers [182.14]

²² Andrew MacLennan, s42A Report, 19 June 2024, Para 7.4.15- 7.4.17

²³ Andrew MacLennan, s42A Report, 19 June 2024, Para 7.4.18.

[21] We generally accept Mr MacLennan's analysis and recommendations on all other matters raised by submitters on this suite of primary production definitions, and we note that we received no evidence to the contrary. We further note we received written statements from Silver Fern Farms²⁴ and the Alliance Group Ltd²⁵ signalling support for the s42A recommendations.

Rural residential development

[22] We accept Mr MacLennan's analysis and recommendation in response to the ECan [183.11] and Fonterra [165.20] submissions.²⁶ We agree that the definition of 'rural residential development' can be deleted from the Proposed Plan.

Residential visitor accommodation

[23] We accept Mr MacLennan's analysis and recommendation in response to the submission from MFL [60.5] and agree that the definition of 'residential visitor accommodation' clearly applies to short term visitor accommodation.²⁷ On this basis we find the amendment sought by the submitter is not required.

Reverse sensitivity – matters arising from Hearing A

[24] The term 'reverse sensitivity' was not used in GRUZ-O3, GRUZ-P5, and RLZ-S4 as notified. However, in response to submissions Mr MacLennan recommended changes to these provisions to replace 'protection from sensitive activities' with 'protection from reverse sensitivity effects' to provide clarity and more accurately describe the effects from which protection is sought.²⁸

[25] We have accepted the amended definition of 'reverse sensitivity' as recommended in Ms White's Final Reply, as set out in Part 2 of the Decision Report. We address our decision on GRUZ-O3, GRUZ-P5, and RLZ-S4 below.

Quarries and quarrying activities

[26] We have addressed submissions relating to the definition of 'quarry', 'quarrying activity', and 'ancillary rural earthworks' as part of our consideration of Rule GRUZ-R16 below.

2.1.2 Decision

[27] We adopt Mr MacLennan's analysis and recommendations on definitions used within the Rural Zone Chapters. The amendments to the definitions are set out in **Appendix 3**.

[28] In terms of s32AA, we are satisfied that the amendments are the most appropriate option for achieving the purpose of the RMA, the relevant provisions of the Plan and for giving effect to other relevant statutory instruments.

²⁴ Steve Tuck, Mitchell Daysh Limited, for Silver Fern Farms, Letter dated 3 July 2024.

²⁵ Doyle Richardson, Mitchell Daysh Limited, for Alliance Group, Letter dated 3 July 2024.

²⁶ Andrew MacLennan, s42A Report, 19 June 2024, Para 7.5.3.

²⁷ Andrew MacLennan, s42A Report, 19 June 2024, Para 7.6.3.

²⁸ Andrew MacLennan, s42A Report, 19 June 2024, Para 7.6.5-7.6.7.

2.2 GENERAL THEMES

2.2.1 Assessment

[29] FENZ²⁹ sought a variety of amendments to provisions relating to the servicing of firefighting water supply to land use activities across the rural zones, standards relating to building and structure height, height in relation to boundary, boundary setbacks, and emergency facilities. Mr MacLennan considered the submission points, however he found there was no need to provide for all of the requested changes as the matters were already adequately addressed in the Proposed Plan as notified. In relation to the submission points that requested exemptions or greater height, and height in relation to boundary enablement for emergency service facilities, Mr MacLennan recommended acceptance in part for those matters as they relate to towers and poles associated with emergency service facilities. We accept Mr MacLennan's analysis and recommendations on all FENZ's submission points, noting that FENZ did not appear at the hearing or submit any evidence to the contrary in response to the s42A recommendation.

[30] ECan [183.144, 183.150, 183.152] sought that the activity rules of the GRUZ, RLZ and SETZ Chapters are amended to ensure that the built form standards apply to all activities, regardless of activity status. Mr MacLennan disagreed with the amendments sought for the reasons set out in his s42A Report.³⁰ ECan tabled a letter³¹ accepting s42A recommendations. We are satisfied that the matters raised in submissions are resolved and we do not discuss the relief sought further.

[31] Waka Kotahi³² sought several amendments across the rural zones which they consider will support them fulfil their role to deliver a safe and efficient transport network for customers. Mr MacLennan did not support the amendments and recommended that provisions are retained as notified.³³ We accept Mr MacLennan's analysis and recommendations and in reaching this view note that we did not hear from Waka Kotahi at the hearing and no evidence was provided to us.

[32] Te Rūnanga o Ngāi Tahu³⁴ expressed concern that for restricted discretionary activities in rural zones, there is no ability to consider the cultural values recognised in various overlays, unless resource consent was required under the SASM rules. They sought an additional matter of discretion requiring consideration of the potential adverse effect on the spiritual and cultural values and beliefs of Kāti Huirapa, including measures to avoid, remedy or mitigate adverse effects, be added to GRUZ-R21, GRUZ-R22, GRUZ-R23, RLZ-R17, and SETZ-R13. Although Mr MacLennan disagreed with the submission and noted the extensive work undertaken in the development of the Proposed Plan, and identification of SASM, following advice from AEC, following Hearing E, and consideration of the broader submission Ms White

²⁹ FENZ Submission Points: [131.44, 131.45, 131.46, 131.47, 131.53, 131.49, 131.50, 131.51, 131.52, 131.59, 131.60, 131.36, 131.43, 131.37, 131.58, 131.61, 131.62, 131.63, 131.68, 131.40, 131.55, 131.65, 131.41, 131.56, 131.66, 131.57, 131.67, 131.39, 131.54, 131.64, 131.69]

³⁰ Andrew MacLennan, s42A Report, 19 June 2024, Para 8.2.3.

³¹ Deidre Francis, Tabled Letter, 1 July 2024.

³² Waka Kotahi Submission Points: [143.149, 143.152, 143.153, 143.154, 143.155, 143.156].

³³ Andrew MacLennan, s42A Report, 19 June 2024, Para 8.3.6-8.3.7.

³⁴ Te Rūnanga o Ngāi Tahu Submission Points: [185.106, 185.107, 185.108, 185.109, 185.110].

recommended changes to a number of provisions across the Plan to include an additional matter of discretion. These changes were incorporated in the Council's Final Reply version of provisions, which we have accepted as appropriate.³⁵

[33] Transpower [159.97, 159.98] submitted on Policies RLZ-P9 and SETZ-P4 which apply to the management of 'other activities' in the RLZ and SETZ. Transpower sought amendments to both policies to give effect to NPS-ET, to support the operation, maintenance, upgrade, and development of the national grid in all zones, especially rural areas where it is most suitable to accommodate the National Grid. Mr MacLennan disagreed with the requested changes as he relied on the Energy and Infrastructure provisions, which he said took precedence over the specific chapters, in order to implement NPS-ET.

[34] At Hearing B, Ms McLeod, the planning witness for Transpower disagreed with Mr MacLennan. She concluded that there is a tension or conflict that needs to be resolved in order to give effect to NPS-ET by either amending the areas specific policies or making it explicit in the Energy and Infrastructure Chapter, that the Energy and Infrastructure policies prevail.³⁶ Ms McLeod provided suggested amendments to the wording of various provisions for other activities to implement NPS-ET and provided the relevant s32AA evaluation. She considered the changes necessary because the National Grid traversed multiple zones and has both operational and functional needs that require it to be provided for. She referenced the Preamble to NPS-ET which recognised the characteristics of the network which meant that there was a limit to the extent to which it is feasible to avoid or mitigate all adverse effects. Ms McLeod was of the opinion the Plan should therefore provide a policy pathway for the operation, maintenance, upgrade, and development of the National Grid across all zones.

[35] Ms McLeod was critical of the s42A Report, in that it purported reliance on the Energy and Infrastructure Chapter 'taking precedence' which was not well executed and had the potential to introduce a hierarchy with unintended consequences. She indicated that the Council is required to resolve the tension between the need to implement the NPS-ET and area specific zones, which she considered had not been achieved. Ms McLeod offered the following alternatives as better implementing the NPS-ET:

- (a) Specifically providing for the National Grid or regionally significant infrastructure in the 'other activities' policies in the areas-specific chapters;
- (b) Including specific direction in the Energy and Infrastructure objectives and policies; 'apply instead', 'take precedence' or 'prevail over' the area specific provisions;
- (c) Including 'other activities' policies in a 'carve out' provisions similar to that described in Ms McLeod's supplementary evidence for Hearing A where a clause in the relevant Energy and Infrastructure policy or policies states that 'in the event of conflict between Policy X and Policies GRZ-P4, MRZ-P6, RUZ-P7, RLZ-P9 and SETZ-P4, Policy X prevails.

³⁵ See also Part 6 Decision on SASM submissions - Section 2.

³⁶ Ainsley McLeod, Statement of Evidence 5 July 2024.

[36] In his Interim Reply, Mr MacLennan acknowledged that there was an issue with the relationship between SETZ -P4 and RLZ-P9 and the EI Chapter which needed to be resolved. He recommended that this is best resolved via an amendment to the EI Chapter.³⁷

[37] We agree that the Plan as notified does not provide a consistent approach across all zones to implement the NPS-ET or CRPS with regard to the National Grid and regionally significant infrastructure. We waited until after Hearing E, before considering this further. Our findings on this matter are addressed in Part 5. In particular Policy EI_5 which provides for the operation, maintenance, repair, replacement, upgrade, and development of the National Grid, and sets out how effects are to be managed within different environments.

Rail Corridor Setback

[38] KiwiRail [187.85] requested that for health and safety reasons a 5m 'safety setback' for all buildings and structures from the rail corridor boundary with associated matters of discretion be applied to all Zone Chapters which are adjacent to rail corridors. The purpose of the setback is to ensure the safety of people painting their buildings, clearing gutters, or doing work on their roof, or where they may need to otherwise enter the rail corridor.

[39] Mr MacLennan, Ms White and Ms Hollier did not recommend accepting this relief. Mr MacLennan considered that the costs outweighed the benefits of universal provisions, when in reality there may be few sites across the District where the issues identified would arise.³⁸ Their view was that substantial areas of land would be unable to be developed without resource consent.

[40] KiwiRail presented legal submissions³⁹ and called evidence from KiwiRail's Manager of the RMA Team, Ms Grinlinton – Hancock⁴⁰ and Mr Gifford⁴¹, a planning expert.

[41] KiwiRail noted that the Plan currently provides for road, side, and rear boundary setbacks in some zones, but does not address setbacks from rail. KiwiRail's proposed provision contemplates that activities complying with the setback would be permitted and those that do not would require resource consent as a restricted discretionary activity, with relevant matters of discretion to assess the impacts on the safety and efficiency of the rail network where the setback control is not met. In response to Mr MacLennan's recommendation to reject the submission point, KiwiRail disputed that the provision amounted to a 'blight' on affected land, noting that uses other than buildings or structures would not be affected.

[42] Ms Grinlinton-Hancock considered that 5m was appropriate as it ensured sufficient space for landowners and occupiers to safely carry out their activities and maintain and use their buildings whilst minimising interference with the rail corridor.

³⁷ Andrew MacLennan, Interim Reply, 20 September 2024 Appendix A.

³⁸ Andrew MacLennan, s42A Report, 19 June 2024, Paras 8.6.2-8.6.3

³⁹ A A Arthur-Young and K L Gunnell Legal Submissions on Behalf of KiwiRail Holdings Limited in relation to Hearing B, 12 July 2024.

⁴⁰ Statement Of Evidence of Michelle Grinlinton-Hancock On Behalf of KiwiRail Holdings Limited, 5 July 2024.

⁴¹ Alex Gifford, Statement of Evidence, 5 July 2024.

[43] Mr Gifford provided a statutory evaluation of the provision and concluded, relying on the information from Ms Grinlinton-Hancock, that the safety setback gives effect to CRPS objectives 5.2.1, 5.2.2 and 5.2.3 and policies 5.3.2, 5.3.7, 5.3.8 and 5.3.9 and will help to achieve the purpose of the RMA. Mr Gifford considered other methods such as extending KiwiRail's designation for the rail corridor, no setback, or a more limited setback. He concluded that the 5m safety setback is the most efficient outcome as it retains land development potential (by way of resource consent) within the setback, which would otherwise be precluded in a designation, without KiwiRail's approval, whilst maintaining the safe and efficient operation of the rail network.

[44] Mr Gifford noted other zones where rules already had resource consent requirements, which reduced the cost of the safety setback rule.⁴² He also referenced other District Plans where similar rules were provided. Mr Gifford provided a draft rule for the Panel consideration.

[45] In Minute 14 the Panel requested that KiwiRail provide a full s32 Report for the safety setback and maps showing a 5m setback from KiwiRail's designated rail corridor for the Timaru District.

[46] The Panel asked KiwiRail if there were any particular areas of concern within the District. In response, counsel for KiwiRail reported that the areas of current concern were already built and therefore the setback would not apply, however their concern was future issues rather than a current problem.

[47] The s32 Report provided by KiwiRail was prepared by Eclipse Group Limited in July 2024, which included a high level economic evaluation undertaken by Fraser Colegrave. The Report provides a nation-wide assessment, which indicated overall across the country only 0.9% of properties are affected. Notably the proposed safety setback would account for 1% of land in Timaru District, not all of which is vacant.⁴³ The various maps attached as Appendix B to the KiwiRail memorandum showed the effect of the setback adjacent to the Rail designation. It also illustrates that the designation, and therefore proposed setback, would apply not only to land immediately adjacent to the rail line, but to other areas within the designation.

[48] The safety issue raised by KiwiRail is a serious one and we accept that needs to be addressed with an appropriate planning response. The real issue is what is the most appropriate method to address the risk. In our view the options based on the evidence provided by KiwiRail, are either (a) a permitted activity rule complying with a 5m setback and an appropriately restricted matter of discretion if compliance is not achieved, or (b) an extension of KiwiRail's designation. The Council is not the requiring authority for the rail network, and it would be for KiwiRail to seek a designation if required. We could recommend this course of action, however, in the meantime we have evidence of a safety risk, particularly within the urban area, where greater intensification is encouraged through the NPS-UD. In those circumstances we consider that it is more efficient, and effective to require a safety setback of 5m, however there is then the issue of where the setback is measured from.

⁴² Ibid at 6.12.

⁴³ High Level Assessment of Proposed Building Setbacks Adjacent to the Rail Network, Fraser Colegrave Insight Economics Ltd Draft Report, July 2024 paragraph 3.2 Table 1.

[49] In Minute 14 we asked Mr Maclellan to provide examples from other District Plans as to how the issue was addressed. His analysis demonstrated a range of approaches, including the use of defined and undefined terms.⁴⁴ His recommendation was to apply the setback to site boundaries that “adjoin designated rail corridor (KRH-1)” as the reference to the designation provides suitable certainty as to which properties the setback would apply to. He noted that there were some examples where the designated rail corridor extends beyond the rail corridor. He provided examples of this in Figures 1 and 2. He was concerned that in those instances the setback would be overly restrictive.

[50] We agree with Mr Maclellan’s concern regarding those properties that adjoin the designation, where the railway line is some distance from the boundary.

[51] Ms White, who considered the issue in the context of the urban zones, did not support the 5m setback.⁴⁵ However, she indicated that if the Panel considered the setback to be appropriate then it should be structured as follows:

- (a) Be targeted to buildings only;
- (b) Apply a tiered approach depending on the height/number of storeys of any building, i.e. 4m should only apply to buildings of two storeys or more, with a lesser setback of 2m applied to single storey buildings; and.
- (c) Apply the setback to the boundary of a site which adjoins the designated rail corridor (KRH-1), for the reasons set out by Mr Maclellan.

[52] Ms White reported in her Final Reply that she had discussions Ms Grinlinton-Hancock and Mr Maclellan. Those discussions covered the following:

- (a) That for this rule, it would be appropriate to apply any setback to the boundary of the designation. This reflects that the sites of concern to Mr Maclellan are sites owned by KiwiRail but leased out. As such, any buildings and structures within the leased areas require approval from KiwiRail in any case, so the rule would not impose additional restrictions.
- (b) That, if possible, the rule would be most efficient if a breach of the setback could be permitted, where written approval is provided by KiwiRail. This would allow the setback to act as a trigger point where a developer/landowner would need to consult with KiwiRail but would avoid the need for Council involvement and the cost of a resource consent process where KiwiRail is comfortable with the incursion.
- (c) That the concerns held by KiwiRail would not arise in relation to most structures. The setback should therefore only apply to buildings, and some specifically identified structures.
- (d) That the height of a building adjoining the rail corridor is the key factor in whether the concerns held by KiwiRail arise or not, and therefore it might be

⁴⁴ Andrew Maclellan, Hearing B Interim Reply Rural Zones, 20 September 2024, paragraph 11

⁴⁵ Liz White Hearing B - Interim Reply - Residential and Commercial and Mixed Use Zones, 19 September 2025, Appendix A, pages 6-8.

acceptable to KiwiRail for a tiered/hybrid approach to be taken to setbacks, with greater setbacks applying to taller buildings.

[53] Ms White considered each of these matters further and discussed them with Mr MacLennan. Although Ms White was still not wholly in favour of setback provisions, she helpfully set out that a new standard could be added to GRZ-S3, MRZ-SZ⁴⁶, LFRZ-S3, MUZ-S3 and TCZ-S3, and as a new standard within the CCZ):

Buildings must be setback from the boundary of designation KRH-1: a. a minimum of 2m where the building is a single storey: or b. a minimum of 5m where the buildings is two or more storeys.

[54] Ms White considered that the status of buildings not meeting these criteria should be a restricted discretionary activity with discretion limited to the matters discussed in the evidence of Alexander Gifford, as follows:

- i. the location and design of the building or structure as it relates to the ability to safely use, access and maintain buildings or structures without requiring access on, above or over the rail corridor; and
- ii. the safe and efficient operation of the rail network

[55] We have concluded, in reliance on the evidence from KiwiRail that a setback measured from designated rail corridor (KRH-1) is the most appropriate method to give effect to the CRPS and achieve the purpose of the Act. It is more efficient and likely to be more effective in achieving those outcomes than relying on a designation process. To the extent that there are two locations where the area extends well beyond the physical rail corridor, we are satisfied that the relevant matter of discretion will ensure that only the safety of people working on buildings and the effects on the safe and efficient operation of the rail network are considered.

[56] We have considered KiwiRail's s32 evaluation and the amendments that are supported by Mr MacLennan and Ms White. We agree that a more targeted approach proposed by Ms White than a blanket 5m setback as advanced by KiwiRail is more efficient and will be effective, having regard to the safety issues raised in evidence. We consider that the s32 evaluation provided by KiwiRail is sufficient to support Ms White's amended rule.

Miscellaneous

[57] MoE⁴⁷ sought amendments to objectives, policies, and rules within the GRUZ, RLZ, and SETZ. We agree with Mr MacLennan's analysis and conclusions and find his recommended amendments to SETZ-P3, RLZ-R7 and GRUZ-R7 to be appropriate.⁴⁸ We did not hear from MoE at the hearing or receive any further evidence on these matters.

[58] We accept Mr MacLennan's analysis and recommendations in response to the submission from TDC [42.26] and agree that the additional policy GRUZ-P11 and permitted

⁴⁶ Now renumbered MRZ-S12 in the Decisions Version of the provisions.

⁴⁷ MoE Submission Points: 106.21, 106.22, 106.23, 106.24, 106.25, 106.26, 106.27, 106.28, 106.29, 106.30.

⁴⁸ Andrew MacLennan, s42A Report, 19 June 2024, Para 8.7.9-8.7.26.

activity standard GRUZ-R15.⁴⁹ are appropriate to ensure that the location of woodlots and shelterbelts in the GRUZ is controlled and in alignment with the outcome sought by NH-O1 (Areas subject to Natural Hazards).⁵⁰

[59] Hort NZ [245.32] sought that a reciprocal 30m setback for new shelterbelts and new residential units be provided for in GRUZ-S4 to ensure consistency with the more precautionary 30m setback in GRUZ-R15.⁵¹ Mr Hodgson explained that:

'The Partially Operative Selwyn District Plan (Appeals Version) includes a GRUZ rule requiring a 30m setback of shelterbelts and woodlots from any residential unit on an adjoining property and a 30m setback from internal boundaries of any new residential unit for both fire risk and reverse sensitivity/amenity purposes...' ⁵²

[60] Mr MacLennan initially rejected Hort NZ's submission⁵³, however following the hearing he reconsidered his position and agreed that it is appropriate to provide a reciprocal 30m setback for new shelterbelts and new residential units. He recommended the additional setback could be incorporated into GRUZ-S4.5 and provided an amended provision to this effect.⁵⁴ We are satisfied the recommended amendments address the submission appropriately and represent a better planning outcome.

[61] Six submitters⁵⁵ (Rooney Group) considered land-based extraction is important for continuity of supply and consistency of gravel quality. As summarised in Mr MacLennan's s42A Report, they sought a gravel extraction overlay across land where existing land-based gravel extraction and clean fill deposition occurs.⁵⁶ Further submissions were received in favour⁵⁷ and in opposition⁵⁸ to the Rooney Group's submission.

[62] Mr MacLennan disagreed that an additional gravel extraction overlay is required within the Proposed Plan and stated:

"...I agree that land-based gravel extraction is important to continuity of supply and consistency of gravel quality. However, I disagree that an additional gravel extraction overlay is required within the PDP. I note that land where existing landbased gravel extraction and clean fill deposition occurs will either have an existing resource consent to operate or will have existing use rights. In either case, the activity will be able to continue under the PDP without the need for an additional overlay. I also note that the provisions of the GRUZ Chapter protect primary production⁸⁴ activities from reverse sensitivity effects through both GRUZ-P5 and GRUZ-S4 which requires new sensitive activities be setback

⁴⁹ Now CRUZ-R17

⁵⁰ Andrew MacLennan, s42A Report, 19 June 2024, Para 8.8.6-8.8.14.

⁵¹ Now GRUZ-R17

⁵² Mr Hodgson, Statement of Evidence, 5 July 2024, Para 51.

⁵³ Andrew MacLennan, s42A Report, 19 June 2024, Para 10.37.24.

⁵⁴ Andrew MacLennan, s42A Interim Reply: Hearing B, 20 September 2024, Para 98-100.

⁵⁵ Submitters including Rooney Holdings [174.5], Rooney GJH [191.5], Rooney Group [249.5], Rooney Farms [250.5], Rooney Earthmoving [251.5], TDL [252.5].

⁵⁶ Andrew MacLennan, s42A Report, 19 June 2024, Para 8.9.5.

⁵⁷ Fulton Hogan [170.6FS] and Road Metals [169.6FS].

⁵⁸ DOC [166.31FS] and Forest and Bird [156.244FS].

500m from a lawfully established quarry or mine. Given this, I do not consider that the suggested overlay is required.”

[63] We heard from Mr Hole on behalf of the Rooney Group Limited and other submitters (Rooney Group) at the hearing who confirmed that he accepted Mr MacLennan’s recommendation that an additional gravel extraction overlay is not required.⁵⁹

[64] However, Mr Hole considered that GRUZ-P5 and GRUZ-O3 could be refined to strengthen recognition of mining and quarrying already lawfully established.⁶⁰ In his evidence he set out what he considered to be a policy gap between the objectives and rules that seek to manage the relationship between mining and quarrying and sensitive environments and activities. He requested explicit recognition of the protection of mining and quarrying from reverse sensitivity effects and he suggested additions to the provisions.

[65] We note that the relevant objectives, policies, and rules address primary production, which as defined includes mining and quarrying, therefore the protection he seeks appears already to be embedded in the Proposed Plan. There is a broader issue regarding the tension between protection of existing productive land uses and protection of sensitive activities from encroachment by a range of primary production land uses that may generate adverse effects. This issue is discussed further below.

General Provisions for Primary Production

[66] We agree with and accept Mr MacLennan’s analysis and conclusions on those submissions concerning general provisions for primary production for the reasons set out in his s42A Report.⁶¹

General Provisions for Reverse Sensitivity

[67] Hort NZ [245.1 and 245.2] requested that the Council strengthen the policy framework for recognising reverse sensitivity effects and ensure proper placement of activities to prevent reverse sensitivity effects. The submission highlights the need to address food security and preserve the values of highly productive land. The submission also raises concerns about rural lifestyle and urban development putting pressure on horticulture activities.

[68] Mr MacLennan was of the view that GRUZ-O3 and GRUZ-P5 adequately address reverse sensitivity effects and give effect to CRPS Policy 5.3.12(1)(a) and (b).

[69] We agree with Mr MacLennan that GRUZ-O3 and GRUZ-P5 when considered in isolation do address reverse sensitivity effects, however, there is a tension in the wider provisions, where protection is sought for ‘sensitive activities’, which we initially found to potentially conflict with each other. In Minute 14 we requested Mr MacLennan to provide further clarification of the higher order policy approach in the NPS-HPL and CRPS to weighing the enablement of primary production and protection and avoidance/minimizing adverse effects

⁵⁹ Nathan Hole, Statement of Evidence, 5 July 2024, Para 10.

⁶⁰ Nathan Hole, Statement of Evidence, 5 July 2024, Para 10-22.

⁶¹ Andrew MacLennan, s42A Report, 19 June 2024, Para 9.1.5-9.1.7.

on sensitive activities. We asked him to clarify whether the objectives, policies and rules give effect to higher order documents in relation to primary production and management of the effects of primary production on sensitive land uses.

[70] Mr MacLennan set out the relevant higher order objectives and policies relating to reverse sensitivity in the Appendix B 'reverse sensitivity mapping'. He accepted that in the context of 'highly productive land' there is a clear weighting towards ensuring that sensitive activities do not adversely affect surrounding land-based primary production activities. He provided an analysis of the relevant objectives and policies in the CRPS and concluded that Objective 5.2.1 is weighted towards enabling rural activities within the rural environment and ensuring that conflicts between incompatible activities are avoided. Similarly, Policy 5.3.12(1)(a) and (b) and its explanation makes it clear that the weighting is towards ensuring that the encroachment of sensitive activities into rural areas that may result in reverse sensitivity is avoided. Mr MacLennan emphasized the use of the word 'encroachment' in the explanation as indicating that further or additional development of sensitive activities into rural areas may result in reverse sensitivity effects on established rural activities is to be avoided.⁶²

[71] He did, however, note that there is limited direction within the CRPS as to how the amenity of existing sensitive activities within rural areas or the amenity of sensitive activities in residentially zoned areas adjoining rural areas should be managed. His view was that the CRPS does not prevent the Plan from ensuring that the amenity of existing sensitive activities within both the GRUZ and along zone boundaries is maintained.

[72] In general terms we find that the tension is capable of resolution if we start from the position that rural productive uses must in the first instance internalize their effects within their property boundaries to the extent it is possible to do so, however, as is the case with noise, dust, odour and other 'off site impacts', these are unlikely to be able to be avoided altogether. In those circumstances there is then a need to ensure that the expectations of people and communities in the rural environment are set through the objectives, policies, and rules. The GRUZ is first and foremost a rural environment, supporting productive land uses. This is what the NPS-HPL and CRPS seek to do, therefore the Plan must give effect to those higher order documents.

[73] There is the reality that there are and will continue to be sensitive land uses which are either historical or have a functional and operational need to be in the rural environment. In that case, there is a need to ensure that those sensitive activities include adequate mitigation measures so as to avoid or minimise the effects of rural productive land on them that are unable to be contained within the property boundaries of rural productive activity. Aside from the general duties in s16 and 17 of the RMA, we do not consider that the higher order documents impose any other wider duties on rural productive land uses to 'protect' sensitive activities. Rather, through good planning and the use of methods such as setbacks, plantings, buffers and the like (both within the sites of sensitive activities and at the margins of productive land uses), reverse sensitivity effects and adverse environmental effects on the occupants of sensitive land uses can be avoided or minimised as required by the higher order objectives

⁶² Andrew MacLennan, Interim Reply Rural, 20 September 2024, Para 29.

and policies. We consider this issue further below in the context of submissions on the GRUZ objectives and policies.

General Provisions for Height and floor area

[74] We agree with and accept Mr Maclellan's analysis on ECan's submissions [183.4, 183.1] and find the recommended amendments to RLZ-S1, RLZ-S3, SETZ-S1 and SETZ-S4 to be appropriate.⁶³ In reaching this view we note ECan tabled a letter⁶⁴ accepting the s42A recommendations., We are satisfied that the general matters raised in submissions are resolved and we do not discuss the relief sought further.

2.2.2 Decision

[75] We adopt Mr Maclellan's analysis and recommendations on general themes across the Rural Zone Chapters, with the addition of provisions related to setbacks for buildings adjacent to the designated rail corridor.⁶⁵ The amendments to the provisions are set out in **Appendix 3**.

[76] In terms of s32AA, we are satisfied that the amendments are the most appropriate option for achieving the purpose of the RMA, the relevant provisions of the Plan and for giving effect to other relevant statutory instruments.

[77] In terms of the addition of the setback for buildings adjacent to the rail corridor we adopt the s32 evaluation provided by KiwiRail and further evaluation of Ms White in the Final Reply in support of the amendments.

2.3 GENERAL RURAL ZONE OBJECTIVES

2.3.1 Assessment

GRUZ-O1

[78] We have considered the submissions that seek changes to this objective, which range from widening its application to a full range of activities and through to narrow it to farming activities only. We accept the analysis and recommendations of Mr Maclellan with regard to those submissions and agree that GRUZ-O1 be retained as notified for the reasons he has given.⁶⁶ We note that the issue regarding the appropriate balance and weighting of primary production vs other activities in the GRUZ arises below in the more specific objectives and policies, which we have also considered when accepting Mr Maclellan's recommendation on GRUZ-O1. We particularly draw on the fact that the GRUZ is not limited to highly productive land, however its primary focus is for productive land uses and those activities that have a functional and operational need to locate in the Rural Zone, such as rural industry. We find the objective as notified appropriately reflects those activities.

⁶³ Andrew Maclellan, s42A Report, 19 June 2024, Para 9.3.3-9.4.9.

⁶⁴ Deidre Francis, Tabled Letter, 1 July 2024.

⁶⁵ GRUZ-S3.2, MRZ-S12, LFRZ-S7, MUZ-S3, TCZ-S3, CCZ-S10

⁶⁶ Andrew Maclellan, s42A Report, 19 June 2024, Para 10.2.6 – 10.2.9.

GRUZ-O2

[79] We generally accept the analysis and recommendations of Mr Maclellan and in particular agree that no amendment is required to GRUZ-O2 to give effect to the NPS-HPL as sought by NZ Frost Fans [255.17], rather it is the role of the Versatile Soils Chapter (renamed Highly Productive Land Chapter⁶⁷) to protect the highly productive land areas within the GRUZ.⁶⁸ We further agree with Mr Maclellan's recommended amendment to GRUZ-O2.2 in response to NZ Frost Fans other submission point [255.19] and consider this addresses the submission appropriately.

[80] As summarised in Mr Maclellan's s42A Report, three submitters sought that sensitive activities locating in the rural environment should not anticipate a higher level of amenity in a working productive environment. They therefore sought to amend clause (2) to refer directly to activities in support of primary production. Two submitters also sought to delete clause (3).

[81] D and S Payne [160.37FS], called planning evidence from Ms Lynette Wharfe, who supported the deletion of GRUZ-O2 (3).⁶⁹ Ms Wharfe was concerned that clause (3) when read in the context of GRUZ-O4, appeared to compromise primary production through expectations of a higher level of amenity. She drew on the experience of the Payne's horticultural activities to illustrate the potential issue. We discuss the conflicting objectives in GRUZ-O3 and O4 below.

[82] Although we find Ms Wharfe's point about the perceived conflicting priorities in the objectives appear to be well made, we do not think that the inclusion of clause (3) was intended to diminish the prioritisation of productive land uses or rural industry in the GRUZ. We do agree with the submitters, however, that the wording used and its placement in the objective creates internal conflict within the GRUZ objectives. We consider that this could be addressed through an amendment to the GRUZ-O2.3. The suggestion by Pork NZ, Silver Fern Farms and Alliance Group to include 'existing' to sensitive activities, appears to address the issue by ensuring the objective does not inadvertently encourage the addition of new sensitive uses in areas that would create reverse sensitivity effects. This change is recommended by Mr Maclellan in his Interim Reply⁷⁰, which we accept.

GRUZ-O3

[83] We agree with Mr Maclellan that the recommended amendment to GRUZ-O3 in response to the submissions from Helicopters Sth Cant [53.20], Ballance [86.11] and NZAAA [132.24] provides greater clarity as to how reverse sensitivity effects on primary production activities are to be managed, enabling the efficient use and development of the GRUZ.⁷¹ We did not hear or receive any evidence to the contrary.

⁶⁷ See Parts 1 and 7 of the Decision for a discussion on the Government's most recent suite of national policy statement changes relating to HPL and the steps we took to seek the views of Council and submitters in response to those changes.

⁶⁸ Andrew Maclellan, s42A Report, 19 June 2024, Para 10.3.9.

⁶⁹ Lynette Wharfe, Statement of Evidence, 3 July 2024, Paras 5.7 – 5.20.

⁷⁰ Andrew Maclellan, Hearing B Interim Reply Rural Zones, 20 September 2024, Para 55-61

⁷¹ Andrew Maclellan, s42A Report, 19 June 2024, Para 10.4.19.

[84] Fonterra [165.125] supports the protection of primary production in rural zones but sought that this protection should also be afforded to rural industry that is located in the GRUZ. Initially, Fonterra sought an amendment to GRUZ-O3 to this effect. However, at the hearing Ms Tait confirmed that the relief sought was appropriately addressed via Mr MacLennan's recommended amendment to GRUZ-P5.⁷² On this basis, the amendment to GRUZ-O3 was not pursued any further. Accordingly, we accept Mr MacLennan's analysis and recommendations on this matter.⁷³

[85] We accept Mr MacLennan's analysis and recommendations relating to the submissions from Silver Fern Farms [172.112] and the Alliance Group [173.114] and note that Silver Fern Farms tabled a letter⁷⁴ which indicated support for the s42A recommendations, as did the Alliance Group.⁷⁵ We further accept Mr MacLennan's analysis in response to NZ Frost Fans [255.20] and agree that it is the role of the VS Chapter (now HPL Chapter) to protect the highly productive land areas within the GRUZ.⁷⁶

[86] Mr Hole for Rooney Group suggested in his evidence that an amendment be made to GRUZ-O3, to further complement GRUZ-O5, to reference existing mining and quarrying activities. As we note above, the definition of primary production is inclusive of mining and quarrying, so no change is required.

GRUZ-O4

[87] GRUZ-O4 as notified seeks to protect sensitive activities and zones from intensive primary production, mining and quarrying and other intensive primary production. Silver Fern Farms [172.113] and Alliance [173.115] were critical of the objective, which they interpreted as requiring rural land uses to respond to encroachment from sensitive land use activities which would be inconsistent with the direction in GRUZ-O3. This concern was also shared by D and S Payne [160.37FS]⁷⁷ who expressed concern about sensitive land use conflicts arising between rural land uses and the apparent conflict between the GRUZ objectives.⁷⁸ We accept the conclusions and recommendations of Mr MacLennan and agree that the amendments to GRUZ-O4 are appropriate in response to the submissions from Silver Fern Farms [172.113] and the Alliance Group [173.115].⁷⁹ We note that Silver Fern Farms tabled a letter⁸⁰ which indicated support for the s42A recommendations, as did the Alliance Group.⁸¹ Ms Wharfe also supported the reference to existing sensitive activities to improve clarity of the provision and note it was consistent with Mr Willis' recommendation for SD-O9. We are satisfied that all other submission points have been addressed appropriately, and we received no evidence to the contrary.

⁷² Susannah Tait, Statement of Evidence, 5 July 2024, Para 7.9.

⁷³ Andrew MacLennan, s42A Report, 19 June 2024, Para 10.4.16.

⁷⁴ Steve Tuck, Mitchell Partnerships, Letter on behalf of Silver Fern Farms, 11 April 2024.

⁷⁵ Doyle Richardson, Mitchell Partnerships, Letter on behalf of the Alliance Group Ltd.

⁷⁶ Andrew MacLennan, s42A Report, 19 June 2024, Para 10.4.17.

⁷⁷ Statement of Evidence by Lynette Pearl Wharfe for D and S Payne [160], 3 July 2024.

⁷⁸ Ibid at 5.21-5.24.

⁷⁹ Andrew MacLennan, s42A Report, 19 June 2024, Para 10.5.7-10.5.12.

⁸⁰ Steve Tuck, Mitchell Partnerships, Letter on behalf of Silver Fern Farms, 11 April 2024.

⁸¹ Doyle Richardson, Mitchell Partnerships, Letter on behalf of the Alliance Group Ltd.

GRUZ-O5

[88] Several submissions were received on GRUZ-O5 – Mining and quarrying. We accept Mr MacLennan’s analysis and recommendations, and we find the proposed amendment to GRUZ-O5 to be appropriate. We note we received no evidence to the contrary from Road Metals [169.42], Fulton Hogan [170.44], or Waka Kotahi [143.146].

2.3.2 Decision

[89] We adopt Mr MacLennan’s analysis and recommendations on GRUZ-O1, GRUZ-O2, GRUZ-O3, GRUZ-O4, and GRUZ-O5. The amendments to the provisions are set out in **Appendix 3**.

[90] In terms of s32AA, we adopt Mr MacLennan’s evaluation in support of the changes made.

2.4 GENERAL RURAL ZONE POLICIES

2.4.1 Assessment

GRUZ-P1

[91] We accept Mr MacLennan’s analysis and recommendations on GRUZ-P1 and agree that the direction within the policy is clearly enabling of primary production activities and that it is not necessary to broaden its scope.⁸² We find the amendment to GRUZ-P1.3 in response to Silver Fern Farms [172.114] and Alliance Group [173.116] to be appropriate.

GRUZ-P2

[92] B Speirs [66.37] considered it inaccurate to include the words ‘large minimum’ within GRUZ-P2.1 because many of the smaller allotments in the GRUZ have ample space around buildings and sought these words be deleted. We accept Mr MacLennan’s analysis and recommendation⁸³ and agree that although GRUZ does have a variety of sizes, the predominant character of the GRUZ is one of large allotments with large areas of open space.

GRUZ-P5

[93] As notified GRUZ-P5 was titled ‘Protecting Primary Production’ and sought to manage sensitive activities within the zone so that they are located to avoid adverse effects on primary production, and if avoidance was not possible then the sensitive activity provided mitigation measures to minimise those adverse effects. Five submissions supported the policy and sought for it to be retained. Federated Farmers [182.191] requested that the policy go further to ‘enable management of adverse effects’. We are not persuaded that this relief differs in substance, because avoidance appears to be the appropriate first line, and implements GRUZ-O3 and CRPS Policy 5.3.12, and the policy provides the alternative of requiring mitigation in the event avoidance is not possible. Both appear to be enabling management of

⁸² Andrew MacLennan, s42A Report, 19 June 2024, Para 10.7.6-10.7.9.

⁸³ Andrew MacLennan, s42A Report, 19 June 2024, Para 10.8.4.

the adverse effect. Silver Fern Farms [172.116] and Rural Contractors [178.7] requested that the policy should be broadened to ensure rural, industry and other activities that support primary production are protected from potential reverse sensitivity effects. NZ Frost Fans [255.23] also maintained their earlier theme, that the policy needed to emphasise the protection of land based primary production on highly productive land and further that the policy should address reverse sensitivity effects. We have already decided that the GRUZ Chapter has wider application than just highly productive land and that remains our view.

[94] Mr MacLennan agreed with those submitters requesting the extension of the policy to rural industry. We agree that it is appropriate and gives effect to the CRPS, and recognises rural industries that have a functional and operational need to be located in rural areas. Mr MacLennan also recommended in response to submissions that the focus of the policy ought to be reverse sensitivity effects and should be renamed and the policy amended accordingly. We consider that to be the most appropriate form of the policy to give effect to the NPS-HPL, CRPS and GRUZ-O3.

[95] Having considered the submissions and Mr MacLennan's analysis we accept his recommendation.

GRUZ-P6

[96] We accept the analysis and recommendation of Mr MacLennan in response to submissions and find it is appropriate to retain GRUZ-P6 as notified, except for the minor amendment under RMA, Schedule 1, cl16.⁸⁴ We received no evidence to the contrary.

GRUZ-P7

[97] Fonterra [165.126] sought the deletion of the word 'only' from GRUZ-P7.1. Mr MacLennan was of the view that retaining the word 'only' ensures the presumption of the policy is that rural industries and other activities will only be allowed where the specific policy tests in GRUZ-P7 can be achieved.⁸⁵ Whereas, Ms Tait, in her evidence, considered the inclusion of 'only' suggests that rural industry and emergency service facilities⁸⁶ are not generally anticipated in the zone, which is contrary to their restricted discretionary activity status.⁸⁷ She stated she considered GRUZ-P7 is trying to achieve too much by managing restricted discretionary, discretionary and non-complying activities. In her view, rural industry and emergency service facilities should be dealt with separately to those activities that are not generally anticipated in the zone.⁸⁸ We find the 'only' policy direction to be suitable and were not persuaded otherwise.

[98] We accept Mr MacLennan's analysis and recommendations in response to the submissions from Federated Farmers [182.193] and Port Blakely [94.12] for the reasons set

⁸⁴ Andrew MacLennan, s42A Report, 19 June 2024, Para 10.10.6-10.10.8.

⁸⁵ Andrew MacLennan, s42A Report, 19 June 2024, Para 10.11.6.

⁸⁶ We assume Ms Tait has selected 'emergency service facilities' as one type of 'other activity' for the purposes of this Policy.

⁸⁷ Susannah Tait, Statement of Evidence, 5 July 2024, Para 7.12.

⁸⁸ Susannah Tait, Statement of Evidence, 5 July 2024, Para 7.13.

out in the s42A Report.⁸⁹ In reaching this view we note that Ms Johnston confirmed that Federated Farmers supported the s42A recommendation⁹⁰, and we did not receive any evidence to the contrary.

[99] Transpower's submission [159.96] highlighted the technical requirements of the National Grid and that it is not always possible to minimise its adverse effects. They suggest that due to the national importance of the National Grid and to align with the NPS-ET, the Proposed Plan should include a policy "pathway" to support the operation, maintenance, upgrade, and development of the National Grid in all zones, rather than potentially hindering it.⁹¹ On this basis, Transpower sought an additional clause in GRUZ-P7. In response, Mr MacLennan considered that the EI Chapter provides for this pathway, and that introduction of a clause within GRUZ-P7 would be at odds with the architecture of the Proposed Plan. We heard from Ms McLeod at the hearing who considered that:

On this basis, I share the concerns expressed in Transpower's submission and consider that the development or upgrade of the National Grid would be assessed as inconsistent with Policies GRZ-P4, MRZ-P6, RUZ-P7⁹², RLZ-P9 and SETZ-P4 because:

- a. the Policies include 'and' and therefore the development or upgrade of the National Grid would only be allowed in the relevant zone where consistent with all of the clauses in the Policies;
- b. as described in the Preamble to the NPS-ET, the characteristics of the National Grid would likely mean that the adverse effects of the National Grid could not be avoided or minimised.
- c. similarly, the built form of the National Grid is not likely to maintain the character and qualities of the relevant zone as described in related objective.

Insofar as the Policies listed above apply to the National Grid, it is my conclusion that the Policies fail to give effect to the Objective and Policies 1 and 2 of the NPS-ET and also gives rise to tension or conflict between the Energy and Infrastructure policies and the area-specific policies in the Proposed District Plan.⁹³

[100] Ms McLeod disagreed with Mr MacLennan's conclusion that the EI policies 'apply instead' or 'take precedence' over the area-specific policies. She concluded there is a tension or conflict that needs to be resolved in order to give effect to the NPS-ET by either amending the relevant area-specific policies or by making it explicit that the EI policies prevail over the area-specific zone provisions.⁹⁴ She put forward three alternative drafting approaches to resolve this tension in a manner that in her view give effect to the NPS-ET.⁹⁵

⁸⁹ Andrew MacLennan, s42A Report, 19 June 2024, Para 10.11.3, 10.11.5.

⁹⁰ Angela Johnston, Hearing Statement, not dated.

⁹¹ Andrew MacLennan, s42A Report, 19 June 2024, Para 10.11.4.

⁹² We assume this is a typographical error and that the reference relates to GRUZ-P7.

⁹³ Ainsley McLeod, Statement of Evidence, 5 July 2024, Para 37-38.

⁹⁴ Ainsley McLeod, Statement of Evidence, 5 July 2024, Para 7.

⁹⁵ Ainsley McLeod, Statement of Evidence, 5 July 2024, Para 40.

[101] Mr MacLennan in his Interim Reply, agreed with Ms McLeod that this is best resolved via an amendment to the EI Chapter.⁹⁶ We have addressed this issue in Part 1 of this Decision where we agree with the recommended amendments to the Introduction of the Energy and Infrastructure Chapter, albeit we have amended the wording to reflect where provisions apply 'instead of'; and as addressed in our decision on the EI Chapter⁹⁷ we have inserted a new policy to ensure that the relationship between the objectives and policies of the EI Chapter and the Zone Chapters as to the 'weight' to be given to provisions in the event of conflict is clear. On this basis we are satisfied that Transpower's concerns have been appropriately addressed.

GRUZ-P8

[102] We accept Mr MacLennan's analysis and recommendation and agree that GRUZ-P8 be retained as notified. We note that Ms Johnston confirmed that Federated Farmers [182.94] supported the s42A recommendation⁹⁸, and we did not receive any evidence to the contrary.

GRUZ-P9

[103] NZ Pork [247.24] considered the 40ha qualifier in GRUZ-P9 to be unworkable for pig farming and sought that the site size threshold be lowered to 20ha. However, in his evidence, Mr Hodgson agreed with Mr MacLennan's recommendation to reject the submission given there is an alternative consenting pathway for smaller sites via a restricted discretionary consent process.⁹⁹

[104] We agree that no changes are required to GRUZ-P9, other than a minor grammatical amendment under RMA Schedule 1, cl16.

New Policy

[105] Federated Farmers [182.180] sought to amend or insert new provisions within the GRUZ Chapter to recognise and provide for private property rights and allow landowners to subdivide land for specific purposes, such as creating lifestyle lots and lots for family members. We accept Mr MacLennan's analysis and recommendation to reject the submission and note that Federated Farmers did not pursue this submission point at the hearing and expressed support for Mr MacLennan's recommendation.¹⁰⁰

2.4.2 Decision

[106] We adopt Mr MacLennan's analysis and recommendations on GRUZ-P1, GRUZ-P2, GRUZ-P5, GRUZ-P6, GRUZ-P7, GRUZ-P8, GRUZ-P9, and New Policy. The amendments to the provisions are set out in **Appendix 3**.

⁹⁶ Andrew MacLennan, Hearing B: Interim Reply, 20 September 2024.

⁹⁷ Panel Decision Report, Part 5, Section 2.16.1

⁹⁸ Angela Johnston, Hearing Statement, not dated.

⁹⁹ Vance Hodgson, Statement of Evidence for NZ Pork, 5 July 2024, Para 50.

¹⁰⁰ Angela Johnston, Hearing Statement, undated.

[107] In terms of s32AA, we adopt Mr MacLennan's evaluation in support of the changes made.

2.5 GENERAL RURAL ZONE RULES

2.5.1 Assessment

GRUZ-R1

[108] We accept Mr MacLennan's analysis and recommendation in response to submissions on GRUZ-R1 PER-3, to retain this clause as notified.

[109] An issue traversed at the hearing was as a consequence of Mr MacLennan's recommended amendment to PER-4, in response to a submission by Keen, Oliver, Forbes et al [46.3] to include a 100m setback within GRUZ-R1 PER-4 for milking sheds and buildings used to house or feed stock from the notional boundary of an existing sensitive activity on a separate site under different ownership.¹⁰¹ NZ Pork [247.31] sought an exemption for buildings and structures related to movable pig shelters including farrowing huts less than 30m² in area and mobile pig shelters less than 2m in height. We heard from Mr Hodgson at the hearing who suggested that an exclusion be provided in line with the approach of the Selwyn District.¹⁰²

[110] We asked Mr MacLennan to consider the merits of the exclusion sought by NZ Pork, and in his Interim Reply he confirmed he now accepted Mr Hodgson's submission and recommended an exclusion be inserted into PER-4 to address the relief sought.¹⁰³ We find this amendment to be appropriate and we agree it ensures there is flexibility when locating movable pig shelters, which provides for primary production activities, while also ensuring they are of a size that maintains the amenity of existing sensitive activities.

[111] We accept Mr MacLennan's analysis and recommendation in response to submissions on GRUZ-R1.

GRUZ-R2 and GRUZ-R3

[112] We accept the analysis and recommendations of Mr MacLennan in response to Federated Farmer's submission [182.197] on GRUZ-R2; and B Speirs [66.39] and Federated Farmer's submission [182.198] on GRUZ-R3.¹⁰⁴ We agree that the minor amendments to both provisions improve clarity and interpretation of the provisions.¹⁰⁵ We note that Ms Johnston confirmed that Federated Farmers supported the s42A recommendations.¹⁰⁶ We heard no evidence to the contrary from B Speirs.

¹⁰¹ Andrew MacLennan, s42A Report, 19 June 2024, Para 10.15.6.

¹⁰² Vance Hodgson, Statement of Evidence, 5 July 2024, Para 81.

¹⁰³ Andrew MacLennan, Hearing B: Interim Reply, 20 September 2024, Para 18.

¹⁰⁴ Andrew MacLennan, s42A Report, 19 June 2024, Para 10.16.3-10.17.7.

¹⁰⁵ Andrew MacLennan, s42A Report, 19 June 2024, Para 10.16.3-10.16.9.

¹⁰⁶ Angela Johnston, Hearing Statement, undated.

GRUZ-R4

[113] MFL [60.42] and Maze Pastures [41.5] sought that PER-1 allow for approved subdivision consents issued by TDC before the Plan is fully operative. We heard from Ms McMullan for MFL at the hearing who sought an amendment to this effect. Following the hearing, Mr MacLennan recommended an amendment to PER-1 and noted that Ms McMullan was in agreement with this drafting approach.¹⁰⁷ No other amendments to the rule are recommended by Mr MacLennan in response to other submissions.

[114] We accept Mr MacLennan's analysis and recommendations in response to submissions on GRUZ-R4¹⁰⁸, and we agree that the recommended amendments to GRUZ-R4 are appropriate.

GRUZ-R7

[115] Hort NZ [245.125] and NZ Pork [247.26] have requested that education activities, which are sensitive to the effects from primary production, should be restricted discretionary activities rather than permitted activities. Mr MacLennan did not agree, because the rule only permitted educational activities that take place within and ancillary to an existing principal residential unit, they were no more susceptible to the effects from primary production than a residential activity. As an alternative Mr MacLennan suggested that the educational activities could be subject to the addition of standard GRUZ-S5 to ensure that they are set back from intensive primary production activities, farm effluent disposal areas and lawfully established quarries and mines.

[116] We note that rule GRUZ-R7, applies to small scale educational activities, rather than a school or larger childcare facility. Larger scale educational activities were proposed to be fully discretionary activities in the notified Plan, however, in response to submissions from the MoE [106.23] and Waihi School [236.1FS], Mr MacLennan recommended that other educational activities be restricted discretionary activities with a list of matters of discretion.¹⁰⁹

[117] Mr Hodgson supported Mr MacLennan's alternative of making the permitted activity rule also subject to GRUZ-S4.¹¹⁰ He considered that gives effect to the changes recommended by Mr MacLennan to the objectives and policies to protect primary production from reverse sensitivity effects. As we have noted in our discussion on objectives and policies above, the key to managing the relationship between sensitive land use and rural productive uses is good planning, managing expectations and ensuring adequate separation, to avoid reverse sensitivity effects and adverse effects on sensitive land uses. We are satisfied that the rule, with the addition of a requirement to adhere to GRUZ-S4 is appropriate and gives effect to the objectives and policies within the Plan and higher order documents.

[118] In relation to Waihi School [236.1, 236.1FS], Mr MacLennan recommended, in consultation with Waihi School representatives, a site-specific package of provisions for their

¹⁰⁷ Andrew MacLennan, Hearing B: Interim Reply, 20 September 2024, Para 53.

¹⁰⁸ Andrew MacLennan, s42A Report, 19 June 2024, Para 10.18.9-10.18.23.

¹⁰⁹ See section 2.2 above.

¹¹⁰ Vance Hodgson, Statement of Evidence for NZ Pork, 5 July 2024, paragraph 28.

site. We have accepted that those provisions are appropriate, as discussed in the Rezoning Requests section of this Report.

GRUZ-R8

[119] Hort NZ [245.126] and NZ Pork [247.27] requested that residential care activities provided for as permitted activities in GRUZ-R8 ought to be restricted discretionary activities. Similar to the discussion above, the rule only provides for small scale residential care activities within or ancillary to existing residential units. Mr MacLennan considered that the scale would not be sufficiently sensitive to warrant a consent application and would be similar to a residential land use. Mr MacLennan suggested the alternative of linking the rule to GRUZ-S4(sic).

[120] Having considered the submissions from NZ Pork and Hort NZ, we do not consider that the scale of activity permitted by GRUZ-R8 requires a restricted discretionary activity. However, we accept Mr Hodgson's evidence that a requirement to adhere to GRUZ-S4 is appropriate for the reasons above.

GRUZ-R9

[121] Hort NZ [245.127] and NZ Pork [247.28] seek that the permitted activity rule for residential visitor accommodation be a restricted discretionary activity due to it being a sensitive land use. Mr MacLennan disagreed, noting the scale of activity permitted by rule GRUZ-R9, did not justify a consent being required. For the reasons stated above we consider that a requirement to adhere to GRUZ-S4 is appropriate.

GRUZ-R10

[122] We accept Mr MacLennan's analysis and recommendation in response to Helicopters Sth Cant [53.24], NZAAA [132.30] and Federated Farmers [182.199] submissions on GRUZ-R10 and agree that the amendments improve clarity and interpretation of the provision.¹¹¹

GRUZ-R11

[123] Hort NZ [45.114] and NZ Pork [247.29] sought that the broad suite of setbacks within GRUZ-S4 should apply to all recreation activities on the basis that a recreational activity adjoining primary production could constrain primary production activities.¹¹² Mr MacLennan recommended these submissions be rejected¹¹³, a position he maintained in his Interim Reply for the reason that the activities included within the definition of 'recreational activities' would not be considered sensitive activities and therefore the additional standard is not required.¹¹⁴ Having considered the broad definition of recreation activities we do not consider it appropriate that the standards apply to all recreational activities for the reasons given by Mr MacLennan.

¹¹¹ Andrew MacLennan, s42A Report, 19 June 2024, Para 10.22.4-10.22.8.

¹¹² Vance Hodgson, Statement of Evidence, 5 July 2024, Para 46-47.

¹¹³ Andrew MacLennan, s42A Report, 19 June 2024, Para 10.22.4-10.22.8.

¹¹⁴ Andrew MacLennan, s42A Reply Report, 20 September 2024.

[124] We agree with Mr MacLennan's recommended amendments in response to the Rooney Group¹¹⁵ and TDL [252.84] to ensure that small scale commercial recreational activities such as guided hunting and recreational tours are permitted by GRUZ-R11.¹¹⁶ We also find it appropriate that a new definition of 'commercial recreational activity' is included within the Proposed Plan, as recommended by Mr MacLennan¹¹⁷.

GRUZ-R12

[125] We agree with Mr MacLennan that GRUZ-R12 be retained as notified for the reasons set out in his s42A Report. We note that Ms Johnston confirmed that Federated Farmers [182.200] supported the s42A recommendations.¹¹⁸

GRUZ-R14¹¹⁹

[126] GRUZ-14 relates to the use of airstrips and helicopter landing sites. Included in our discussion of this rule is the related definitions of 'agricultural aviation activities', 'day', and 'rural airstrips'.

[127] In terms of the definitions, submitters requested a new definition for 'agricultural aviation activities' to support a new permitted activity rule in GRUZ-14.¹²⁰ Amendments to the definition of 'day' and to 'rural airstrips' was also requested to support a more enabling rule for agricultural aviation activities.¹²¹

[128] Overall, there was significant opposition to the rule from the rural aviation community, who considered the rule to be overly restrictive, and failed to recognise the importance of the industry in supporting rural productive land uses and a range of private aviation activities on private airstrips.

[129] Mr MacLennan explained in the s42A Report that the rule endeavoured to strike a balance between providing for primary production activities in accordance with objective GRUZ-O1 and providing a higher level of amenity, as articulated in GRUZ-O2.3. He accepted that there was some uncertainty in the drafting of rule GRUZ-14 as to what was captured as it related to both helicopter landing sites and airstrips which were not defined, he considered there were in fact two types of activities. Firstly, permanent airstrips and helicopter landing sites which are areas intended or designed to be used, whether wholly or partly, for landing, departure, movement, or servicing aircraft, and secondly the single aircraft flight, or landing or take-off. He considered the effects quite different and should be managed separately.

[130] In relation to permanent airstrip or helicopter landing sites, Mr MacLennan recommended changes to GRUZ-14 to apply to permanent airstrips and landing sites with limits on period of use (maximum of 30 days per 12 months) and separation distances from

¹¹⁵ Submitters including Rooney Holdings [174.84], Rooney, G.J.H. [191.84], Rooney Group [249.84], Rooney Farms [250.84], Rooney Earthmoving [251.84].

¹¹⁶ Andrew MacLennan, s42A Report, 19 June 2024, Para 10.23.4-10.23.5.

¹¹⁷ Andrew MacLennan, s42A Report, 19 June 2024, Para 10.23.4-10.23.7

¹¹⁸ Angela Johnston, Hearing Statement, undated.

¹¹⁹ To be renumbered GRUZ-R15 and GRUZ-R16

¹²⁰ Ballance [86.1], Helicopters Sth Cant [53.2], NZAAA [132.1] Federated Farmers [182.201].

¹²¹ Ibid and Hort NZ [245.34].

residential zones and the notional boundary of a building with an existing noise sensitive activity on a separate site under separate ownership. He recommended changes to make permanent airstrips and helicopter landing sites that do not meet the revised permitted activity rule requirements to be restricted discretionary activities rather discretionary, and he recommended nine matters of discretion including extent of compliance with NZS6807.

[131] In relation to aircraft and helicopter movements, Mr MacLennan recommended a new rule which permitted aircraft and helicopter movements for emergency purposes only such as medical emergencies, search and rescue or firefighting; or are associated with purposes ancillary to rural production including topdressing, spraying, stock management, fertiliser application, and frost mitigation, including the incidental landing and take-off of helicopters during their normal course of operation. All other aircraft and helicopter movements must be setback greater than 100m from any Residential Zone; the notional boundary of a building containing an existing noise sensitive activity, on a separate site under different ownership. Non-compliance with the permitted activity rule would be restricted discretionary activities with eight matters of discretion including extent of compliance with NZS6807.¹²²

[132] NZHA [45.1] opposed the notified rule GRUZ-14 on the basis it failed to provide for the essential role that helicopters play in the rural environment. However, at the hearing Mr Milner for the NZHA accepted that the s42A Report authors recommended changes to the rule, including new GRUZ-R14A¹²³ would adequately provide for commercial aviation activities.¹²⁴ The NZHA also requested a definition of 'aircraft and helicopter movement', to include a single aircraft flight operation (landing and departure), but to exclude maintenance procedures.

[133] NZAAA [132.1] was represented by Mr Tony Michelle at the hearing and also expressed support for the revised version of rule GRUZ-R14 and 14A.¹²⁵ The NZAAA also requested that the words 'rural production' be replaced with 'primary production' as it is defined in the Plan. The NZAAA requested the inclusion of a definition of 'agricultural aviation'.

[134] The Aircraft Owners and Pilots Association of New Zealand [201] (AOPA) and Mr Sid McAuley [57.1] remained opposed to the inclusion of a rule at the hearing. The AOPA represent people who fly small non-commercial fixed wing aircraft recreationally. They were represented by legal counsel, Mr Maw, who submitted that there was no basis to impose regulation on this activity at all through the Plan.¹²⁶ He noted the absence of a proper evaluation of the necessity for the rule, or its appropriateness in the Council's s32 Report. Representatives of the AOPA had made LGOIMA requests to try and identify the justification for the restrictions imposed by the Proposed Plan. There was no information provided in response in relation to any complaints leading to the need for the rule or data to support the proposed rule.

¹²² Andrew MacLennan, s42A Report, 19 June 2024, Para 10.25.15-10.25.35.

¹²³ Now renumbered GRUZ-16 in the Decision Version of provisions.

¹²⁴ Richard Milner CEO of New Zealand Helicopter Association, Statement of Evidence, 3 May 2024.

¹²⁵ Tony Michelle, Executive Officer of New Zealand Agricultural Aviation Association, Statement of Evidence, 1 July 2024.

¹²⁶ Joint Legal Submissions on behalf of the Aircraft Owners and Pilots Association and Sid McCauley, 12 July 2024.

[135] Mr Maw had considered the recommendations in the s42A Report. However, he maintained that there is no evidential foundation for imposing these restrictions on small fixed-wing aircraft as the flying of small fixed-wing aircraft has not created an identified issue. These restrictions unnecessarily limit and regulate an activity, and these limitations will be detrimental to the submitters and to the wider community.

[136] Following the hearing the Panel requested further information from the Council in relation to the background information that supported the inclusion of the rule, and an analysis of the Operative Plan provisions that would apply to aircraft.

[137] Ms Vella for the Council provided a response by way of Memorandum on 23 August 2024, the memorandum included recommendations from the Council's acoustic expert Mr Hunt. Ms Vella also explained there had been 'several complaints' regarding aircraft noise between 2011-2013, but there was no specific detail about the nature of these to be of any real assistance to our understanding of the issue. Ms Vella also outlined her interpretation of the Operative Plan status quo regulation of aircraft. In response Mr Maw filed further comment which offered an alternative interpretation of the provisions in the Operative Plan. He was also critical of the further analysis provided by Mr Hunt.¹²⁷

[138] Depending on which interpretation of the Operative Plan is applied, the status quo for flying small non-commercial fixed-wing aircraft is either: (a) No regulation or limitation; or (b) 50dBA L10 between 7am – 10pm and applying the NZS 6801:1991 measurement of sound and assessing the noise in accordance with the provisions in NZS 6802:1991 assessment of environmental sound.

[139] Following the hearing the Council continued to engage with the submitter regarding an appropriate rule framework. Mr Maw offered a way forward in Appendix B to his memorandum. On 28 February 2025 Ms Vella filed a further memorandum outlining TDC general support for the proposal put forward by Mr Maw. To assist the Panel with its findings TDC filed further supplementary evidence from acoustics expert Mr Hunt, and an updated s42A and s32AA report prepared by Mr MacLennan.¹²⁸

[140] Mr MacLennan considered the amendments proposed in the memorandum of counsel for the submitters dated 6 December 2024 in consultation with both Mr Hunt and Ms White, who is the s42A officer for the NOISE Chapter (heard in Hearing F). Mr MacLennan's view, having regard to the advice of Mr Hunt, is that:

- (a) the provisions proposed should sit in GRUZ-R14 – which is the recommended rule that would govern movements on permanent airstrips - rather than GRUZ-R14A which would govern ad hoc aircraft flights;
- (b) with this amendment, the provisions are appropriate to enable the use of non-commercial small fixed-wing aircraft as a permitted activity, while also ensuring

¹²⁷ Memorandum on behalf of the Aircraft Owners and Pilots Association and Sid Mcauley, 6 December 2024.

¹²⁸ Andrew MacLennan, Supplementary Evidence, 28 February 2025, and Malcom Hunt, Statement of Evidence, 28 February 2025

that the effects of the activity are managed to ensure the amenity of the GRUZ is maintained.

[141] Mr MacLennan recommended minor drafting changes to accommodate the above. We have carefully considered the evidence on this matter and consider the recommended amendments to GRUZ-R14 (now GRUZ-R15) and GRUZ-R14A (now GRUZ-R16) are appropriate.

GRUZ-R15¹²⁹

[142] H.B [74.3], an informal group of landscape architects and those with an interest in indigenous planting submitted on GRUZ-R15 seeking that no trees or shelterbelts shall be planted within 15m of SH1 unless they are of an indigenous variety. Mr MacLennan disagreed with the submission of H.B for the reason that there are no restrictions on planting indigenous vegetation adjoining SH1 for amenity purposes. In his view there was insufficient justification to prevent non-indigenous trees or shelterbelts adjoining SH1 over and above the matters listed within GRUZ-R15.¹³⁰ We heard from Ms Di Lucas on behalf of H.B at the hearing. We did not find there was sufficient evidence or evaluation to support a rule requiring indigenous planting, rather it was a matter which could continue to be pursued through information provided in non-regulatory planting guides in conjunction with ECan or TDC.

[143] Hort NZ [245.118] opposed the recession plane standard of GRUZ-R15 rule which controls the distance a building must be setback from a property. We heard from Ms Cameron at the hearing who explained the value and purpose of shelterbelts to rural production¹³¹ and Mr Hodgson who considered that the recession plane standard of GRUZ-R15 is likely to impact on existing shelterbelts planted specifically to support the primary production activity. As addressed in Section 2.2 (General Themes), we find Mr MacLennan's amendment to GRUZ-R15 to satisfactorily address the submitter's concern by requiring that any shelterbelt or woodlot be setback 30m from any residential unit or other principal building on an adjoining property.

[144] We generally accept Mr MacLennan's analysis and recommendations in response to submissions on GRUZ-R15 and agree it is appropriate to retain the definition of 'shelterbelt' as notified, and that no further amendments are made to GRUZ-R15. In reaching this view we note we received no evidence from MFL [60.43], and Federated Farmers [182.202] confirming acceptance of Mr MacLennan's recommendation on this matter.¹³²

GRUZ-R16¹³³

[145] We accept Mr MacLennan's analysis and recommendations relating to GRUZ-R16¹³⁴ and associated definitions, noting we either received no evidence from any party, or submitters confirmed acceptance of the recommendations.

¹²⁹ Now renumbered GRUZ-R17 in the Decision Version of provisions

¹³⁰ Andrew MacLennan, s42A Report, 19 June 2024, Para 10.26.8.

¹³¹ Sarah Cameron, Statement of Evidence, 5 July 2024.

¹³² Angela Johnston, Hearing Statement, undated.

¹³³ Now renumbered GRUZ-R18 in the Decision Version of provisions.

¹³⁴ Andrew MacLennan, s42A Report, 19 June 2024, Para 10.27.16-10.27.24.

[146] Hort NZ [245.120] support a permitted activity rule for primary production, but consider the proposed rule is unworkable and overly restrictive. They suggest there is confusion about the need for dark green or black cloth on vertical surfaces and uncertainty regarding setbacks and structural length control. They highlight artificial crop protection structures are necessary to achieve policy objectives and enable primary production. They requested simplification of the rule to require dark green or black cloth for vertical fences within 10 m of a road or existing residential unit and for structure(s) less than 6m high, the structure(s) are setback a distance of 3m from the boundary.

[147] Mr MacLennan agreed in part with the submission of Hort NZ. He considered that the dark netting on vertical faces should only be required in certain locations where greater amenity is anticipated within the Plan. Rather than limiting the standard to road boundaries and existing dwellings, he considered the dark cloth requirement should apply within 20m of a property boundary. He disagreed with the amendments to PER-3 to a single setback and preferred the graduated setback standards depending on the height of the structure to ensure that the amenity of the sites adjoining the artificial crop protection structures is retained. He agreed with the submitter that artificial crop protection structures are necessary to achieve GRUZ-O1 and GRUZ-P1 which enable primary production activities.¹³⁶

[148] Mr Hodgson for Hort NZ provided an example in his evidence from a recent consent order for appeals between Hort NZ and the Waikato District Council concerning artificial crop protection structures under the Proposed Waikato District Plan, which provides an agreed position for artificial crop protection structures that requires no setback unless bordering a residential unit. He considered that the approach could be adopted in the Timaru District.¹³⁷

[149] Mr MacLennan maintained his view of the graduated setback requirements for crop protection structures which set the height limits based on the distance from a boundary, provide flexibility as to the height of the structure while also ensuring that the amenity of the sites adjoining the artificial crop protection structures is retained.

[150] We have considered the alternatives before us, including the example from the Waikato District Council consent order. We do not consider that the Waikato approach is easily translated to Timaru, because we are not privy to the details of the appeal or the issues that had been raised with the Council decision which was appealed in that case. We have considered Mr Hodgson's simplified approach to setbacks compared to Mr MacLennan's graduated approach. We find on balance that the graduated approach is more targeted and is therefore more efficient and effective in addressing the actual and potential effects of the activity without unreasonably constraining rural productive land uses.

¹³⁵ Now renumbered GRUZ-R20 in the Decision Version of provisions.

¹³⁶ Andrew MacLennan, s42A Report, 19 June 2024, Para 10.28.4 -10.28.6.

¹³⁷ Vance Hodgson, Hort NZ, Statement of Evidence, 5 July 2024, paragraph 58 referring to. <https://environmentcourt.govt.nz/assets/Documents/Publications/2024-NZEnvC-063-Horticulture-New-Zealand-v-Waikato-District-Council.pdf>

*GRUZ-R19*¹³⁸

[151] Mr MacLennan did not support Hort NZ's submission [245.121] that sought to amend PER-1 of GRUZ-R19 to provide an appropriate consenting pathway for the reasons set out in his s42A Report.¹³⁹ Nor did he support the change sought by B Speirs [66.41]. However, he did agree with Hort NZ [245.31] that a definition of 'post-harvest facility' be added to the Proposed Plan to provide clarity to the permitted standard.¹⁴⁰ We agree this is a beneficial addition and note that Mr Hodgson for Hort NZ confirmed he supported the recommendations in the s42A Report on these matters.¹⁴¹ We further find the recommended minor RMA Schedule 1, cl 16 amendment to GRUZ-R19 to be acceptable.

*GRUZ-R20*¹⁴²

[152] NZ Pork [247.30] and Hort NZ [245.122] supported this provision but raised concern with the site area thresholds. Mr Hodgson confirmed in his evidence on behalf of both submitters he accepted Mr MacLennan's recommendation to lower the threshold from 80ha to 40ha and noted that the Proposed Plan enables the consideration of workers accommodation on sites smaller than 40ha via a consenting pathway.¹⁴³ We are satisfied the recommended amendment addresses the relief sought within the NZ Pork, Hort NZ and Rooney Group submissions¹⁴⁴ and note we received no evidence on this matter from any other party.

*GRUZ-R21*¹⁴⁵

[153] We accept the analysis and recommendations of Mr MacLennan in response to submissions on the definition of 'rural industry' and GRUZ-R21 and find the recommended amendment to GRUZ-R21 to be appropriate. We note we received no evidence to the contrary from any party, and Silver Fern Farms [172.125] confirmed acceptance of the s42A recommendation.¹⁴⁶

*GRUZ-R23*¹⁴⁷

[154] We accept the analysis and recommendations of Mr MacLennan in response to submissions on GRUZ-R23 and find the recommended amendments to GRUZ-R23 to be appropriate. We note we received no evidence to the contrary from any party, and Federated Farmers [182.206] confirmed acceptance of Mr MacLennan's recommendation on this matter.¹⁴⁸

¹³⁸ Now renumbered GRUZ-R21 in the Decisions Version of the provisions.

¹³⁹ Andrew MacLennan, s42A Report, 19 June 2024, Para 10.29.8.

¹⁴⁰ Andrew MacLennan, s42A Report, 19 June 2024, Para 10.29.7.

¹⁴¹ Vance Hodgson, Statement of Evidence, 5 July 2024, Para 63-68.

¹⁴² Now renumbered GRUZ-R22 in the Decisions Version of the provisions.

¹⁴³ Vance Hodgson, Statement of Evidence, 5 July 2024, Para 69-77.

¹⁴⁴ Submitters including Rooney Holdings [174.84], Rooney, G.J.H. [191.84], Rooney Group [249.84], Rooney Farms [250.84], Rooney Earthmoving [251.84].

¹⁴⁵ Now renumbered GRUZ-R23 in the Decisions Version of the provisions.

¹⁴⁶ Steve Tuck, Mitchell Partnerships, Letter on behalf of Silver Fern Farms, 11 April 2024.

¹⁴⁷ Now renumbered GRUZ-R25 in the Decisions Version of the provisions.

¹⁴⁸ Angela Johnston, Hearing Statement, undated.

GRUZ-R29¹⁴⁹ and GRUZ-27A¹⁵⁰

[155] Enviro NZ [162.17] raised a concern that cleanfills and landfills are considered a non-complying activity under GRUZ-R29 and they consider that the GRUZ is the most likely zone to accommodate such activities to allow for residential, commercial, industrial, and rural growth. On this basis Enviro NZ sought a discretionary activity status for these activities.

[156] We heard from Ms Rosser for Enviro NZ at the hearing who helpfully explained the background to the submission point. She accepted that managed landfills appropriately treated as non-complying activities under Rule GRUZ-R29, but considered cleanfills may find it difficult to obtain consent if also addressed as a non-complying activity. On this basis she recommended a separate discretionary rule for cleanfills would be appropriate and would meet the objectives and policies of the GRUZ.¹⁵¹

[157] Mr MacLennan initially disagreed with the submitter and considered that new industrial activities (such as cleanfills) not listed in GRUZ-R21 are not anticipated and therefore the non-complying activity status is appropriate.¹⁵² However, having heard the evidence from Ms Rosser at the hearing, Mr MacLennan reconsidered this view and confirmed that he accepted that there should be separate management approaches for cleanfills and landfills.¹⁵³ On this basis, he recommended a new discretionary rule GRUZ-R27A (now GRUZ-R30) be added to the GRUZ.

[158] Having considered the submissions and evidence we accept the analysis and recommendations of Mr MacLennan in response to submissions on GRUZ-R29 (now GRUZ-R32).

GRUZ – New Rural Contractor Depot Rule

[159] Rural Contractors [178.1, 178.9, 178.10, 178.11] sought to include a new permitted rule to provide for a rural contractor depot, with a restricted discretionary default. As a consequential amendment, the submitter sought to amend GRUZ-R21 - Rural industry to specifically exclude a rural contractor depot. They also sought to include the following definition for “Rural contractor depot” to support implementation.

[160] Mr MacLennan disagreed that an additional new permitted activity rule and definition for rural contractor depots are required. He considered that it is appropriate that a rural contractor depot that meets the definition of a ‘rural industry’ as defined within the Proposed Plan be managed through a restricted discretionary activity framework to ensure that adverse effects of the activity are adequately managed. He considered this rule framework is required to give effect to GRUZ-P7 which states that rural industries are only allowed in the GRUZ where the specific matters listed in GRUZ-P7.1 are achieved. We received no evidence to the contrary.

¹⁴⁹ Now renumbered GRUZ-R32 in the Decisions Version of the provisions.

¹⁵⁰ Now renumbered GRUZ-R30 in the Decisions Version of the provisions

¹⁵¹ Karen Rosser, Summary Statement of Evidence, Para 5.1-5.8.

¹⁵² Andrew MacLennan, s42A Report, 19 June 2024, Para 10.33.4.

¹⁵³ Andrew MacLennan, Hearing B: Interim Reply, 20 September 2024, Para 102-105.

[161] We accept the analysis and recommendations of Mr MacLennan in response to the submission from Rural Contractors [178.1, 178.9, 178.10, 178.11] and agree it is appropriate to retain the provision as notified.

2.5.2 Decision

[162] We adopt Mr MacLennan's final recommendations with regard to GRUZ rules as set out in the Final Reply, for the reasons set out above. The amendments to the provisions are set out in **Appendix 3**.

[163] In terms of s32AA, we adopt Mr MacLennan's evaluation in support of the changes made.

2.6 GENERAL RURAL ZONE STANDARDS

2.6.1 Assessment

GRUZ-S1

[164] RNZ's submission sought changes to GRUZ-S1 to address safety risks from electromagnetic radiation interference (*EMR*) that can arise if tall structures are constructed near RNZ's Facility [152.57]. Initially Mr MacLennan accepted in part the submission of Radio NZ [152.57] and recommended a new matter of discretion be added to GRUZ-S1 to provide discretion for these effects to be considered through the restricted discretionary activity consent process.¹⁵⁴ We received legal submissions on behalf of Radio NZ which stated that the recommended change did not address Radio NZ's concern, being the risk of EMR effects on surrounding buildings.¹⁵⁵ In consultation with Radio NZ's legal counsel, Mr MacLennan reconsidered his recommendation and put forward revised amendments to address the submission points.¹⁵⁶ We are satisfied the relief sought by Radio NZ has been appropriately addressed and we find the recommended amendments to be appropriate.

GRUZ-S3

[165] As previously addressed in relation to GRUZ-R1, NZ Pork [247.31] sought an exemption for buildings and structures related to movable pig shelters including farrowing huts less than 30m² in area and mobile pig shelters less than 2m in height.

[166] They also considered that partially or fully roofed mobile pig shelters would fall within the NPS definition of building and structure and therefore would be captured by the setback rule. As such they sought to include a new definition of 'ancillary buildings and structures (primary production)' for ancillary buildings and structures that support primary production and seek mobile pig shelters to be included in this definition.

[167] We accept the NZ Pork evidence of the purpose and function of moveable pig shelters and find that they are ancillary buildings and structures. We note Mr MacLennan also accepted

¹⁵⁴ Andrew MacLennan, s42A Report, 19 June 2024, Para 10.35.5.

¹⁵⁵ Hadleigh Pedler/Ben Williams, Legal Submissions, 11 July 2024, Para 6.

¹⁵⁶ Andrew MacLennan, s42A Summary, 17 July 2024, Para 12.

the submission in his Interim Reply. We agree that the amendment suggested by Mr MacLennan to exclude farrowing huts less than 10m² in area and less than 2m in height from GRUZ-R1, PER-4(2) improves certainty for plan users. We also agree that no change to the standard is required, nor any additional definition for ancillary buildings and structures (primary production) required.

[168] We accept Mr MacLennan's analysis and recommendation in response to the submissions from Maze Pastures [41.6] and MFL [60.45].

GRUZ-S4

[169] A number of submitters sought changes to the standard to include other activities that were potentially sensitive to encroachment by sensitive land uses.¹⁵⁷ We were not persuaded that the standard should be extended to all rural industry activities for the reasons outlined by Mr MacLennan. We did not hear evidence in relation to the requested changes from J R Livestock [241.32], Barkers [179.19] or Rural Contractors [178.11].

[170] In terms of NZ Frost Fans [255.28] request to provide for setbacks from existing and new frost fans, Mr MacLennan accepted in principle that they were activities that should be addressed in the standard, but he reserved his position until the hearings on the Noise Chapter. We did as well. Having now addressed the matter in Part 7 of the Report we agree with Ms White's recommended amendment to GRUZ-S4.5 which introduces the requirement that no new noise sensitive activity may be established within 100m of an existing or consented frost fan. We note Mr MacLennan's agreement on his matter where he states:

This amendment would prevent the establishment of any new noise sensitive activity within 100 metres of an existing or consented frost fan. Beyond this distance, the provisions of the NOISE chapter will ensure that where a new noise sensitive activity is proposed between 100 and 300 metres of a frost fan, acoustic insulation and ventilation requirements will apply to manage potential reverse sensitivity effects.¹⁵⁸

GRUZ-S5

[171] We accept Mr MacLennan's analysis and recommendation in response to the submissions on GRUZ-S5 and we agree that it is appropriate for GRUZ-S5 to be retained as notified, except where modified by minor clarifications and grammatical corrections.

GRUZ-New Standard

[172] We accept Mr MacLennan's analysis and recommendation in response to the ECan [183.148] submission seeking a limit on building coverage and we agree that an additional building coverage standard is not required.

¹⁵⁷ Andrew MacLennan, s42A Report, paragraph 10.37.1

¹⁵⁸ Andrew MacLennan, s42A Final Reply, 4 August 2025, para 14.

2.6.2 Decision

[173] We adopt Mr MacLennan's analysis and recommendations on GRUZ Standards. The amendments to the provisions are set out in **Appendix 3**.

[174] In terms of s32AA, we adopt Mr MacLennan's evaluation in support of the changes made.

2.7 RURAL LIFESTYLE ZONE OBJECTIVES

2.7.1 Assessment

RLZ-O2

[175] We accept Mr MacLennan's analysis and recommendation in response to the submission from ECan [183.149] and find the recommended amendment appropriate to give effect to higher order documents.¹⁵⁹ In reaching this view we note ECan tabled a letter¹⁶⁰ which signalled acceptance of the s42A recommendations, and on that basis, we are satisfied that the matter raised in submissions is resolved.

2.7.2 Decision

[176] We adopt Mr MacLennan's analysis and recommendations on RLZ-O2. The amendment to the provision is set out in **Appendix 3**.

[177] In terms of s32AA, we adopt Mr MacLennan's evaluation in support of the changes made.

2.8 RURAL LIFESTYLE ZONE RULES

2.8.1 Assessment

RLZ-R2

[178] We accept Mr MacLennan's analysis and recommendation in response to the submissions on RLZ-R2 and find the minor amendments to PER 1 and PER-2 of this Rule to be appropriate.¹⁶¹

RLZ-R5

[179] We accept Mr MacLennan's analysis and recommendation in response to the submission on RLZ-R5 and find the minor amendment to PER-1 of this Rule in response to B Speirs [66.43] to be appropriate.¹⁶²

¹⁵⁹ Andrew MacLennan, s42A Report, 19 June 2024, Para 11.2.3-11.2.7.

¹⁶⁰ Deidre Francis, Tabled Letter, 1 July 2024.

¹⁶¹ Andrew MacLennan, s42A Report, 19 June 2024, Para 11.3.6- 11.3.12.

¹⁶² Andrew MacLennan, s42A Report, 19 June 2024, Para 11.4.3.

2.8.2 Decision

[180] We adopt Mr MacLennan's analysis and recommendations on RLZ-R2 and RLZ-R5. The amendments to the provisions are set out in **Appendix 3**.

[181] In terms of s32AA, we adopt Mr MacLennan's evaluation in support of the changes made.

2.9 RURAL LIFESTYLE ZONE STANDARDS

2.9.1 Assessment

RLZ-S5

[182] We accept Mr MacLennan's analysis and recommendation in response to the submission on RLZ-S5 and find the minor amendment to Clause 2 in response to B Speirs [66.44] to be appropriate.¹⁶³

RLZ-S9

[183] We accept Mr MacLennan's analysis and recommendation in response to the submissions on RLZ-S9 from FENZ [131.58] and ECan [183.151] and agree that that RLZ-S9 be retained as notified.¹⁶⁴

2.9.2 Decision

[184] We adopt Mr MacLennan's analysis and recommendations on RLZ-S5 and RLZ-S9. The amendment to RLZ-S5 is set out in **Appendix 3**.

[185] In terms of s32AA, we adopt Mr MacLennan's evaluation in support of the changes made.

2.10 RLZ REZONING SUBMISSIONS

2.10.1 Assessment

[186] We accept Mr MacLennan's analysis and recommendation in response to the submissions on rezoning HPL areas within the RLZ¹⁶⁵ and agree that no changes to the Proposed Plan are required. We note we heard no evidence to the contrary.

2.10.2 Decision

[187] We adopt Mr MacLennan's analysis and recommendations on submissions relating to rezoning.

¹⁶³ Andrew MacLennan, s42A Report, 19 June 2024, Para 11.5.3.

¹⁶⁴ Andrew MacLennan, s42A Report, 19 June 2024, Para 11.5.9.

¹⁶⁵ Andrew MacLennan, s42A Report, 19 June 2024, Para 11.6.5-11.6.9.

2.11 BROOKFIELD ROAD SPECIFIC CONTROL AREA

2.11.1 Assessment

[188] Submitter MFL [60.47] raised concern regarding RLZ-S3 and S8¹⁶⁶ insofar as the proposed standards conflicted with resource consents granted for development in the Brookfield Road area. The submitter sought an amendment to clarify that the notified 10% site coverage does not apply to the Brookfield Road specific control area and requested an additional clause stating that the footprint of all buildings on the Brookfield Road specific control area site shall not exceed 12.5% of the net site area. The submitter also considered RLZ-S8 conflicts with a specified subdivision consent and sought that the tree provisions for the Brookfield Road specific control area are retained from the current Rural Residential (Brookfield Road) zone.

[189] Mr MacLennan explained the background to the zoning rules in this location and disagreed with the submitter that a bespoke alternative rule should be included for the existing development. He was of the view that existing consents, and existing use rights where applicable, address any perceived inconsistency between development authorised under the ODP and the Proposed Plan standards.

[190] At the hearing we received evidence from Mr Chris Knight, the director of Quarry Hills Development Limited, the developer of the Brookfield Road subdivision.¹⁶⁷ He explained the background to the subdivision process and some of the practical challenges for the development. Mr Knight explained that the developer had accepted a number of limitations on the development, including site coverage, as a compromise as part of the consenting process. However, as the development proceeded, he said there were a number of design challenges for the development, including the site coverage limitation, particularly on flat sites, which potential buyers had, anecdotally, found too restrictive and said did not enable a house and garage within the footprint. This was the reason for the request for a more enabling rule framework in the Proposed Plan.

[191] The submitter provided planning evidence from Ms McMullan¹⁶⁸ and legal submissions in support of the position.¹⁶⁹ The planning evidence and legal submissions did not advance the position beyond the general argument that the 2.5% difference between notified requirement of 10% in RLZ-S3 and the requested 12.5% was minimal, and reflective of 'clear market' evidence of the difficulties with the proposed rule for this development.

[192] During the hearing Ms McMullan clarified that the request to include the 12.5% standard related only to lots of approximately 5000m², not larger allotments which would be inappropriate. She suggested a maximum site coverage of 700m².

[193] In his Interim Reply, Mr MacLennan maintained his view that the Proposed Plan standard was appropriate, even in the context of the Brookfield subdivision, which primarily

¹⁶⁶ The submitter withdrew submission point [60.48].

¹⁶⁷ Christopher Knight, Statement of Evidence, 5 July 2024.

¹⁶⁸ Melissa McMullan, Statement of Evidence, 5 July 2024

¹⁶⁹ Legal submissions on behalf of MFL, 11 July 2024,

provided for sites of 5000m², in which case in the context of the subdivision, would enable a 500m² dwelling and garage, which he considered remained an appropriate permitted activity standard.

[194] We find that although Mr Knight explained the practical difficulties some purchasers had experienced, we did not receive adequate evidence to support an evaluation under s32AA to depart from the notified provisions. We had no valuation or independent real estate evidence, nor any landscape or design evidence that demonstrated the difference between the rule as notified and the alternative proposal.

2.11.2 Decision

[195] We adopt Mr Maclellan's analysis and recommendation and reject the relief requested by the submitter.

2.12 SHAW AND HISLOP STREETS SPECIFIC CONTROL AREA

2.12.1 Assessment

[196] As summarised in Mr Maclellan's s42A Report, the submissions seeking that 2, 4, 6 and 12 Shaw Street and 6 and 6A Hislop Street are rezoned from RLZ to GRZ have been considered as part of the Residential Zones Chapter.¹⁷⁰ As we have addressed in Section 3 of this Decision, we accept Ms White's analysis and recommendations and agree that GRZ zone better reflects the existing size of these sites, noting that no servicing constraints have been identified. A consequential change is also required to remove the SCA Overlay.¹⁷¹

2.12.2 Decision

[197] Given our finding in Section 3 of this Decision, we adopt Ms White's recommendation, and the amendments are contained in **Appendix 2** and **Appendix 3**.

[198] In terms of s32AA, we are satisfied that the amendments are the most appropriate option for achieving the purpose of the RMA, the relevant provisions of the Plan and for giving effect to other relevant statutory instruments.

2.13 SETTLEMENT ZONE STANDARDS

SETZ-S4, SETZ-S6 and SETZ-S8

2.13.1 Assessment

[199] We accept Mr Maclellan's analysis and recommendation in response to the submissions on the Settlement Zone standards¹⁷² and note we heard no evidence to the contrary.

¹⁷⁰ Andrew Maclellan, s42A Report, 19 June 2024, Para 11.8.3.

¹⁷¹ Liz White, Final Reply s42A Report, paragraph 16

¹⁷² Andrew Maclellan, s42A Report, 19 June 2024, Para 12.2.3, 12.3.3, 12.4.4-12.4.5.

2.13.2 Decision

[200] We adopt Mr Maclellan's analysis and recommendations on submissions relating to Settlement Zone standards SETZ-S4, SETZ-S6 and SETZ-S8, and we find the minor recommended amendment to SETZ-S6 to be appropriate. The amendment to SETZ-S6 is set out in **Appendix 3**.

[201] In terms of s32AA, we adopt Mr Maclellan's evaluation in support of the change made.

2.14 BLANDSWOOD

2.14.1 Assessment

[202] As noted above, and as detailed in Mr Maclellan's s42A Report¹⁷³ 22 submissions were received opposing the inclusion of Blandswood (a long-established settlement with permanent houses and holiday homes) in the Open Space Zone. Submitters sought rezoning from Open Space Zone–Holiday Hut Precinct to Settlement Zone (SETZ). Reasons provided in submissions included:

- (a) The OPZ is not appropriate for private land with existing dwellings.
- (b) The OSZ will mean resource consent is required to do anything on the submitter's property.
- (c) The OSZ will result in a vacant section not being able to be built on despite its suitability for residential development.
- (d) The OSZ will mean maintenance and development/improvement of properties will be restricted.
- (e) The OSZ will unduly restricts property owners to develop and improve their homes or holiday homes.
- (f) The Blandswood area is different from other areas where the OSZ is proposed.

[203] Since Hearing Stream B, the SETZ reporting officer (Mr Maclellan) has worked with the Blandswood submitters and DOC on revised provisions establishing a Blandswood Precinct within the Settlement Zone. Those revised provisions address the matters raised in the three submissions (originally allocated to the OSZ hearing), and all Blandswood submitters have been included in that process. We accept Mr Maclellan's advice that a Blandswood Precinct within the SETZ Chapter is the appropriate planning framework for the area.

[204] Consequential amendments have been recommended to the OSZ Chapter to remove all references to Blandswood, as this chapter will no longer apply to the area. We accept those consequential amendments.

¹⁷³ Andrew Maclellan, s42A Report, 19 June 2024, Para 13.3.2.

[205] Overall, we are satisfied that the recommended bespoke package of provisions (including a dedicated objective, policy, and rules) will ensure that the residential character and natural qualities of the Blandswood Precinct are maintained.

2.14.2 Decision

[206] We adopt Mr MacLennan's analysis and recommendations and we find the amendments to create a Blandswood Precinct within the SETZ Chapter to be appropriate. The amendments to the SETZ Chapter and consequential amendments to the OSZ Chapter are set out in **Appendix 2** and **Appendix 3**.

[207] In terms of s32AA, we adopt Mr MacLennan's evaluation in support of the changes made and we agree that the recommended amendments provide greater direction on the purpose, character and qualities of the Blandswood Precinct and the changes to the objective are the most appropriate to achieve the purpose of the RMA.

2.15 REZONING REQUESTS

2.15.1 Assessment

Waihi School

[208] Waihi School [236.1, 236.1FS] oppose the General Rural Zoning of Waihi School at 611 Temuka-Orari Highway and of the adjoining site to the north (referred to as the Rolleston Site) and sought a Special Purpose (School) Zone or alternatively a precinct or specific control area in the GRUZ for the Waihi School and Rolleston sites. Mr MacLennan, having received the further information he requested from the submitter, recommended that a new 'Waihi School Precinct' be included in the Proposed Plan comprising a new policy, and an additional rule, amended planning maps to reflect the Precinct, and an additional reference to the Precinct within SCHED16 of the Proposed Plan.¹⁷⁴ We heard from Ms Gallagher, representing Waihi School Trust Board (WSTB), at the hearing, who confirmed that the recommended 'PREC8-Waihi School Precinct' and the associated provisions are acceptable.¹⁷⁵ Having considered the submission and evidence, we are satisfied that the recommended amendments to the Proposed Plan are appropriate, and we agree the Precinct is an efficient and effective method of achieving GRUZ-O1 and will ensure that the relevant character and qualities of the GRUZ set out in GRUZ-O2 will be maintained.

*Fonterra – Clandeboye Site*¹⁷⁶

[209] Fonterra own and operate the Clandeboye manufacturing site (Clandeboye site) located near Temuka. In evidence, Ms Tait, the planning witness for Fonterra described the Clandeboye site and provided a map showing the extent of the site, which includes the proposed General Industrial Zone (GIZ) and a small area of rural land.¹⁷⁷ For the purposes of this section of our decision we adopt that description of the site.

¹⁷⁴ Andrew MacLennan, s42A Report, 19 June 2024, Para 13.1.5 - 13.1.28

¹⁷⁵ Penelope Gallagher, Statement of Evidence, 5 July 2024, Para 3.

¹⁷⁶ As reflected in Appendix 3.

¹⁷⁷ Suzannah Tait, Statement of Evidence for Fonterra, 5 July 2024, sections 5.1 and 5.2

[210] The Clandeboye site is Fonterra's key asset within the Timaru District. The site processes up to 13 million litres of milk per day and is one of Fonterra's largest manufacturing sites, employing over 1000 staff. Fonterra is concerned that the proposed GIZ does not adequately provide for the unique characteristics of the Clandeboye site. Fonterra considers that the provisions are unsuitable for the site and community needs. The submission initially requested amendments to introduce a new chapter for a "Special Purpose Zone - Strategic Rural Industry" (SPZ-SRI) tailored to the Clandeboye site which would have wider application but emphasised the responsibility of individual sites to demonstrate the need or benefit of the proposed zone.

[211] The submission included proposed drafting for the SPZ-SRI which includes separate objectives, policies, rules, and standards for the zone. The proposed provisions enable the continued operation and development of strategic rural industry activities and ancillary activities while also ensuring that strategic rural industrial activities to operate without being compromised by reverse sensitivity. The submitter also seeks the introduction of a new definition of "Strategic rural industry activities" as follows:

Strategic rural industry activities means: any activity that is associated with the processing, testing, storage, handling, packaging or distribution of products manufactured at sites in the Special Purpose Zone - Strategic Rural Industry.

[212] Prior to the hearing, and in the evidence and legal submissions provided by Fonterra, the rezoning request was significantly refined to only relate to the operational needs of the Clandeboye site. Instead of a broad strategic rural industry zone framework, the submitter requested an activity specific Special Purpose Zone for the Clandeboye Dairy Manufacturing Site (CDMS).

[213] Clandeboye site is surrounded by rural land, and Fonterra seeks, amongst other things, a specific policy protecting the site from reverse sensitivity effects. They also request a setback of 500m from farms irrigating waste from the Clandeboye plant. The submitter also proposes a noise boundary surrounding the site that will trigger insulation requirements for sensitive activities that might seek to establish in close proximity to the plant.

[214] Fonterra was represented by legal counsel, Mr Ben Williams, at the hearing who called a range of expert and corporate evidence to support the submission:

- (a) Ms Suzanne O'Rourke for the company;
- (b) Mr Ross Burdett for the site;
- (c) Mr Mike Copeland in relation to economics;
- (d) Mr Richard Chilton in relation to air quality;
- (e) Mr Paul Smith on landscape and visual matters;
- (f) Mr Rob Hay in relation to noise;
- (g) Mr Dave Smith in relation to traffic;
- (h) Ms Susannah Tait in relation to planning.

[215] The Panel accepts Fonterra's technical expert evidence, noting that evidence was not challenged by any other submitter, nor the Council. The issue is the identification of the most appropriate planning framework to provide for the activity in its current location. We have focused our consideration on the differing planning opinions provided by Ms Tait for Fonterra, and Mr MacLennan for the Council. We have also considered the legal arguments of both Ms Vella and Mr Williams, particularly in relation to the interpretation and application of the higher order planning documents.

[216] The Panel undertook a site visit, to familiarise ourselves with the activities within the site and the surrounding environment.

[217] In terms of the scope of the amended relief, Mr Williams provided an analysis of the relief requested, compared with that originally proposed. We are satisfied that the amended relief sits fairly and reasonably between the notified Plan and the original relief requested and that no legal scope issues prevent the Panel from considering the evidence on the narrowed relief or considering whether that amendment is more appropriate.

[218] In order to evaluate the different options, we first considered the higher order planning framework, then evaluated the proposed zone objectives, policies and rules within the framework required by s32/32AA of the Act.

Is it appropriate for Clandeboye to be provided for by way of a special purpose zone, a precinct, in the form of a special overlay or through the GIZ rules?

[219] Clause 8 of the National Planning Standards set out the criteria for a special purpose zone to be established. Clause 8(3) provides:

An additional special purpose zone must only be created when the proposed land use activities or anticipated outcomes of the additional zone meet all of the following criteria:

- (a) are significant to the district, region or country
- (b) are impractical to be managed through another zone
- (c) are impractical to be managed through a combination of spatial layers.

[220] Mr Williams submitted that 'Impractical' does not have the same meaning as 'impossible'. Although not defined by the NPS itself, 'impractical' has the dictionary meaning of "not effective or reasonable".¹⁷⁸ He submitted that as a matter of principle, the RMA's sustainable management purpose is also of relevance to establishing the content of the Proposed Plan. Therefore, it is not necessary to show that the site is not capable of being managed through another zone or through a combination of spatial layers (i.e., a precinct). What matters is whether the framework is an effective means of managing the natural and physical resources at the Clandeboye Site.

¹⁷⁸ Legal submissions on behalf of Fonterra, at [37]-[38], 12 July 2024

[221] The Panel accepts the evidence that Clandeboye factory is significant to the District and Region, and makes a significant contribution to the national economy, thereby meeting the first test.

[222] We then approached the issue of the most appropriate method (zone), firstly by considering the notified zone, to test whether it is impractical to provide for Clandeboye through the proposed zone, before then considering whether it is impractical to provide for Clandeboye with a precinct approach. It is only then we can consider the alternative of a special purpose zone.

[223] Before undertaking our evaluation, we note that a small area of land at 37 Rolleston Road and 2-10 Kotuku Place is rural land containing highly productive soils. We were told in evidence that this land was needed to provide for a proposed Biomass Project and related infrastructure, which at the time of the hearing was said to be expected to take place mid-2025.¹⁷⁹ Clause 3.6(4) of the NPS-HPL provides a limited pathway for the rezoning of Rural Land, otherwise prevented under the NPS-HPL.¹⁸⁰ In accordance with clause 3.6.4 (a) of the NPS-HPL, Fonterra argued that although the potential use of the land differed from the 'housing' or 'business' land use that might more commonly be expected to be subject to the clause, in this case there were obvious limits on where the Biomass plant could practically be located. It needed to be next to the existing site. Fonterra acknowledged that the proposal could be pursued by resource consent. They had already discounted the prospect of developing the Biomass plant on the GIZ zoned land due to special and operational constraints.

[224] Mr Williams also referred to the requirements of clause 3.11 of the NPS-HPL with regard to providing for existing use rights. We have not found it necessary to rely on clause 3.11 or make any finding on the scope of existing uses in this context. We consider however, that a sensible application of clause 3.6(4) is that the rezoning of a small area of land adjacent to the GIZ, where it is required for the Biomass plant, falls within the enablement of business land, because there is no practical alternative location for the activity, and business development capacity for the proposed Biomass plant is not available elsewhere. We accept that it is more efficient and effective than relying on resource consents for use of the Rural Zone in this instance. We consider that whatever the rezoning option is, appropriate rules can be drafted so that the land is used in conjunction with the Clandeboye site.

[225] Returning to the issue of whether the GIZ zone, with or without a precinct is 'impractical' we have considered the following evidence:

- (a) The proposed GIZ zone is largely a 'roll over' of the ODP Industrial H zone. Clandeboye has operated within that framework since 1995.

¹⁷⁹ Ross Burdett, Statement of Evidence, 5 July 2024 at 29

¹⁸⁰ See Parts 1 and 7 of the Decision for a discussion on the Government's most recent suite of national policy statement changes relating to HPL and the steps we undertook to seek the views of Council and submitters in response to those changes.

- (b) The site has undergone regular change and although Ms O'Rourke was concerned about the number of resource consents required for the site, these were mostly regional consents, rather than new land use consents.¹⁸¹

[226] Ms O'Rourke gave examples of rules in the Industrial H zone which were not appropriate or a good fit with the nature of the site's activities, for examples rules relating to landscaping requirements, temporary buildings, and the noise requirements (covered by an existing resource consent). She said some requirements had aspects which were no longer relevant due to changes in land use surrounding the site. Ms O'Rourke preferred a Special Purpose Zone and did not comment on the use of overlays or precincts from an operational perspective.

[227] Mr Burdett, the Site Operations Manager, provided more details of the nature of the resource consenting burden on Fonterra. Mr Burdett spoke of the positive relationship that Fonterra had with the local community, although the company had not shared with the local community its intention to seek a Special Purpose Zone through the Proposed Plan process.

[228] Ms Tait considered that the status quo roll over approach to zoning was impractical given the complexities of the operational requirements of the site.¹⁸² We record here that although initially Mr MacLennan considered the GIZ zoning to be appropriate, he changed his view to accept that there could be improvements to the zone rules to better meet the needs of the site. To that end he preferred the use of a precinct. Ms Tait's preference was for the Special Purpose Zoning. Mr MacLennan and Ms Tait continued to discuss their differences after the hearing and reached agreement on the planning framework that could apply, whether that be by way of Mr MacLennan's precinct or Ms Tait's Special Purpose Zone. They produced a joint witness statement on 2 October 2024. The main differences between their reasoning was summarised as follows:¹⁸³

3. Appropriate planning mechanism for the CDMS

3.1 The experts do not agree on the appropriate planning mechanism to embed the CDMS provisions in the PDP.

3.2 Mr MacLennan considers the activities on the site are industrial in nature and are not sufficiently different from the provisions of the GIZ that warrants a special purpose zone. He considers embedding the precinct within the GIZ chapter allows the bespoke requirements of the CDMS to be incorporated into the GIZ, while retaining the notified structure of the PDP. He considers the precinct option removes the need to duplicate the policies of the GIZ related to "offence trade" and "other activities". In addition, he considers the GIZ objectives, which outline the purpose, character, qualities, use, and development of the zone¹, provide valuable context to assist plan users in understanding the nature of the area.

¹⁸¹ The site is currently governed by 18 resource consents issued by the Council. There are a further 35 resource consents (or certificates of compliance) issued by ECan. In total, the site is subject to 53 resource consents.

¹⁸² Susannah Tait, Statement of Evidence, 5 July 2024, Para 6.7.8-6.7.21.

¹⁸³ Joint Witness Statement, MacLennan and Tait, 2 October 2024 at section 3 and 4.

3.3 Finally, as noted in paragraph 13.2.9 of his s42A report the National Planning Standards state that:

“3. An additional special purpose zone must only be created when the proposed land use activities or anticipated outcomes of the additional zone meet all of the following criteria:

- a) are significant to the district, region, or country
- b) are impractical to be managed through another zone
- c) are impractical to be managed through a combination of spatial layers”

3.4 While he appreciates a zone creates a simpler planning framework that applies to the CDMS, Mr MacLennan retains the view that it is not impractical to manage the CDMS through the GIZ provisions. Given this, his preference is the precinct option. The provisions, articulated as a precinct within the GIZ, are set out in Attachment A.

3.5 Ms Tait considers that the use of a Special Purpose Zone is still the most appropriate method for achieving the purpose of the RMA. The reasoning for this is clearly set out in her evidence in chief (dated 5 July 2024) and her summary statement (dated 23 July 2024). The provisions, articulated as a zone, are set out in Attachment B. It is noted that as a package of zone provisions, two additional policies have been included (that did not form part of the original zone package) to address offensive trades and ‘other’ activities.

4 S32AA

4.1 Ms Tait, within Appendix D of her evidence, has provided a section 32AA assessment of the provisions submitted with her evidence. The experts consider that this assessment is largely still relevant for the agreed provisions (whether adopted as zone or precinct provisions). As the cost/benefits and efficiency and effectiveness of both options are similar.

4.2 Ms Tait retains the view that the special purpose zone is the most efficient and effective method of achieving the objectives and thereby Part 2 of the Act, as set out in Appendix D of her evidence.

4.3 Mr MacLennan is of the view that the precinct provisions are the most efficient and effective method of achieving the objectives for the reasons set out in paragraphs 3.2 to 3.5 above.

[229] The Panel has considered the respective experts s32AA evaluation and note that the differences in efficiencies and effectiveness are finely balanced. We note however, that before the s32AA evaluation is undertaken the Panel must give effect to the NPS, which is directive as to the structure of the plan. On that basis, we do not find on the evidence that it is ‘impractical’ to provide for the Clandeboyne dairy plant and its associated activities by way of a precinct, as required by clause 8(3) (b) and (c) of the National Planning Standard. We agree with Mr MacLennan that although the activity has some site-specific constraints that differentiate it from other industrial activities, it is still an industrial activity. Therefore, it can be accommodated within the GIZ with an overlay, for the reasons given by Mr MacLennan. We

addressed the issue of whether it is appropriate to provide for a noise insulation requirement for sensitive activities in the adjoining Rural Zone and setbacks from the disposal of dairy factory waste on the rural land surrounding the plant, following our consideration of evidence in Hearing F, and these issues are addressed in Part 7 of the Report.

[230] For completeness, for the reasons set out in Mr MacLennan's Final Reply, we also find it appropriate that 37 Rolleston Road, 2 and 10 Kotuku Place be rezoned from GRUZ to GIZ and included within the proposed Clandeboye Dairy Manufacturing Precinct as set out within the JWS (now described as PREC8).¹⁸⁴

[231] In terms of specific provisions, we have carefully considered the suite of recommended amendments to achieve the Clandeboye Dairy Manufacturing Precinct as set out in the final s42A Reply Reports within the GIZ and find these to be appropriate. We further accept Mr MacLennan's recommendation where he removes (as a consequential amendment) the Height Specific Control Area from the area covered by the Clandeboye Dairy Manufacturing Precinct Building Control Plan (BCP). This is because the site-specific height controls in the Clandeboye BCP supersede those in the notified Plan Height Specific Control Area.¹⁸⁵

[232] We did not find it necessary or appropriate to include a definition of 'strategic rural industry' in light of the incorporation of the new precinct.

Woodbury

[233] Earl and Lucia [13.1] consider the Rural Lifestyle Zone at Woodbury should be extended to include 42 Burdon Road, Woodbury given it is small in size (3.5ha) and adjoins the Rural Lifestyle Zone. They also note that it is outside the water protection area. Mr MacLennan agreed with the submitter and recommended that the site be rezoned from GRUZ to RLZ.¹⁸⁶ However, he did not consider an amendment to RLZ-R8 was required. We accept Mr MacLennan's analysis and agree that the 3.5ha site adjoining the existing RLZ better fits with the character of the RLZ.¹⁸⁷

2.15.2 Decision

[234] We adopt Mr MacLennan's analysis and recommendations on rezoning requests, including Attachment A to the JWS in relation to the Clandeboye site, and the amendments are set out in **Appendix 2 and Appendix 3**.

[235] In terms of s32AA, we adopt Mr MacLennan's evaluation in support of the changes made, including the additional s32AA evaluation for the Clandeboye site as set out in the Final Reply.¹⁸⁸ We are satisfied that the amendments are the most appropriate option for achieving the purpose of the RMA, the relevant provisions of the Plan and for giving effect to other relevant statutory instruments.

¹⁸⁴ Andrew MacLennan, s42A Final Reply Report, 4 August 2025, Para 29.

¹⁸⁵ Andrew MacLennan, s42A Final Reply, 4 August 2025.

¹⁸⁶ Andrew MacLennan, s42A Report, 19 June 2024, Para 13.4.12.

¹⁸⁷ Andrew MacLennan, s42A Report, 19 June 2024, Para 13.4.6.

¹⁸⁸ Andrew MacLennan, s42A Final Reply, 4 August 2025, Para 32-35.

3 URBAN ZONES

3.1 BROAD SUBMISSIONS

3.1.1 Assessment

[236] Six submitters raised matters relevant to several of the Residential Zones (RESZ) and Commercial and Mixed Use Zones (CMUZ) Chapters but that relate to the same underlying issue, as summarised by the s42A author, Ms White.¹⁸⁹ We accept Ms White's analysis and recommendations in response to these submissions and further find the amendments to GRZ-S5.1 and MRZ-S5 in response to the submission from ECan [183.1] to be appropriate.¹⁹⁰ We note that ECan tabled a letter¹⁹¹ signalling acceptance of the s42A recommendations, and we received no other evidence to the contrary.

[237] We note that in subsequent sections of this Decision we find specific amendments to provisions to be appropriate that may, to some extent, address the broader concerns expressed by these submitters. We note that we received no evidence from Woolworths in response to Ms White's recommendation.

3.1.2 Decision

[238] We adopt Ms White's analysis and recommendations on these broad submission points. The amendments to GRZ-S5 and MRZ-S5 are set out in **Appendix 3**.

[239] In terms of s32AA, we are satisfied that the amendments are the most appropriate option for achieving the purpose of the RMA, the relevant provisions of the Plan and for giving effect to other relevant statutory instruments.

3.2 GENERAL RESIDENTIAL ZONE - OBJECTIVES AND POLICIES

3.2.1 Assessment

GRZ-O1 and GRZ-O2

[240] Broughs Gully [167.18, 167.19] supported both GRZ-O1 and GRZ-O2. Dept. Corrections [239.18] supported GRZ-O1. Kāinga Ora [229.62] supported the intent of GRZ-O1 but suggests minor amendments that are intended to reinforce the primary purpose of the zone as a residential environment.

[241] Kāinga Ora [229.63] requested that clauses 3 and 4 of GRZ-O2 are deleted, which relate to provision for onsite outdoor living space and ample space around buildings,

[242] Ms White agreed with the minor amendment to GRZ-O1 to refer to residential activities being provided "via" a mix of housing typologies. However, she did not agree with the other changes, because the use of "enabling", an action, is more appropriately located at the policy level. At the objective level she considered it clear that residential activities are to take primacy,

¹⁸⁹ Liz White, s42A Report, 18 June 2024, Para 6.3.3-6.3.8.

¹⁹⁰ Liz White, s42A Report, 18 June 2024, Para 6.3.15.

¹⁹¹ Deidre Francis, Tabled Letter, 1 July 2024.

with other activities anticipated where both (a) complementary to the primary residential purposes and (b) support the wellbeing of residents. She did not consider an additional clause referring to a “mix of housing typologies” is required in GRZ-O2, because this is included in GRZ-O1, and clause 2 of GRZ-O2 also refers to the types of built form anticipated. Similarly, she did not agree with referring to sufficient levels of landscaping in a new clause, because clause 5 already refers to sites incorporating plantings. She considered it appropriate to delete reference to provision of ample space around buildings, because while it is an aspect of built form that is anticipated in this particular residential zone, this is more an outcome that arises from other factors, namely low to moderate building site coverage (addressed in clause 1); incorporation of plantings (clause 5); provision of sunlight access (clause 6) and privacy between properties (clause 7). Ms White agreed that the wording of clause 4 could be improved by referring to “sufficient” outdoor living space.

[243] Mr Joshua Neville, the Team Leader for Development and Planning for the South Island at Kāinga Ora, confirmed he agreed with Ms White’s recommendations in relation to the objectives.¹⁹²

[244] Ms White recommended amendments to the objectives to reflect her analysis, and these are incorporated in the Final Reply. We agree with Ms White’s analysis.

GRZ-P1

[245] In regard to GRZ-P1, Kāinga Ora [229.64] sought that clause 2.b. be deleted, which refers to outdoor living areas providing ample opportunity for outdoor living, tree and garden planting; and clause 4 is amended to refer to ample “*landscaping and planting*” around buildings, to “*provide residential and streetscape amenity, and privacy to neighbouring dwellings*”, rather than maintaining the character and qualities of the zone. The changes sought are to more practically provide for greater residential density opportunities, while also providing for important values for sites and neighbours. Ms White initially favoured reference to maintaining the character and qualities of the zone as they are clearly set out in GRZ-O2. However, based on Mr Neville’s evidence on behalf of Kāinga Ora¹⁹³, she reconsidered her position and recommended amending GRZ-P1 to refer to the character and qualities ‘anticipated’ in the zone, rather than maintaining existing character and qualities.¹⁹⁴ We agree this change is appropriate for the reasons given by Ms White.

GRZ-P4 and GRZ-P5

[246] Transpower [159.92] sought that GRZ-P4 is amended to refer in clause 1 to operational needs as well as functional needs; clause 2 is extended to direct that effects are avoided or minimised “*to the extent practicable*”; and clause 3 amended to exempt its application to regionally significant infrastructure. As summarised in the s42A Report, these changes are sought to reflect that the technical needs of the National Grid, mean that its adverse effects cannot always be minimised, and to ensure a pathway is provided at a policy level for the

¹⁹² Joshua Neville, Summary Statement of Evidence, 24 July 2024.

¹⁹³ Joshua Neville, Statement of Evidence, 8 July 2024, Para 5.2-5.5.

¹⁹⁴ Liz White, s42A Summary Report, Para 9(c).

operation, maintenance, upgrade and development of the National Grid in all zones.¹⁹⁵ Transpower [159.93] also sought an amendment to GRZ-P5 to reflect 'consistency' with GRZ-P4 rather than 'compliance with' GRZ-P5.

[247] Ms White agreed with the amendments sought by Transpower to clause 1 of GRZ-P4, however, she disagreed with the changes sought to clauses 2 and 3 of GRZ-P4. In her evidence, Ms McLeod for Transpower, did not agree with the conclusion that the EI policies 'apply instead' or 'take precedence' over the area-specific policies. She concluded there is a tension or conflict that needs to be resolved in order to give effect to the NPS-ET by either amending the relevant area-specific policies or by making it explicit that the EI policies prevail over the area-specific zone provisions.¹⁹⁶ She put forward three alternative drafting approaches to resolve this tension in a manner that in her view give effect to the NPS-ET.¹⁹⁷

[248] In her Interim Reply¹⁹⁸, Ms White stated that:

Mr MacLennan, Ms Hollier and I agree that there is a lack of direction in the PDP regarding the way that infrastructure is addressed at a policy level in the area-wide chapters, and agree that there is a need to address potential tension or conflict between the policies in the Energy and Infrastructure and area-wide chapters. We consider that providing a policy pathway is justified for infrastructure, in order to assist in the achievement of EI-O1, and reflects that EI-P2 already provides policy direction for managing adverse effects of infrastructure. This includes controlling the height, bulk and location of other infrastructure, consistent with the role, function, character and identified qualities of the underlying zone; minimising adverse visual effects on the environment through landscaping and/or the use of recessive colours and finishes; and requiring other infrastructure to adopt sensitive design to integrate within the site, existing built form and/or landform and to maintain the character and qualities of the surrounding area. As such we consider it appropriate for the policies in the Energy and Infrastructure Chapter to prevail over the zone chapters. We consider that it is best to address this within the Energy and Infrastructure Chapter, rather than via amending the policies across multiple zone chapters, so that the policy pathway is limited to infrastructure.

Consistent with Ms McLeod's second option, we recommend that the following is added to the Introduction of the Energy and Infrastructure Chapter. For completeness we note that we have discussed and agreed this with Mr Willis, who is the s42A report author for that chapter:

In the case of conflict with any other provision in the District Plan, the NESETA and NESTF prevail.

The policies in this chapter take precedence over policies in any Zone Chapter of Part 3 – Area Specific Matters - Zone Chapters.

In terms of s32AA, I consider that clarifying the relationship between the Energy and Infrastructure Chapter and the Zone Chapter policies will result in a more

¹⁹⁵ Liz White, s42A Report, 18 June 2024, Para 6.4.7.

¹⁹⁶ Ainsley McLeod, Statement of Evidence, 5 July 2024, Para 7.

¹⁹⁷ Ainsley McLeod, Statement of Evidence, 5 July 2024, Para 40.

¹⁹⁸ Ms White, Hearing B: Interim Reply, 19 September 2024.

efficient administration of the PDP, and that applying precedence to the Energy and Infrastructure Chapter will be more effective at achieving EI-O1.

[249] Having considered the submission and evidence presented to us on Transpower's submission, we accept Ms White's recommendation and analysis and agree that the proposed amendment to the Introduction of the Energy and Infrastructure Chapter would assist in the efficient administration of the Proposed Plan. As we have discussed in Part 1 of the Report, we prefer the reference to provisions applying 'instead of'; and as addressed in our decision on the EI Chapter¹⁹⁹ we have inserted a new policy to ensure that the relationship between the objectives and policies of the EI Chapter and the Zone Chapters as to the 'weight' to be given to provisions in the event of conflict is clear.

[250] Overall, we accept Ms White's analysis and recommendations in response to submissions on GRZ-O1, GRZ-O2, GRZ-P1, GRZ-P2, GRZ-P4 and GRZ-P5 and find the recommended amendments to be appropriate. We note we received no evidence to the contrary.

3.2.2 Decision

[251] We adopt Ms White's analysis and recommendations on GRZ-O1, GRZ-O2, GRZ-P1, GRZ-P2, GRZ-P4 and GRZ-P5. The amendments are set out in **Appendix 3**.

[252] In terms of s32AA, we are satisfied that the original s32 evaluation continues to apply.

3.3 GENERAL RESIDENTIAL ZONE - RETIREMENT VILLAGES

3.3.1 Assessment

[253] RVA [230.1, 230.2, 230.22] considers that the Proposed Plan provisions should provide a consistent, targeted approach to planning for retirement villages and recognise that aspects of retirement village activities differ from typical residential activities. They sought that an entirely new suite of provisions be provided in all zones that provides for residential activities.

[254] RVA tabled a letter²⁰⁰ confirming its support for Ms White's recommendations and associated amendments to:

- (a) Add express recognition of the functional and operational needs of retirement villages in GRZ-P3 and MRZ-P5 and the matters of discretion applying to GRZ-R11 and MRZ-R12.
- (b) Amend GRZ-P3 and MRZ-P5 and the matters of discretion applying to GRZ-R11 and MRZ-R12 to focus resource consent assessments on the impacts on the "anticipated" character, qualities and amenity values of the surrounding area, not the "current" environment.

¹⁹⁹ Panel Decision Report, Part 5, Section 2.16.1

²⁰⁰ John Collyns, RVA Tabled Letter 5 July 2024, Para 3-4.

- (c) Amend MRZ-O2 to acknowledge the zone comprises “a predominance of medium density housing, in a range of housing typologies”.

[255] RVA also recorded its support for a Restricted Discretionary Activity status for retirement villages in the GRZ and MRZ, provided the assessment matters requested in the submission were accepted.

[256] RVA continued to advocate for a separate retirement village framework in the plan but emphasised its position with regard to public and limited notification, a new retirement village policy, and the inclusion ‘the benefits of retirement villages’ as a further matter of discretion.

[257] On the issue of notification, RVA requested that public notification is precluded and limited notification is also precluded where all of the relevant built form standards are met. RVA considered that Ms White had misunderstood its request. They confirmed that they accepted limited notification in the context of a breach of built form standards. The submitter further argued that the situation was analogous to the outcome of the Enabling Housing Act, which although not mandatory in the Timaru context, was a relevant mechanism to enable housing choice. RVA submitted that ‘Proportionate notification will support Timaru’s growth and will benefit housing supply’. In her Interim Reply, Ms White acknowledged the error and recommended that notification is not required for retirement villages where they meet built form standards (noting, with respect to MRZ-R12, a consequential change is recommended to apply the built form standards to MRZ-R12). In terms of s32AA, she considered that this is a more efficient way to achieve GRZ-O1 and MRZ-O1, while still being effective at achieving GRZ-O2 and MRZ-O2.

[258] The RVA submission supported the policies to “recognise the benefits of, and provide for, retirement villages...” in the Proposed Plan (GRZ-P3 and MRZ-P5), subject to some comments on the remainder of those policies. Ms White recommends amending those policies to read: “Recognise the benefits of and provide for retirement villages in providing a diverse range of housing and care options for older persons, and provide for them, where...”.’ The RVA argued that the s42A author’s recommendations were out of scope on the basis they narrowed the policies from that notified, in a way not requested in submissions.

[259] RVA also requested express inclusion of the benefits of retirement villages as a matter of discretion on the basis that, in its absence there was no ability for a decision maker to consider the positive benefits.

[260] Ms White did not support the alternative retirement village specific framework for the reasons set out in her s42A Report. Instead she recommended changes to the notified objectives, policies, and rules to address the issue raised by submitters. In general terms the Panel agrees with RVA that it is appropriate to provide for retirement villages as a typology of housing choice for an aging population as a matter that gives effect to the NPS-UD, in particular Objective 1. It is not necessary to provide a specific suite of provisions for retirement villages, but rather it is appropriate to ensure that the policy and rule framework appropriately recognise the activity across a range of urban zones.

[261] On that basis we consider that Ms White's recommended changes strike the appropriate balance between recognising the importance of retirement villages whilst retaining consistent drafting and structural elements of the plan. Her analysis is supported by a s32AA evaluation commensurate with the changes proposed. RVA did not appear at the hearing or provide any 32AA evaluation in support of their bespoke planning framework.

[262] We note that Kāinga Ora reviewed the s42A report and expressed general acceptance of the recommendations made by Ms White and did not provide us with any further evidence on its submission points.²⁰¹

3.3.2 Decision

[263] We adopt Ms White's analysis and recommendations regarding retirement villages in her Interim Reply.²⁰² The amendments are set out in **Appendix 3**.

[264] In terms of s32AA, we are satisfied that the amendments are the most appropriate option for achieving the purpose of the RMA, the relevant provisions of the Plan and for giving effect to other relevant statutory instruments.

3.4 GENERAL RESIDENTIAL ZONE – RULES

3.4.1 Assessment

[265] We accept Ms White's analysis and recommendations on the GRZ Rules²⁰³ in response to submissions from Woolworths [242.18, 242.19] and MFL [60.35] and we find the recommended amendment to GRZ-R18²⁰⁴ and the deletion of GRZ-R19 to be appropriate. In reaching this view, we note we received no evidence to the contrary.

[266] Given our finding below, we further note that we have accepted Ms White's recommended amendments to GRZ-R10 (fencing rule).

3.4.2 Decision

[267] We adopt Ms White's analysis and recommendations on the Residential Zone Rules. The amendments are set out in **Appendix 3**.

[268] In terms of s32AA, we adopt Ms White's evaluation in support of the changes made.

3.5 GENERAL RESIDENTIAL ZONE – STANDARDS

3.5.1 Assessment

[269] GRZ-S9 – Mr Bruce Speirs [66.33 and 66.38], a registered surveyor made a number of submissions in relation to definitions, rules, and standards in the plan that he considered were unworkable, uncertain, or unnecessary. In relation to GRZ-S8 and MRZ-S6 he

²⁰¹ Joshua Neville, Statement of Evidence, 24 July 2024, Para 4.1.

²⁰² Liz White, Hearing B Interim Reply, 19 September 2024.

²⁰³ Liz White, s42A Report, 18 June 2024, Para 6.6.10-6.6.16.

²⁰⁴ Now renumbered GRZ-R19 in the Decision Version of the provisions.

requested that the landscaping requirements should not be limited to grass and shrubs and should enable plantings in pots and stone/gravel gardens. He also requested that fencing requirements adjacent to reserves take into consideration a need for privacy and security for residents. Ms White considered the submissions and concluded that the landscaping standards are commonly applied in District Plans and the standard is necessary to assist in the implementation of MRZ-P1.3 and achievement of MRZ-O2.²⁰⁵ In relation to the fencing requirements she considered that the standard provides an appropriate balance between privacy/security of residents and the benefits of passive surveillance of reserve areas.²⁰⁶ The Panel agrees with Ms White that the standards as proposed are appropriate and implement the stated objectives and policies for the GRZ and MRZ.

[270] Kāinga Ora [229.78] sought that the height in relation to boundary standard [GRZ-S2] is amended to exempt it from applying where two buildings share a common wall along the boundary of a site. Ms White did not consider this amendment was required for the reason that the exemption for common walls is set out in APP8-Recession Planes, which is referenced in the Standard. We agree, noting that Kāinga Ora reviewed the s42A report and expressed general acceptance of the recommendation made by Ms White, and did not provide us with any further evidence on this matter.²⁰⁷

[271] Kāinga Ora [229.82] also sought that GRZ-S8 be amended to reduce the required space (where a habitable room is located at ground floor level) from 50m² to 30m², with the minimum dimension reduced from 5m to 4m, and to provide for less open space in the form of a balcony/patio or terrace where a residential unit is located entirely above ground floor level. In response to Ms White's recommendation to accept the submission in part, Mr Neville put forward alternative relief to reduce the minimum outdoor living space by instead amending the matter of discretion to include reference to sufficient outdoor living space that reflects the anticipated occupancy of the associated dwelling.²⁰⁸ Ms White subsequently accepted the alternative relief and accordingly recommended an amendment to this effect.²⁰⁹

[272] Overall, we accept Ms White's analysis and recommendations on the GRZ Standards²¹⁰ in response to submissions (with the exception of those submissions made by FENZ relating to emergency services facilities which are addressed separately below) and we find the recommended amendments to GRZ-R12 PER-1 (to delete reference to GRZ-S9), GRZ-S3, GRZ-S6, GRZ-S8, and GRZ-S9 to be appropriate.

3.5.2 Decision

[273] We adopt Ms White's analysis and recommendations on the GRZ Standards. The amendments are set out in **Appendix 3**.

[274] In terms of s32AA, we adopt Ms White's evaluation in support of the changes made.

²⁰⁵ Liz White, s42A Report, Para 6.11.19.

²⁰⁶ Liz White, Section 42A Report, Para 6.11.6-6.11.14

²⁰⁷ Joshua Neville, Statement of Evidence, 24 July 2024, Para 4.1.

²⁰⁸ Joshua Neville, Statement of Evidence, 24 July 2024, Para 5.6-5.9.

²⁰⁹ Liz White, s42A Summary: Hearing B, 17 July 2024, Para 9(d).

²¹⁰ Liz White, s42A Report, 18 June 2024, Para 6.7.11-6.7.18.

3.6 MEDIUM DENSITY RESIDENTIAL ZONE – OBJECTIVES AND POLICIES

3.6.1 Assessment

[275] Kāinga Ora [229.88] sought that clause 1 of MRZ-O2 is amended to refer to the zone as comprising “predominantly medium density housing via a mix of typologies” and deletion of the reference to “upgraded” streetscapes in clause 5. They consider that these better reinforce the purpose of the zone, being a medium density residential zone. Mr Neville, in his evidence stated he disagreed with Ms White’s recommendations in response to its submission²¹¹, however at the hearing he confirmed he was no longer pursuing this matter. Kāinga Ora [229.89] also sought minor changes to MRZ-P1.

[276] Given our previous findings relating to Transpower’s submission in relation to GRZ-P4, we are satisfied that Transpower’s submissions on MRZ-P6 and MRZ-P7 are appropriately resolved.

[277] We generally accept Ms White’s analysis and recommendations on the MRZ Objectives and Policies in response to submissions and we find the recommended amendments to MRZ-O2, MRZ-P1, MRZ-P6 and MRZ-P7 to be appropriate. We did not receive any other evidence to the contrary.

[278] Our assessment and decision on new policy PREC2-P1 relating to the Bidwill Hospital Precinct is set out in the Special Purpose Hospital Zone section of this Report below.

3.6.2 Decision

[279] We adopt Ms White’s analysis and recommendations on the MRZ Objectives and Policies. The amendments are set out in **Appendix 3**.

[280] In terms of s32AA, we adopt Ms White’s evaluation in support of the changes made.

3.7 MEDIUM DENSITY RESIDENTIAL ZONE - RULES

3.7.1 Assessment

[281] Kāinga Ora [229.102] sought that MRZ-R11 (relating to convenience stores) is amended so that PER-3 requires compliance with the “applicable” standards of the chapter, and also refer to District-Wide rules. On this basis it sought that an additional standard is added to the rule requiring that the activity does not involve an offensive trade or hazardous facility. Kāinga Ora [229.104] further sought the addition of a restricted discretionary rule for residential developments of four or more residential units in the MRZ, in order to enable greater residential density and development to be accommodated across Timaru where appropriate, to meet much needed housing demand. Ms White did not agree with the relief sought by Kāinga Ora and recommended the submission points be rejected. We agree, noting that Kāinga Ora reviewed the s42A report and expressed general acceptance of the

²¹¹ Joshua Neville, Statement of Evidence, 8 July 2024, Para 5.1.

recommendations made by Ms White, and did not provide us with any further evidence on these matters.²¹²

[282] We accept Ms White's analysis and recommendations on the MRZ Rules in response to submissions and we find the recommended amendments to MRZ-R4, MRZ-R5 and MRZ-R17²¹³ to be appropriate. Our assessment and decision on new rule MRZ-R13 relating to health care facilities is set out in the Special Purpose Hospital Zone section of this Report below.

3.7.2 Decision

[283] We adopt Ms White's analysis and recommendations on the MRZ Rules. The amendments are set out in **Appendix 3**.

[284] In terms of s32AA, we are satisfied that the amendments are the most appropriate option for achieving the purpose of the RMA, the relevant provisions of the Plan and for giving effect to other relevant statutory instruments.

3.8 MEDIUM DENSITY RESIDENTIAL ZONE – STANDARDS

3.8.1 Assessment

[285] Six submitters²¹⁴ sought that MRZ-S10 which applies noise mitigation measures is deleted, stating that it is contrary to conditions granted in relation to a subdivision consent. Ms White agreed that it was appropriate to delete the standard, a position accepted by Mr Hole at the hearing where he confirmed acceptance of the s42A recommendations²¹⁵ on behalf of the six submitters (representing the Rooney Group Limited and others).

[286] RVA sought that the MRZ Chapter is amended to include those built form standards that are set out in Schedule 3A of the RMA (MDRS standards). This includes setbacks from boundaries [230.18]; outlook space requirements [230.19]; windows to street requirement [230.20] and minimum landscaping requirements [230.21]. It also includes amending MRZ-S1 (Height of buildings and structures) [230.14]; MRZ-S2 (Height in relation to boundary) [230.15]; MRZ-S3 (Outdoor living space) [230.16]; and MRZ-S5 (Building coverage) [230.17] to replicate that contained in the MDRS standards.

[287] We accept Ms White's analysis and recommendations on the MRZ Rules in response to submissions and we find the recommended amendments to MRZ-S1, MRZ-S3, MRZ-S6, MRZ-S10, and the new standard MRZ-SZ²¹⁶ (Setbacks) to be appropriate.

²¹² Joshua Neville, Statement of Evidence, 24 July 2024, Para 4.1.

²¹³ Now renumbered MRZ-R19 in the Decision Version of the provisions.

²¹⁴ Submitters Rooney Holdings [174.82], Rooney, GJH [191.82], Rooney Group [249.82], Rooney Farms [250.82], Rooney Earthmoving [251.82], and TDL [252.82].

²¹⁵ Nathan Hole, Statement of Evidence, 5 July 2024, Para 8.

²¹⁶ Now renumbered MRZ-S12 in the Decision Version of the provisions.

3.8.2 Decision

[288] We adopt Ms White’s analysis and recommendations on the MRZ Standards. The amendments are set out in **Appendix 3**.

[289] In terms of s32AA, we adopt Ms White’s evaluation in support of the changes made.

3.9 FENCING RULE IN GRZ AND MRZ

3.9.1 Assessment

[290] We accept Ms White’s analysis and recommendations on the fencing rules, and we find the recommended amendments to GRZ-R10 and MRZ-R10²¹⁷ to be appropriate. In reaching this view we note that Kāinga Ora reviewed the s42A report and expressed general acceptance of the recommendations made by Ms White²¹⁸, as did Mr Hole on behalf of the six submitters (representing the Rooney Group Limited and others).²¹⁹

3.9.2 Decision

[291] We adopt Ms White’s analysis and recommendations on the fencing rules GRZ-R10 and MRZ-R10. The amendments are set out in **Appendix 3**.

[292] In terms of s32AA, we are satisfied that the amendments are the most appropriate option for achieving the purpose of the RMA, the relevant provisions of the Plan and for giving effect to other relevant statutory instruments.

3.10 SPECIAL PURPOSE HOSPITAL ZONE

3.10.1 Assessment

[293] Bidwill Trust [225.1] requested in its written submission that 53 Elizabeth Street is zoned “Special Purpose Hospital Zone” (HOSZ) and a new HOSZ Chapter be included in the Proposed Plan in order to ensure that hospital activities can continue to operate, develop and upgrade, in a way that avoids or mitigates adverse effects on the environment. The submission states that the zone framework would be focused on providing for hospital activities, including evolving demands, services and technological changes associated with the hospital facilities, while managing the adverse effects of these activities. Broadly speaking, this would include a permitted activity status for hospital activities, and a discretionary activity status for all other activities; and new, or expansion to existing built form being managed through built form standards. The submission states that hospital activities, including buildings have been established on the site for over a century, and note that these do not include 24-hour or emergency care facilities, and the adverse effects (such as noise and lighting emissions) that would otherwise arise from this. The purpose of the zone would be to enable the existing facilities to further develop in a manner which is compatible with the surrounding zone environment.

²¹⁷ Now renumbered MRZ-R11 in the Decision Version of the provisions.

²¹⁸ Joshua Neville, Statement of Evidence, 24 July 2024, Para 4.1.

²¹⁹ Nathan Hole, Statement of Evidence, 5 July 2024, Para 8.

[294] The submitter considers the permitted activity status for existing hospitals is appropriate as the hospital is long established, has operated without complaint, is a sensitive activity similar to residential activities, does not include emergency service facilities and generally occurs during “normal working hours”. In the alternative Bidwill Trust seeks that additional policies specific to the hospital be included in the MRZ Chapter, as well as a permitted activity rule for *existing hospitals [our emphasis]*, and a controlled activity “if compliance is not met”, with matters of control replicating those used in relation to community facilities. The submitter notes that MRZ-R13 provides for community facilities as a restricted discretionary activity. They consider there is uncertainty arising from the definition of these referring to “health”, and whether or not this in turn links to the definition of ‘health care facility’ which does not include hospitals. A definition for ‘hospital’ has also been requested.

[295] In her s42A Report, Ms White did not support the establishment of a new Special Purpose Hospital Zone for the Bidwill hospital. She did however acknowledge the longstanding existence and importance of the Bidwill hospital and therefore recommended that a precinct would be a better method to recognise and provide for the hospital in its medium density residential setting.

[296] At the hearing, the submitter was represented by Mr Geddes, a planning consultant and the General Manager of the Trust, Mrs Rogers. Mr Geddes presented a case for the Trust, outlining the history of the use of the site and rationale for the request for a Special Purpose Zone or specific provision for the hospital in the MRZ. Mr Geddes conceded that notwithstanding the importance of the site, it likely did not meet the requirements of NPS 3.4 b and c for a Special Purpose Zone, therefore the primary relief was ‘abandoned’.²²⁰

[297] Mr Geddes disagreed with Ms White’s proposed alternative Bidwill Hospital precinct in the MRZ with a specific policy and a permitted activity rule framework for healthcare facilities and a restricted discretionary activity rule for new buildings associated with healthcare facilities. He noted that there are rule requirements proposed for the permitted activity to exclude emergency care facilities along with hours of operation controls from 7.00a.m. to 7.00p.m. He considered that although the precinct was intended to capture Bidwill activities it did not provide for an expansion of the hospital to adjoining or adjacent sites, did not recognise the 24/7 nature of the hospital and that the RDA status was too onerous, and should be permitted. Mr Geddes outlined his recommended ‘refined relief’:

- a. Abandonment of the Bidwill Hospital Precinct as proposed in the s.42A report; and
- b. Introduction in the MRZ of a specific policy, based on the policy recommended in the s.42A report, but as amended below - Provide for the ongoing use and development of existing healthcare and associated facilities at within the Bidwill Hospital Precinct, where the nature, scale and design of activities and buildings are consistent with the purpose, character and qualities of the surrounding residential area.
- c. Provide for the following new rule in the MRZ [a permitted activity rule for healthcare facilities and activities operated by Bidwill Trust Hospital or its

²²⁰ Statement of Evidence, Mark Geddes, 5 July 2024, Para 15.

successor, excluding emergency care facilities and meeting MRZ standards 1, 2, 5,6,7 and 9]:

[298] Mr Geddes also offered an alternative which would limit the permitted activity rule to buildings less than 300m² GFA. Buildings exceeding 300m² GFA would be controlled activities with the addition of matters of control related to the extent to which the layout and design of buildings are consistent with MRZ-O2, landscaping and signage.

[299] We note that as proposed the Plan does not expressly provide for healthcare facilities as a separate activity in the MRZ. Community facilities are restricted discretionary activities, however, although the definition references land and buildings used by the community for amongst other purposes, health, it appears to be a different land use to a health care facility which is separately defined. As such a health care facility would be a fully discretionary activity under rule MRZ-R15²²¹. In response to Ms White's recommendation to provide for healthcare facilities as a restricted discretionary activity Mr Geddes commented that:²²²

A key issue with a restricted discretionary activity status for new health care facilities is that it presents a risk that a new building providing district, regional and nationally significant healthcare services may be refused resource consent based on amenity effects or other low level effects. *It would be non-sensical for an activity that has district, regional and national significance to be refused consent on the basis of such effects.* However, that could easily be the reality with a restricted discretionary activity status that includes the discretion to refuse consent on a wide array of matters. I consider that any actual or potential adverse effects of new healthcare activities is more effectively and efficiently addressed by standards. [italics Panel emphasis].

[300] Further he said:²²³

As stated above, the BTH was established on the site in 1912 and therefore healthcare facilities have been an established and expected part of this environment for over a century. *To provide no assurance that such an established activity can continue to develop does not seem logical. It is also illogical to not recognise the significant community investment made in the facility and that any such facilities have to grow and develop overtime.*

[301] Mr Geddes had properly recorded his prior involvement in the development of the District Plan. He said that he:

...led the Timaru District Plan Review from its inception through to the notification of the Draft District Plan in my former capacity as District Planning Manager at Timaru District Council. I was also heavily involved in the development of all the Proposed District Plan (PDP) chapters as a planning consultant. I am still involved in peer reviewing s.42A reports for the PDP but have not been involved in peer reviewing any of the s.42A reports in relation to the urban zones and therefore have no conflicts of interest on this matter.

²²¹ Now renumbered MRZ-R17 in the Decision Version of the provisions.

²²² Ibid at para 24

²²³ Ibid at para 28

[302] The Panel was concerned at the criticism directed by Mr Geddes at the Proposed Plan that the use of a restricted discretionary activity in this context was 'non sensical'. The Panel questioned Mr Geddes about his involvement in presenting the plan to the Council for notification, in his capacity as Planning Manager at the time. He clarified that he was not the author of s32 evaluations and did not consider any conflict existed. The Panel records our discomfort with Mr Geddes' criticism given his role in the preparation of the Plan. We gave no weight to his criticism as being relevant to the submitters request and focused our evaluation on the evidence and legal issues involved.

[303] Mr Geddes provided a s32 evaluation of the submitters refined relief as part of his evidence. His evaluation related to the following options:

38. In the context of Section 32 of the RMA, there are two main options to address this matter, which are to either:

a. Amend the PDP to enable new healthcare facilities on the site as a permitted activity.

b. Require consent for new healthcare facilities as a restricted discretionary activity.

39. A Section 32 analysis of these options is provided below and demonstrates that enabling new healthcare facilities on the site as a permitted activity is a more effective and efficient option in achieving the MRZ objectives than requiring a restricted discretionary activity for new healthcare facilities [underlining Panel emphasis]

[304] During the hearing Ms Vella and Ms White raised a possible scope issue, as it appeared the submitter was seeking relief to enable healthcare facilities operated by Bidwill Trust or its successor anywhere in the MRZ. It was also unclear to the Panel as to whether the alternative relief was being pursued for the existing site (53 Elizabeth Street), for the site and adjacent properties (across the adjoining roads), or to the whole MRZ, provided that the submitter or its successor operated the facilities. We note Mr Geddes' s32 evaluation appeared to be for the 'site' as emphasised in the underlined quote above.

[305] The Panel asked Mr Geddes to consider the Council's legal submissions on the scope issue, and he indicated that he would like the opportunity for the Trust to seek legal advice. Mr Geddes provided the Panel with a legal opinion prepared by Cavell Leitch on behalf of the Trust.

[306] The legal opinion concluded that:²²⁴

In our view, based on the discussion below, the Trust's submission does fairly and reasonably raise the issue of growth of the Hospital, both at its existing site and onto adjacent sites if the demand and opportunity for that is found to exist in the future. That view is based on:

3.1. An assessment of the whole of the relief sought in the submission:

²²⁴ Legal opinion Cavell Leitch, 1 August 2024 at 3

3.2. The fact that the proposed new zone (now not pursued by the Trust) was to include policies to enable the “growth of the zone”: and

3.3. The proposed changes to the Medium Density Zone (MRZ) policies includes a policy entitle future growth, which does not limit such growth to the existing site.

[307] The Panel accepts the legal opinion correctly outlines the legal principles for establishing issues of scope. Ms Vella also provided an analysis of scope in her Memorandum filed in response to the submitter’s opinion.²²⁵ On our reading of the written submission, the Trust’s initial summary suggests providing for the hospital anywhere in the zone, however in the description of the relief in section 3 limits this to ‘the inclusion of existing hospitals as a permitted activity...’. The alternative is identified as being inferior to the preference for a Special Purpose Zone for the “BTH lands and facilities”.

[308] The submission is not well expressed and contains no map of the ‘site’ or ‘BTH lands and facilities.’ The only geographical description is the streets for the boundaries of the existing hospital site. We think a reasonable interpretation of the submission is that it is seeking relief to support the existing hospital, in its current location and does not contemplate that the hospital could be expanded elsewhere in the zone. There is no express reference to expanding the rule framework to adjacent or adjoining sites, if that was the intention, that would have been an obvious request for relief. We disagree with the Trust’s legal opinion that focuses on the reference ‘development’ as being determinative. Development can be enabled within the existing site and is not a signal that it is intended to occur off site.

[309] Notably Mr Geddes’ evidence also seeks relief for ‘the site’, and a map is included in his evidence at Figure 1 and summary statement along with the street and legal description. It does not include adjacent sites or address impacts on other locations. His summary of the submission seeks to rezone the site or provisions in the MRZ that enabled “hospital buildings and activities...”. The original submission referred to ‘existing’ hospitals. Mr Geddes’ s32 evaluation signals a preference for “Amend the PDP to enable new healthcare facilities on the site as a permitted activity”.

[310] Although caselaw encourages a generous interpretation of a submission rather than form over substance, we find the submission is not drafted clearly. We have asked ourselves whether would be submitters have given fair and reasonable notice of what is proposed in the submission, or has their right to participate been removed.²²⁶ We find that it would not be apparent to adjoining land owners, or owners of residential properties elsewhere in the MRZ that the submitter was seeking a permitted activity status for hospital or healthcare facilities beyond the boundaries of the existing hospital site. The absence of a map which would have supported a clearer understanding if the intention was to provide for the zone or rule framework beyond the existing hospital did not assist the submitter’s scope argument. We think it a considerable stretch to expect even a well-informed submitter to make the leap suggested by Mr Geddes or the Trust’s legal opinion.

²²⁵ Memorandum of Counsel for TDC, Scope of Bidwill submission 7 August 2024.

²²⁶ Second Limb of Motor Machinists Test.

[311] We record that we asked Ms White and Mr Geddes to review the provisions to see if they could reach agreement on a set of provisions for the hospital, and the immediate environs to support the Panel consideration of options if we found there to have been scope, which they did and produced a JWS.²²⁷

[312] However, having reviewed the submission, the Trust's legal opinion, and the submitters evidence we have concluded that the submission only enables relief for the site and there is no scope to consider extending the rule framework beyond the existing site, through a precinct or through amendments to the rules to provide for hospitals generally.

[313] Even if we are wrong on our finding on scope, we record we did not have sufficient evidence to support a fulsome s32AA evaluation of an alternative that enabled the hospital or healthcare facilities to develop elsewhere in the MRZ as a permitted or controlled activity regardless of whether it was operated by the Bidwill Trust. Had there been scope to do so we would have accepted the JWS option as extending the precinct to the immediately adjacent properties as shown in the figure included in the JWS, as an appropriate outcome supported by the planners joint s32AA evaluation. Accordingly, we can only accept the submission in part, to the extent that a precinct is to apply over the Bidwill site as shown in Mr Geddes' Figure 1 to his evidence in chief, as recommended by Ms White, with the amendments to the provisions as agreed between Mr Geddes and Ms White in the JWS, noting that Ms White considered that the JWS amended provisions are also appropriate for the Bidwill site.

3.10.2 Decision

[314] We adopt Ms White's analysis and recommendations in her Interim Reply to include PREC2 with associated Policy PREC2-P1 and MRZ-R13 over the Bidwill Hospital site at 53 Elizabeth Street. The amendments are set out in **Appendix 2** and **Appendix 3**.

[315] In terms of s32AA, we adopt the evaluation by Ms White and Mr Geddes, contained in their JWS²²⁸. We are satisfied that the amendments are the most appropriate option for achieving the purpose of the RMA, the relevant provisions of the Plan and for giving effect to other relevant statutory instruments.

3.11 SPECIAL PURPOSE TERTIARY EDUCATION ZONE

3.11.1 Assessment

[316] We accept Ms White's analysis and recommendations in response to the submission from Te Pūkenga [215.2, 215.3] for the reasons set out in her s42A Report.²²⁹ In reaching this view we note that Te Pūkenga tabled evidence which confirms its agreement with the recommendations to rezone the site at 32 Arthur Street to MUZ (rather than a Special Purpose Tertiary Education Zone) and the addition of a precinct PREC6 Tertiary Education along with all consequential changes to the MUZ policies and rules.²³⁰ We are satisfied that the

²²⁷ Liz White, Interim Reply, Appendix C JWS Geddes and White, 16 September 2024.

²²⁸ Liz White, Interim Reply, Appendix C JWS Geddes and White, 16 September 2024

²²⁹ Liz White, s42A Report, 18 June 2024, Para 6.13.6 - 6.13.12.

²³⁰ Ryan Brosnahan, Statement of Evidence, 4 July 2024, Para 8-9.

submission from Te Pūkenga has been appropriately addressed, and we find the recommended amendments to be appropriate.

3.11.2 Decision

[317] We adopt Ms White’s analysis and recommendations on the inclusion of PREC6. The amendments are set out in **Appendix 2 and Appendix 3**.

[318] In terms of s32AA, we adopt Ms White’s evaluation in support of the changes made.

3.12 NEIGHBOURHOOD CENTRE ZONE

3.12.1 Assessment

[319] We accept Ms White’s analysis and recommendations on the Neighbourhood Centre Zone and find the recommended amendments to be appropriate, noting we received tabled evidence from the Fuel Companies²³¹ and Kāinga Ora²³² indicating support for the recommendations in the s42A Report.²³³ No other evidence was presented to us on the Neighbourhood Centre Zone provisions.

3.12.2 Decision

[320] We adopt Ms White’s analysis and recommendations on the Neighbourhood Centre Zone. The amendments are set out in **Appendix 3**.

[321] In terms of s32AA, we are satisfied that the original s32A evaluation continues to apply.

3.13 LOCAL CENTRE ZONE

3.13.1 Assessment

[322] We accept Ms White’s analysis and recommendations on the Local Centre Zone and find the recommended amendments to be appropriate, noting we received no evidence to the contrary.

3.13.2 Decision

[323] We adopt Ms White’s analysis and recommendations on the Local Centre Zone. The amendments are set out in **Appendix 3**.

[324] In terms of s32AA, we adopt Ms White’s evaluation in support of the changes made.

²³¹ Thomas Trevilla, Tabled Letter, 5 July 2024, Para 8.

²³² Joshua Neville, Statement of Evidence, 24 July 2024, Para 4.1.

²³³ Thomas Trevilla, Tabled Letter, 5 July 2024, Para 8.

3.14 LARGE FORMAT RETAIL ZONE – GENERAL

3.14.1 Assessment

[325] Redwood [228.1] opposed objectives, policies, and a number of standards in the zone and requested that the provisions be aligned with the consented, and partially developed retail thresholds for the Showgrounds precinct under the ODP. The submitter requested the proposed LFRZ provide for restaurants and cafes and residential activities. In the alternative the submitter requested the reinstatement of the ODP Commercial 2A provisions, which included community facilities and restaurants. In reliance on the alternative relief, the submitter now requests in evidence the inclusion of visitor accommodation, childcare, and healthcare facilities. We note that in the ODP community facilities has a specific definition in the Commercial 2A zone for the Showgrounds site:

Community Facilities

Means places available to the public for the purpose of community activities and includes but is not limited to public playgrounds, recreational halls community centres, community halls and public swimming pools but excludes theatres and cinemas.

[326] A resource consent was granted in 2020 to construct and establish a bulk retail centre adjoining the state highway that enabled a level of development commensurate with the Commercial 2A zone, in Rule 2.2 of the ODP. The submitter considered that the retail thresholds in the LFRZ, in the Proposed Plan conflicted with the ODP and resource consent. The submitter considered residential development to be an appropriate addition to the Zone.

[327] Ms White raised the issue of scope to include the additional activities of visitor accommodation, childcare and health facilities, given these activities are not expressly provided for in the Commercial 2A zone. We agree that there is an issue here.

[328] Ms White acknowledged that the economic evaluation that supported the thresholds in the LFRZ was undertaken prior to the resource consent and she agreed that it was appropriate to align the LFRZ retail thresholds with the resource consent given the development was underway or nearing completion. She did not agree that it was appropriate to roll over the July 2022 ODP retail threshold provisions given the date had since passed.²³⁴ She also recommended that the ODP thresholds for personal service retail and food and beverage be retained, including providing for restaurants provided they met the combined thresholds in the ODP. She recommended changes to LFRZ-R5 and R6 to align with the ODP and remove reference to avoiding restaurants in LFRZ-P6²³⁵

[329] Ms White did not initially support the request to include visitor accommodation, childcare and healthcare facilities, or residential development due to the scope issue and was supportive of residential use, on its merits because it is not consistent with the description of the Zone in the NPS. She preferred that if residential development was to be provided for in the area that it be by way of a Plan Change to rezone to a residential zone. Although not

²³⁴ Liz White, s42A Report, paragraph 6.18.9

²³⁵ Ibid, paragraph 6.18 13-14.

expressly requested by the submitter, she considered there may be scope to change part of the zone as a consequential change in accordance with the submitters catch all general relief.

[330] At the hearing, Redwood Group was represented by their Project Manager, Mr Gardner-Hopkins and called planning evidence from Ms Hooegeveen and economic evidence from Ms Natalie Hampson.²³⁶ Together the expert witnesses provided evidence in support of changes to the Proposed Plan as requested by the submitter. Mr Gardner-Hopkins made representations on behalf of the submitter, which although traversing legal matters were said not to be presented as a lawyer.²³⁷ Mr Gardner-Hopkins addressed the Panel on the issue of scope. He relied on a memorandum from Commissioner David Allen, a lawyer, provided in relation to another plan change.²³⁸ We do not take issue with the legal principles that relate to scope, these are also addressed by Ms Vella for the Council and in other legal submissions presented at the hearing. The main issue is whether would-be submitters have been given fair and adequate notice of what is proposed in the submission or whether their right to participate has been removed.²³⁹

[331] Mr Gardner-Hopkins pointed to the express wording of the submission by Redwood Group to establish that there is scope for the Panel to consider the full suite of relief the submitter requests. We have no concern regarding the scope to consider residential activities as it was specifically identified in the submission. Mr Gardner-Hopkins relies on the reference to 'commercial activities' and the general request for consequential changes for full development of the site as mixed use in section 2.4 of the submission, when describing specific amendments that are requested to the zone. The submission document is not as clear as it might have been, section 2.3 of the submission describes the submitters 'position on the provisions', which refers to changes to reflect 'agreed and consented [and partially developed] retail thresholds and continue to provide for restaurants and cafes, and residential activities. It is only when you read the 'reasons' for the submission that the more generic reference to commercial activities appears. In accordance with caselaw we have taken a liberal approach to interpreting the submission and find that on balance the changes to the Operative District Plan Commercial 2A Large Format Store (Retail Park) Zone are adequately flagged.

[332] Ms White and Ms Hooegeveen agree on the amendments that are to be made to the commercial retail development thresholds for the site and the inclusion of restaurants. However, there remained disagreement as to whether provisions should also be made for visitor accommodation, healthcare facilities and childcare services, and residential activity. Ms Hooegeveen and Ms Hampson are supportive of these changes and provided evidence to support a s32AA evaluation. Ms Hampson did not consider that there would be any retail distributional effects (i.e. impacts on the CCZ or other zone hierarchy) on the basis that the submitter only sought limited provision for these additional uses, all of which would still require a restricted discretionary activity resource consent.

²³⁶ Hannah Hooegeveen, Statement of Evidence, 5 July 2024, Natalie Hampson, Statement of Evidence, 5 July 2024. The submitter provided statements of evidence from Paul Hudson, Development Manager for Redwood Group and related submitter Equinox Capitol Limited's Development Manager, Nathan Buckley related to the development of the site.

²³⁷ Memorandum/Representations for Hearing on Behal of Redwood Group, 23 July 2024, paragraph 1.

²³⁸ Ibid, attachment 1.

²³⁹ Second Limb of Motor Machinists Test.

[333] The Panel requested that further informal conferencing be undertaken by the Submitter and Council planning experts to see if further progress could be made. Ms White was concerned to ensure that she had the benefit of a peer review of the economic evaluation provided by Ms Hampson to support her further consideration of the changes requested by the submitter as she was unable to comment on whether there was likely to be an adverse distributional impact on other commercial centres. We directed that the Council economic expert peer review Ms Hampson's evidence and that be provided to the submitter. If there was general agreement between the economic experts, then we requested the planners undertake further discussions. In the event there was disagreement between the economic experts we indicated we would consider making formal conferencing directions.²⁴⁰

[334] The Council sought a peer review from Mr Derek Foy, a Director of Formative Limited. He provided a comprehensive review of Ms Hampson's evidence and generally agreed with her conclusions that there was unlikely to be any negative distributional effect on the CCZ or other centres. He did have some reservations about the 'suitability' of the site for visitor accommodation, given the relatively low amenity of the LFRZ, but that was not an impact on other centres. On the basis of the conclusions of the economic experts Ms White and Ms Hoogeveen met and reached an agreed position.²⁴¹ They provided a JWS with an agreed set of provisions and a supporting s32AA evaluation to include the additional activities within the LFRZ. They also recommended that there should be amendments to the objectives of the Zone, to support the additional activities.

[335] We have reviewed the evidence from Redwood Group, Mr Foy's opinion and the reasoning provided by Ms White and Ms Hoogeveen. We accept and adopt their reasoning as set out in the JWS and confirm we find that the outcome is both within scope and appropriate having regard to the requirements of RMA s32AA. In reaching our decision we have considered submissions made by the Timaru TC Ratepayers [219.6] and Timaru Civic Trust [223.7] that seek further restrictions on the zone to protect the City Centre from negative impacts. We are satisfied that the proposed zone rules, with the changes agreed by Ms White, and economic evidence of Ms Hampson and the peer review from Mr Foy address those concerns.

[336] For completeness we note that there were a number of submissions that raised concerns about the fairness of the Redwood Group advancing changes to the land uses for the former showgrounds site, and its on-sale. Those are not matters relevant to the preparation of the Proposed Plan therefore we reject those submissions.²⁴²

[337] We accept Ms White's analysis and recommendations on the Large Format Retail Zone – General and find the recommended amendments to be appropriate, noting we received no evidence to the contrary. We further note that Harvey Norman²⁴³ confirmed its general support for the s42A recommendations and amendments.²⁴⁴

²⁴⁰ Minute 14.

²⁴¹ Memorandum of Counsel for TDC, 23 August 2024.

²⁴² Timaru TC Ratepayers 143 and Timaru Civic Trust 223

²⁴³ Harvey Norman submission points: 192.10, 192.16, 192.22, 192.23, 192.25, 192.26, 192.27, 192.28, 192.29, 192.30, 192.31, 192.37, 192.38

²⁴⁴ Natasha Rivai, Statement of Evidence, 5 July 2024, Para 4.1.

3.14.2 Decision

[338] We adopt Ms White's analysis and recommendations on the Large Format Retail Zone – General, and the outcomes of the JWS with regard to the inclusion of the Former Showgrounds Precinct (PREC5). The amendments are set out in **Appendix 2 and Appendix 3**.

[339] In terms of s32AA, we adopt the evaluation contained within the JWS.²⁴⁵

3.15 LARGE FORMAT RETAIL ZONE – OBJECTIVES AND POLICIES

3.15.1 Assessment

[340] We note that we address Redwood Group [228.1] general opposition to the objectives, policies and a number of standards above.

[341] We note that we address Harvey Norman's request for the site at 226 Evans Street to be rezoned below in Section 3.31 of this Decision.

[342] We accept Ms White's analysis and recommendations on the Large Format Retail Zone – Objectives and Policies. In reaching this view we note that Z Energy²⁴⁶ [116.32, 116.33, 116.34], ECan [118.158, 183.159]²⁴⁷, the Alliance Group [173.127]²⁴⁸ and Harvey Norman [192.17, 192.18, 192.19, 192.20, 192.21, 192.24]²⁴⁹ confirmed acceptance of the s42A recommendations, and we received no evidence to the contrary.

3.15.2 Decision

[343] We adopt Ms White's analysis and recommendations on the Large Format Retail Zone objectives and policies, and the amendments are set out in **Appendix 3**.

[344] In terms of s32AA, we adopt Ms White's evaluation in support of the changes made.

3.16 LARGE FORMAT RETAIL ZONE – RULES AND STANDARDS

3.16.1 Assessment

[345] We have addressed the broader submission points by Redwood Group [228.3, 228.4, 228.5, 228.6] above, and we have accepted the changes agreed between Ms White and Ms Hoogeveen.

[346] We note we address Harvey Norman's submission with regard to LFRZ-S3.3 in Section 3.31 of this Decision in response to its zone change request.

²⁴⁵ Memorandum of Counsel for TDC, 23 August 2024.

²⁴⁶ Thomas Trevilla, Tabled Letter, 5 July 2024.

²⁴⁷ Deidre Francis, Tabled Letter, 1 July 2024.

²⁴⁸ Doyle Richardson, Mitchell Daysh Limited, for Alliance Group, Letter dated 3 July 2024.

²⁴⁹ Natasha Rivai, Statement of Evidence, 5 July 2024, Para 4.1.

[347] Harvey Norman [192.39] also sought changes to the Appendix 9 guidelines²⁵⁰ for Large Format Retail as they pertain to active frontages, visibility from streets and building materials. They consider that the guidelines are more focused on smaller retail shops and not taller buildings anticipated in the LFRZ. Ms White disagreed, noting in her s42A Report that the guidelines were included in the Plan as part of the current zoning in this area, and are therefore specific to it.²⁵¹ We heard from Ms Rivai for Harvey Norman at the hearing who emphasised the limitations and potential inferior urban design outcomes of the design guidelines which require glazing for ground floor building facades visible from the street or reserve. Harvey Norman considers that there should be sufficient flexibility to include timber and concrete building materials. Ms White indicated that the guidelines are guidance, not a rule, but conceded that there could be recognition for alternative materials where there is a functional or operational need. We agree with Ms White's recommendation, and note we were not provided with any specific urban design evidence that supported a complete change to the guidelines, as requested by Harvey Norman. We note that the guidelines have been carried across from the ODP Commercial 2A Zone. The outcome that Harvey Norman seek can be addressed through consenting processes where necessary.

[348] We have addressed KiwiRail's [187.85] submission seeking setbacks from the rail corridor in our decisions in the Rural Zones General Themes section of this Report, the same outcome is accepted in relation to LFRZ-S3.

[349] We accept Ms White's analysis and recommendations on the Large Format Retail Zone – Rules and Standards and find the recommended amendments to be appropriate.

3.16.2 Decision

[350] We adopt Ms White's analysis and recommendations on the Large Format Retail Zone Rules and Standards. The amendments are set out in **Appendix 3**.

[351] In terms of s32AA, we adopt Ms White's evaluation in support of the changes made.

3.17 MIXED USE ZONE OBJECTIVES, POLICIES, RULES

3.17.1 Assessment

[352] Te Pūkenga [215.5], as an alternate to rezoning their site to a Special Purpose Zone, sought that MUZ-O1 is amended to recognise the importance of tertiary education, by adding *"and recognises the contribution to the District's and Region's social and economic wellbeing made by existing tertiary education activities"*. We accept Ms White's analysis and recommendations in response to the submission and note our earlier finding that Te Pūkenga tabled evidence confirming its agreement with the s42A²⁵² recommendations. We are satisfied that the submission from Te Pūkenga has been appropriately addressed.

[353] We accept Ms White's analysis and recommendations on the Mixed Use Zone – Objectives and Policies for the reasons set out in her s42A Report, noting that we received

²⁵⁰ Proposed District Plan AAP9 – Large Format Retail Design Guidelines.

²⁵¹ Liz White, s42A Report, 18 June 2024, Para 6.20.16.

²⁵² Ryan Brosnahan, Statement of Evidence, 4 July 2024, Para 8-9.

tabled evidence from the Fuel Companies²⁵³ and Kāinga Ora²⁵⁴ indicating support for the recommendations in the s42A Report.²⁵⁵ We received no other evidence to the contrary, and we find the recommended amendments to be appropriate.

[354] We accept Ms White's analysis and recommendations on the Mixed Use Zone – Rules for the reasons set out in her s42A Report, noting that we received no evidence to the contrary. We find the recommended amendments to be appropriate.

3.17.2 Decision

[355] We adopt Ms White's analysis and recommendations on the Mixed Use Zone. The amendments are set out in **Appendix 3**.

[356] In terms of s32AA, we adopt Ms White's evaluation in support of the changes made.

3.18 MIXED USE ZONE – STANDARDS

3.18.1 Assessment

[357] Kāinga Ora [229.135] sought that the outdoor living space requirement (in MUZ-S5) is amended to reduce the requirement from 20m² per unit, where outdoor living space is provided at ground floor level, to 12m² per unit, consistent with the area required if provided by way of a balcony. We accept Ms White's analysis and recommendations that no change to MUZ-S5 is appropriate.²⁵⁶

[358] We have addressed KiwiRail's [187.85] submission seeking setbacks from the rail corridor in our decisions in the Rural Zones General Themes section of this Report, the same outcome is accepted in relation to MUZ-S3.

[359] We accept Ms White's analysis and recommendations in response to the submission points from Te Pūkenga [215.10, 215.11, 215.12] and note our earlier finding that Te Pūkenga tabled confirming its agreement with the s42A recommendations²⁵⁷. On that basis, we are satisfied that the submission points from Te Pūkenga have been appropriately addressed.

[360] We accept Ms White's analysis and recommendations in response to the submission from Te Pūkenga submission [215.2, 215.3] for the reasons set out in her s42A Report.²⁵⁸ In reaching this view we note that Te Pūkenga tabled evidence confirming its agreement with the recommendations to rezone the site to MUZ (rather than a Special Purpose Tertiary Education Zone) along with all consequential changes to the MUZ policies and rules.²⁵⁹ We are satisfied that the submission from Te Pūkenga has been appropriately addressed, and we find the recommended amendments to be appropriate.

²⁵³ Thomas Trevilla, Tabled Letter, 5 July 2024, Para 8.

²⁵⁴ Joshua Neville, Statement of Evidence, 24 July 2024, Para 4.1.

²⁵⁵ Thomas Trevilla, Tabled Letter, 5 July 2024, Para 16.

²⁵⁶ Liz White, s42A Report, 18 June 2024, Para 6.23.15-6.23.16.

²⁵⁷ Ryan Brosnahan, Statement of Evidence, 4 July 2024, Para 8-9.

²⁵⁸ Liz White, s42A Report, 18 June 2024, Para 6.13.6 - 6.13.12.

²⁵⁹ Ryan Brosnahan, Statement of Evidence, 4 July 2024, Para 8-9.

[361] We accept Ms White's analysis and recommendations on the Mixed Use Zone – Standards and we find the recommended amendments to be appropriate.

3.18.2 Decision

[362] We adopt Ms White's analysis and recommendations on the Mixed Use Zone Standards. The amendments are set out in **Appendix 3**.

[363] In terms of s32AA, we adopt Ms White's evaluation in support of the changes made.

3.19 TOWN CENTRE ZONE – OBJECTIVES AND POLICIES

3.19.1 Assessment

[364] Z Energy [116.23] sought that clause 1 of TCZ-P4 is amended so that existing service stations are exempted from the direction to provide a veranda along the main street frontage. They consider that the policy does not recognise that there are some existing areas that do not align with the direction in the policy and that such provision would be unreasonable, given the functional requirements of service stations. Ms White disagreed that the change was necessary because any existing buildings which do not meet the requirement have existing use rights, and these would be taken into account in any resource consent triggered as a result of a building expansion or redesign.²⁶⁰

[365] In a letter tabled to the Hearing Panel, Z Energy maintained its position, and presented an alternative whereby if an exclusion is not recommended, TCZ-P4 and associated TCZ-S5 could be amended so that the Council can have the ability to consider the functional or operational needs of activities that cannot comply.²⁶¹ Following the hearing, in her s42A Interim Reply, Ms White confirmed she agreed with the submitter that it would be appropriate to allow for consideration of operational and functional requirements of activities where compliance is not practicable. On this basis, she recommended an amendment to TCZ-P4 (and TCZ-S5) to address alternative relief sought.²⁶² We are satisfied the submitter's concern has been appropriately addressed.

[366] We accept Ms White's analysis and recommendations on the Town Centre Zone, noting that we received tabled evidence from the Fuel Companies²⁶³ [196.85] and Kāinga Ora²⁶⁴ [229.139-229.142] indicating support for the recommendations in the s42A Report. We received no other evidence to the contrary, and we find the recommended amendments to be appropriate.

3.19.2 Decision

[367] We adopt Ms White's analysis and recommendations on the Town Centre Zone – Objectives and Policies. The amendments are set out in **Appendix 3**.

²⁶⁰ Liz White, s42A Report, 18 June 2024, Para 6.24.14.

²⁶¹ Thomas Trevilla, Tabled Letter for Z Energy, 5 July 2024, Para 8c.

²⁶² Liz White, s42A Interim Reply: Hearing B, 19 September 2024.

²⁶³ Thomas Trevilla, Tabled Letter for Fuel Companies, 5 July 2024, Para 8.

²⁶⁴ Joshua Neville, Statement of Evidence, 24 July 2024, Para 4.1.

[368] In terms of s32AA, we adopt Ms White's evaluation in support of the changes made.

3.20 TOWN CENTRE ZONE - RULES AND STANDARDS

3.20.1 Assessment

[369] Given our previous finding in response to a submission from Z Energy [116.23] on TCZ-P4, we find Ms White's recommended amendment to TCZ-S5 to be appropriate in addressing the alternative relief sought by the submitter.

[370] We have addressed KiwiRail's submission [187.85] seeking setbacks from the rail corridor in the Rural Zones General Themes section of this Report, the same outcome is accepted in relation to TCZ-S3.

[371] We accept Ms White's analysis and recommendations on the Town Centre Zone – Rules and Standards, noting that we received tabled evidence from the Fuel Companies²⁶⁵ and Kāinga Ora²⁶⁶ indicating support for the recommendations in the s42A Report. We find the recommended amendments to be appropriate.

3.20.2 Decision

[372] We adopt Ms White's analysis and recommendations on the Town Centre Zone – Rules and Standards and the amendments are set out in **Appendix 3**.

[373] In terms of s32AA, we are satisfied that the amendments are the most appropriate option for achieving the purpose of the RMA, the relevant provisions of the Plan and for giving effect to other relevant statutory instruments.

3.21 CITY CENTRE ZONE – SOUTHERN PRECINCT

3.21.1 Assessment

[374] We have addressed KiwiRail's submission [187.85] seeking setbacks from the rail corridor in the Rural Zones General Themes section of this Report. The same outcome is accepted in relation to CCZ Standards.

[375] We accept Ms White's analysis and recommendations on the City Centre Zone – Southern Precinct we find the recommended amendments to be appropriate and note we received no evidence to the contrary. We agree it is appropriate to delete the Southern Centre Precinct from the planning maps and make amendments to the provisions to delete references to this precinct.

3.21.2 Decision

[376] We adopt Ms White's analysis and recommendations on the City Centre Zone – Southern Precinct. The amendments are set out in **Appendix 2 and Appendix 3**.

²⁶⁵ Thomas Trevilla, Tabled Letter for Fuel Companies, 5 July 2024, Para 8.

²⁶⁶ Joshua Neville, Statement of Evidence, 24 July 2024, Para 4.1.

[377] In terms of s32AA, we adopt Ms White's evaluation in support of the changes made.

3.22 CITY CENTRE ZONE – OPEN SPACE

3.22.1 Assessment

[378] TDHL [186.47-186.50] submitted requesting amendments to provisions to provide greater recognition of the need for public open space in the CCZ. We accept Ms White's analysis and recommendations in relation to the submission, noting we did not receive any evidence to the contrary from TDHL. We find the recommended amendments to be appropriate.

3.22.2 Decision

[379] We adopt Ms White's analysis and recommendations on the City Centre Zone in relation to Open Space. The amendments are set out in **Appendix 3**.

[380] In terms of s32AA, we adopt Ms White's evaluation in support of the changes made.

3.23 CITY CENTRE ZONE

3.23.1 Assessment

[381] MoE [106.43, 106.44] and Kāinga Ora [229.152-229.155] seek a range of changes to the CCZ Objectives and Policies. We accept Ms White's analysis and recommendations on the City Centre Zone – Objectives and Policies and we find the recommended amendments to be appropriate.

[382] Several submissions were received on the CCZ Rules and Standards, as set out in Ms Whites s42A Report.²⁶⁷ We accept Ms White's analysis and recommendations on the City Centre Zone – Rules and Standards. We find the recommended amendments to be appropriate and note we received no evidence to the contrary.

3.23.2 Decision

[383] We adopt Ms White's analysis and recommendations on the City Centre Zone provisions. The amendments are set out in **Appendix 3**.

[384] In terms of s32AA, we adopt Ms White's evaluation in support of the changes made.

3.24 'OTHER ACTIVITIES' – POLICIES

3.24.1 Assessment

[385] Submissions were received from MoE [106.16, 106.19, 106.32, 106.37, 106.39] and Woolworths [242.17, 242.20] on the wording "only allow" in relation to other activities within policies across the RESZ and CMUZ Chapters. We accept Ms White's analysis and recommendations on submissions commenting on 'Other Activities' policies and we agree no

²⁶⁷ Liz White, s42A Report, 18 June 2024, Para 6.29.1-6.29.11.

changes are required as a result of these submissions, noting we received no evidence to the contrary.

3.24.2 Decision

[386] We adopt Ms White's analysis and recommendations on the 'Other Activities' policies and find that no changes are required to the Proposed Plan provisions.

3.25 INFRINGEMENT OF STANDARDS

3.25.1 Assessment

[387] ECan [183.156, 183.157] and Kāinga Ora [229.76, 229.105, 229.119, 229.130, 229.144, 229.158] submitted on the application of standards. We accept Ms White's analysis and recommendations submissions relating to 'Infringement of Standards'. We agree no changes are required as a result of these submissions, noting we received no evidence to the contrary.

3.25.2 Decision

[388] We adopt Ms White's analysis and recommendations on the 'Infringement of Standards' and find that no changes are required to the Proposed Plan provisions.

3.26 NEW STANDARDS FOR RESIDENTIAL ACTIVITIES

3.26.1 Assessment

[389] Kāinga Ora²⁶⁸ sought a number of changes to the provisions of the Proposed Plan to provide a package of rules that supported a quality urban environment whilst balancing an enabling planning environment. Their submission points were to support the delivery of Kāinga Ora housing in the District, in the most effective way.

[390] Mr Neville provided corporate evidence to support the Kāinga Ora submission points. Kāinga Ora supported most of Ms White's recommendations across the plan, however Mr Neville explained that Kāinga Ora disagrees with Ms White's position on the following provisions: Policy GRZ-P1, Objective MRZ-O2²⁶⁹, and outdoor living space within the GRZ, MUZ, and CCZ. We address those matters in this part of the Decision.

[391] In relation to GRZ-P1, Kāinga Ora requested the addition of the word 'landscaping' and the replacement of the word 'maintain' with 'anticipated by' the zone. That is because they consider that the requirement to 'maintain' results in an assessment that reflects the existing amenity, rather than reflecting changes that may be anticipated by the zone. In terms of outdoor living space requirements, Ms White had agreed with part of the submission point, however she did not accept the minimum size. Mr Neville illustrated the challenges with the

²⁶⁸ Kāinga Ora [229.84, 229.109, 229.112, 229.113, 229.122, 229.123, 229.136, 229.137, 229.138, 229.149, 229.150, 229.151, 229.162, 229.164, 229.165]

²⁶⁹ In response to questions from the Panel it is understood this submission point was no longer pursued.

proposed dimensions, which he said would restrict opportunities for housing choice and variety. Kāinga Ora suggested an alternative wording for GRZ-S8.1 as follows:

‘provision of sufficient outdoor living space, which reflects the anticipated occupancy of the associated dwelling; and...’

[392] Ms White also accepted the submission point regarding outdoor living space in the MUZ and CCZ in so far as Kāinga Ora sought minimum outdoor living space requirements for above ground residential units, but not in relation to the option of providing communal outdoor living space in the MUZ.

[393] In her Interim Reply²⁷⁰, Ms White recommended amending GRZ-P1 to refer to the character and qualities ‘anticipated’ in the zone, rather than maintaining existing character and qualities. In terms of s32AA, she considered this better aligns the policy with the outcomes sought in GRZ-O2 and makes it clear that it is the character and qualities that are set out and anticipated through the GRZ framework, rather than those which may currently exist. It is also consistent with wording used elsewhere in the Plan (e.g. MRZ-P4).

[394] In her Interim Reply Ms White recommended extending matter of discretion 1 in GRZ-S8 to add: “which reflects the anticipated occupancy of the associated dwelling”. In terms of s32AA, she considered that this is a minor change, but allowing for this consideration is a more efficient way of implementing GRZ-P1.2.b.

[395] In terms of the request to provide for communal outdoor living space, Ms White accepted that the intent of the submission has been clarified as being to provide an option for the outdoor living space for residential units above the ground floor to be made up of both private and communal space. However, taking this approach in the MUZ would be different to that applied in other zones (e.g. MRZ, CCZ and TCZ) where a balcony is required where units are above the ground floor level. In her view, if communal outdoor living space is proposed at a ground floor level, this is best considered through a resource consent process, noting the matters of discretion include: 1. provision of useable outdoor space; 2. accessibility and convenience for residents; and 3. alternative provision of public outdoor space, in close proximity to meet resident’s needs.

[396] We accept Ms White’s analysis and recommendations on New Standards for Residential Activities. We find her recommended amendments to be appropriate.

3.26.2 Decision

[397] We adopt Ms White’s analysis and recommendations on ‘New Standards for Residential Activities’ The amendments are set out in **Appendix 3**.

[398] In terms of s32AA, we adopt Ms White’s evaluation in support of the changes made.

²⁷⁰ Liz White, Hearing B Interim Reply, 19 September 2024.

3.27 EMERGENCY SERVICES AND SERVICING STANDARDS

3.27.1 Assessment

[399] FENZ²⁷¹ submitted on a range of matters, relating to emergency services and servicing standards. We accept Ms White's analysis and recommendations on Emergency Services and agree with the recommended changes to GRZ-S1, LCZ-S1, TCZ-S1 and APP8. We further accept her analysis with regard to Servicing Standards and agree no changes are required. In reaching this view we note we received no evidence to the contrary from FENZ.

3.27.2 Decision

[400] We adopt Ms White's analysis and recommendations, and the amendments are set out in **Appendix 3**.

[401] In terms of s32AA, we adopt Ms White's evaluation in support of the changes made.

3.28 OUTDOOR STORAGE STANDARD

3.28.1 Assessment

[402] Waka Kotahi [143.159, 143.161, 143.164, 143.168, 143.171] requested changes to provisions relating to screening of outdoor storage areas. We accept Ms White's analysis and recommendations on the Outdoor Storage Standards and agree with Ms White that no changes are required in response to these submission points. In reaching this view we note we received no evidence to the contrary from Waka Kotahi.

3.28.2 Decision

[403] We adopt Ms White's analysis and recommendations and find it appropriate that no changes to the Proposed Plan are made.

3.29 RAIL CORRIDOR SETBACKS

3.29.1 Assessment

[404] We have previously addressed the submission from KiwiRail [187.85], which seeks provision for setbacks from rail corridors across the District in our discussion within the Rural Zones General Themes section. We refer to our reasoning above and accept the submission point in part.

3.29.2 Decision

[405] We adopt Ms White's analysis and recommendations. The amendments are set out in **Appendix 3**.

²⁷¹ FENZ [131.18, 131.19, 131.21, 131.22, 131.25, 131.27, 131.29, 131.30, 131.32, 131.33, 131.70, 131.71, 131.73, 131.74, 131.77, 131.79, 131.80, 131.82, 131.83, 131.86, 131.89, 131.91, 131.93, 131.95, 131.96, 131.98, 131.101, 131.104]

[406] In terms of s32AA, we are satisfied that the amendments are the most appropriate option for achieving the purpose of the RMA, the relevant provisions of the Plan and for giving effect to other relevant statutory instruments.

3.30 DEFINITIONS, MATTERS ARISING FROM HEARING A

3.30.1 Assessment

[407] We accept Ms White's analysis and recommendations and agree that no changes are recommended to the definitions of 'residential visitor accommodation', 'Emergency Services Facilities', or 'supported residential care activity'.

[408] Reverse sensitivity is a term used in MRZ-P1, PREC1-O1, PREC1-P1 and MUZ-P4. We are satisfied that the amendments that we have made in Part 2 of our decision are appropriate in the context of how the term is used in these urban provisions, and we agree with the recommendation of Ms White that no changes are required to these provisions as a result of the changes to the definition.

3.30.2 Decision

[409] We adopt Ms White's analysis and recommendations. No changes are required.

3.31 ZONINGS

3.31.1 Assessment

[410] We accept Ms White's analysis and recommendations in respect of the submissions from TDC [42.72], Kāinga Ora [229.86], Timaru Old Boys [5.1], Broughs Gully [167.1, 167.2], and Hocken, F [112.1] for the reasons set out in the s42A Report.²⁷² We received no evidence to the contrary.

[411] We accept Ms White's analysis and recommendations in respect of the submissions from Foodstuffs [193.2, 193.3] noting we received evidence from Mr Allan on behalf of Foodstuffs confirming agreement with the s42A recommendations.²⁷³

Shaw and Hislop Street

[412] We heard from John McKenzie, Joe McKenzie and Catherine Bo Choung at the hearing representing the group of submitters²⁷⁴ seeking the rezoning on Shaw Street and Hislop Street. We also heard from Stephanie Mercer [264FS], also a resident of Shaw Street, who opposed the rezoning. Ms Mercer noted that the properties proposed for rezoning border Council reserve (Pekapeka Gulley Track), were across the road from Talbot Forest and were part of an earlier rural residential subdivision where extensive native planting has been carried out. Ms Mercer was concerned about the effects on ecological values of the area and considered that, as an alternative to GRZ, specific exemptions from the Rural Lifestyle zone

²⁷² Liz White, s42A Report, 18 June 2024, Para 6.39.3, 6.39.19, 6.39.23-6.39.28, 6.39.30, 6.39.32, 6.39.33

²⁷³ Mark Allan, Statement of Evidence, 5 July 2024, Para 70.

²⁷⁴ Submitters J McKenzie [10.1], Baekelandt, A [87.1], McKenzie & Choung [103.1], Regenvanu, M [180.1] and Hussey, D and C [218.1]

should be considered. Ms Mercer explained that she and her partner had extensively planted their section and she wished to see the other properties in Shaw and Hislop Streets do the same to provide ecological linkages to the neighbouring reserves. She considered the area to be unique and that rezoning was a 'missed opportunity' to enhance the biodiversity and recreational values of the area.

[413] Having considered the submissions and evidence presented to us, we accept Ms White's analysis and recommendations and agree that GRZ better reflects the existing size of these sites, noting that no servicing constraints have been identified. We are not persuaded otherwise. We also accept the consequential changes required as set out in Ms White's s42A Reply.²⁷⁵

226 Evans Street

[414] Harvey Norman [192.1] sought that the eastern part of 226 Evans Street is rezoned from GIZ to LFRZ; and that the GRZ of the western portion is extended further to the east. The submitter also sought a range of consequential changes to the LFRZ Chapter provisions as set out in the s42A Report.²⁷⁶ In support of its submission, the submitter provided evidence from Fraser Colegrave on the potential effects of the relief sought on Timaru's CCZ from an economic perspective.²⁷⁷ Relying on this evidence, Ms White recommended that the eastern part of 226 Evans Street be rezoned to LFRZ; that the GRZ zoning of the western portion of 226 Evans Street be extended to 5m from the boundary of the consented location for trailer parks; and that a range of consequential changes be made to the LFRZ framework.²⁷⁸ Ms Rivai, in her evidence for Harvey Norman, signalled general acceptance of the recommended amendments to provisions, noting that the rezoning aligns with the currently consented and likely future uses on this eastern part of the site.²⁷⁹

[415] However, Ms Rivai disagreed with Ms White's recommended 15m setback for buildings in the LFRZ to the adjoining GRZ to the west to reflect the new boundary interface. She stated that:

"This recommended setback is substantial and Council notes that this aligns with similar setback distances applied for industrial and residential zone interfaces. Activities anticipated in industrial zones are likely to have greater nuisance effects on residential environments than those anticipated under the LFRZ, which are generally commercial in nature. It is noted that under the Operative DP, the commercial zone has predominantly a 5m setback applied to residential activities/zones, and that a 5-10m setback would be more reasonable give the LFR zoning and the anticipated/consented activities on the Site"²⁸⁰

[416] In response to Ms Rivai's evidence, Ms White reconsidered her recommendation and considered it would be appropriate to reduce the setback from 15m to 10m, a position she

²⁷⁵ Liz White, s42A Final Reply, 4 August 2025, para 16.

²⁷⁶ Liz White, s42A Report, 18 June 2024, Para 6.39.6.

²⁷⁷ Fraser Colegrave, Statement of Evidence, 11 June 2024 (Appendix 4 to the s42A Report).

²⁷⁸ Liz White, s42A Report, 18 June 2024, Para 6.39.36 – 6.39.38.

²⁷⁹ Natasha Rivai, Statement of Evidence, 5 July 2024, Para 1.8, 3.1, 3.2, 3.3.

²⁸⁰ Natasha Rivai, Statement of Evidence, 5 July 2024, Para 3.2.

confirmed in her s42A Interim Reply.²⁸¹ We agree with Ms White and find the reduced setback will still provide a sufficient buffer to minimise conflict between any potentially incompatible activities.

Willowridge Evans Street

[417] Willowridge [235.1], requested the rezoning of properties at 192, 194, 196, 204, 206 and 208 Evans Street and 4 Grants Road from GRZ and NCZ to LCZ, or alternative relief of similar effect.

[418] At the hearing, in legal submissions and in the evidence of Mr Geddes, the submitter revised the relief requested to seek: the rezoning of the submission land to LCZ, together with a slight amendment to the gross floor area standards (it is accepted there is scope only for these to apply to the submission land and not the LCZ generally), and amended wording to the objectives of the LCZ; or in the alternative, the rezoning of all the submission land to NCZ, with amendments to the gross floor area standards for the NCZ (again in relation to the submission land only) and amended wording to the objectives of the NCZ.

[419] Willowridge development manager, Ms Alison Devlin provided an explanation of the development history for the site, including current proposals being pursued by resource consent. Ms Devlin explained that Willowridge considers the location of the site on the State Highway and the increasingly commercial character of the surroundings make the site ideal for commercial development, particularly the development of fast-food restaurants. We were told that the submitter is currently at the feasibility and design stage and aims to have agreements and concept in place in the next couple of months, from the hearing in July 2024 so that detailed design and planning can progress. Willowridge would seek necessary consents later in 2024 with a view to undertaking construction in 2025.

[420] Mr Geddes provided planning evidence in support of the submission to rezone the property. Mr Geddes noted the current use of the site and the fact that the site is located on the corner of Evans Street and Grants Road which is now controlled by traffic signals as a consequence of the LFRZ Showgrounds Precinct which is across Evans Street. He also identified the range of commercial activities in the locality. The Panel inspected the site from the intersection of Evans Street and Grants Road and from the intersection with the LFRZ Showgrounds Precinct.

[421] In Mr Geddes' opinion, either the LCZ or NCZ, with amendments to either to reflect not only the needs of local residents, but also to the convenience needs of people passing through the area.

[422] Mr Geddes considered that the site is suited to fast-food restaurants. He provided a s32 analysis which focused on the most appropriate method to enable 'this development' i.e. the submitters aspirations for a fast-food restaurant. His option analysis was limited to either enabling the amendment to allow for the development or not.

²⁸¹ Liz White, s42A Interim Reply: Hearing B, 19 September 2024.

[423] He provided an assessment of the development as against the Proposed Plan SD-O6 and NPS-UD, Policy 1, which are both broadly framed.

[424] We did not have the benefit of any retail distribution assessment, or traffic impact assessment of a fast-food restaurant at this location.

[425] Ms White did not support the requested rezoning to LCZ, given the specific purpose of that zone, identified in the NPS. Mr Geddes highlighted in his evidence that LCZ was used in other parts of the District, for example, further south on Evan's Street, which included a range of fast-food restaurants.

[426] In her Interim Reply Ms White supported rezoning 192 and 194 Evans Street to NCZ because the properties are in the same ownership as the other adjoining NCZ-zoned properties and therefore allows the wider landholding to be managed under the same framework. Ms White pointed to controls in the Proposed Plan to manage the 'new' NCZ/GRZ interface. Additionally, the rezoning would be a relatively small extension of the current zone and in her view, it is not of a scale that would undermine other centres or be inconsistent with the urban form in this area. She considered rezoning the two properties would meet NCZ-O1. Ms White considered that the NCZ would allow the specific activity sought by the submitter for this site to be considered as either a permitted or discretionary activity (under NCZ-R1), depending on its scale. She accepted that there will be additional traffic effects arising from such a development but noted that the Proposed Plan includes thresholds for high traffic generating activities which she considered are able to address effects arising from any activities that have higher traffic effects.

[427] Ms White did not agree that the changes sought to the NCZ framework in Mr Geddes' evidence are minor and inconsequential. In her view, they would change the intended focus of the zone and that this would change the focus of the zone across the entire District, not just in relation to this particular site. She did not consider that there is anything about the site that warrants a different rule framework applying.

[428] Overall, she recommended that 192 and 194 Evans Street are rezoned to NCZ, but no changes are made to the NCZ framework. Under s32AA, she considered that application of the NCZ to these two land parcels is consistent with NCZ-O1 and allows for a more efficient approach to management of the submitter's landholdings. She considered that the rezoning will assist in achieving UFD-O1.1 by providing additional capacity for commercial activities which is consolidated with the existing settlement pattern.

[429] The Panel agrees with Ms White, that the modifications suggested by Mr Geddes to either the LCZ or the NCZ are not minor or inconsequential and would also have an impact on the hierarchy and role of centres. We note that LCZ and NCZ have a similar focus on residential needs, with the NCZ serving the 'immediate' residential area and LCZ being the 'catchment' or wider area.²⁸² The changes requested by Mr Geddes would make either zone incompatible with the zone descriptions in Table 13 and with the way that the Proposed Plan uses those zones.

²⁸² NPS Standard 8, Table 13.

[430] LCZ may be a better fit for this location based on its accessibility to a wider residential area, however we have not had the benefit of a retail distribution assessment to enable us to evaluate whether there is any impact the CCZ. We consider such an assessment to be important because the Council's s32 Report emphasised the importance of the role of centres. The Proposed Plan introduces a hierarchy to commercial centres, by clearly setting out the role and function of each zone and emphasising the role of the City Centre Zone as the largest and principal centre for a range of commercial and community activities.²⁸³ This is reflected in LCZ-O1. In support of the s32 Report the Council commissioned an Economic Assessment of the business land market in the District and demonstrated that there is sufficient commercially zoned land to meet the future requirements of the District over the next 20 years.²⁸⁴ A subsequent report in 2021 confirmed sufficient supply in the short and medium term.²⁸⁵

[431] In the alternative, given that the Proposed Plan zone for the majority of the site is NCZ, we prefer Ms White's recommendation to add the two residential properties to the proposed NCZ, rather than rezone the site in its entirety to LCZ. Rezoning the two GRZ properties to NCZ to match the remaining properties on the submitters site is more efficient and effective, and places a lesser risk to the retail hierarchy in the Plan in the absence of a specific retail distribution assessment. The submitter has already committed to a particular development proposal and has secured resource consents to advance the project. During our site visits we noted that the original buildings have been demolished and there are signs of a new development under construction.

168 Kings Street and 27 Hally Terrace, Temuka

[432] Aitken et al [237.9] sought the rezoning of 168 King Street, Temuka from GRZ to TCZ, noting that the property is zoned Commercial 1 in the ODP. Having considered their submission, Ms White agreed that the TCZ zoning would be more suitable given the site is not currently used for a residential activity. We agree, noting that Ms Clay supported Ms White's recommendation on behalf of the submitters.²⁸⁶

[433] Aitken et al [237.5] also requested that 27 Hally Terrace, Temuka be zoned TCZ. 27 Hally Terrace is zoned Commercial 1, along with other properties to the south in the ODP, however, it appears to have been rezoned as residential in the Proposed Plan because 27 Hally Terrace, and other properties are currently in residential use. Unfortunately, there are no submissions seeking that the properties to the south are to retain a commercial zone. Following the hearing we directed Ms White to meet with Ms Clay, the planning expert for the submitter. They agreed that from a merit's perspective, it would be appropriate to zone 27 Hally Terrace and those properties to the south of it TCZ. However, we understand that Counsel are agreed there is no scope to rezone the properties to the south of 27 Hally Terrace to TCZ. Rezoning of these properties would therefore need to be undertaken via a separate future process, e.g. a variation or plan change.

²⁸³ Section 32 Report Commercial and Mixed Use Zones, page 22.

²⁸⁴ Property Economics (2019). Timaru District Business Land Economic Assessment, p. 12 (<https://www.timaru.govt.nz/pdp-supporting-info>).

²⁸⁵ Property Economics. Timaru District Business Land Economic Assessment (2021) https://www.timaru.govt.nz/_data/assets/pdf_file/0004/816178/Property-Economics-2021-Timaru-District-Business-Land-Economic-Assessment.pdf

²⁸⁶ Mary Clay, Statement of Evidence, 5 July 2024, Para 24.

[434] Although Ms White acknowledged that there was no shortfall of commercially zoned land and therefore the rezoning is not “needed”, she accepted that there is demand for redevelopment of this property and also noted that 25 Hally Terrace is a vacant lot, rather than having an established residential use. Her view was that the rezoning of 27 Hally Terrace is not appropriate unless the southern properties are also rezoned. Ms Clay’s view remains as set out in her evidence, which is that rezoning of 27 Hally Terrace to TCZ is appropriate.

[435] The Panel visited the site, and although from a practical perspective there is obvious merit in linking this site, along with the properties to the south to the TCZ, we find on balance that it would be more efficient and effective for the sites to be considered together, to enable a proper evaluation under s32 of the Act, rather than a piecemeal approach. We note specifically that TCZ-O2 makes specific reference to the size and scale of TCZ, commensurate with the size of the population it serves, and not distracting from the CCZ. Although the single site would be a smaller encroachment, it raises an issue about the adjoining land to the south, and we have no submissions requesting their rezoning. We did not have sufficient evidence before us to understand the impact of an isolated pocket of TCZ land, in circumstances where adjoining land-owners may wish to pursue residential land uses, nor on future expectations to use the land to the south for commercial purposes given it is bounded by TCZ. We do not find it to be efficient or effective in the context of s32 to rezone the single site. We agree that this is unsatisfactory, however, we consider we are constrained by the limited scope of the submission which prevents us from tidying up the zone boundary. We would strongly encourage the Council to consider a variation or Plan Change if it sees merit in resolving the issue and extending the TCZ at Temuka.

16A, 16D and 16E Hilton Highway

[436] Port Bryson [104.3] requested properties at 16A, 16D and 16E Hilton Highway are rezoned from GRZ to GIZ to recognise existing use, and future desired development of the site. At the hearing, Mr Pipe amended the request to rezone the properties to MUZ.²⁸⁷ The amendment was made because Mr Pipe believed, having considered the s42A Report from Ms Hollier that MUZ most closely reflects the current activities consented for the site and would allow the site to be developed as a business park ‘based around office, service and showroom facilities supported by self storage’. Mr Pipe also indicated that the Company had purchased 18 Hilton Highway, which is intended to be amalgamated with 16 D. Mr Pipe outlined the long history of industrial activity, and that the residential zoning had meant multiple resource consents were required.

[437] Ms Hollier agreed in her s42A Report that the GRZ was no longer appropriate, and she recommended GIZ (as had been requested by the submitter originally). Mr Pipe, however had concerns that the GIZ was not the best fit for the intended ‘business park’ type development being undertaken on the site. Mr Pipe also addressed the flooding and coastal hazard overlays for the property. We address the hazard overlays in Part 8.

[438] The Panel was not clear on why the Council had discounted the MUZ for this site, given its location adjoining residential areas. We asked Ms Hollier to confer with Ms White

²⁸⁷ Bruce Pipe, Statement of Evidence, Part A

(who addressed the MUZ) to provide a further explanation of the reasons for this. Ms White addressed this in her Interim Reply.

[439] Ms White explained that she had conferred with Ms Hollier as part of the preparation of the s42A Report, and Ms Hollier's analysis and recommendations (paras 7.2.8 – 7.2.14) in relation to the zoning were informed by her input. Ms Hollier reported that following initial discussion with the submitter, a MUZ was considered. However, in considering the framework that would apply under a MUZ or GIZ, the existing activities on the site, as well as those referred to by the submitter, Ms White and Ms Hollier were both of the view that MUZ would not be the most appropriate zoning for this site and that GIZ was more appropriate. This is because some of the established activities on the site (storage facilities) fall within the definition of industrial activities. The MUZ framework provides only for limited expansion of existing industrial activities, (under MUZ-R7 PER-2) and new industrial activities are non-complying. In Ms White's view, applying the MUZ would therefore not be a good "fit" considering the industrial activities on this site. She also noted that residential activities are also provided for in the MUZ, through a restricted discretionary consenting pathway (MUZ-R10) which is designed to ensure that potential reverse sensitivity effects on commercial or existing industrial activities are minimised (MUZ-P4).

[440] In essence, it is anticipated that over time, the MUZ (where it is currently proposed to apply in the Plan) will transition to provide more residential living opportunities. However, Ms White considered that providing for residential activities on this site, which contains industrial and trade supply activities, is likely to lead to conflicts with the established activities. Ms White further explained that a key focus of the MUZ is on commercial activities, with these being permitted. This reflects that the areas of MUZ proposed in the Plan are located around the CCZ, with the framework aimed at consolidating commercial activities to support the overall function of the CCZ as the District's key commercial and civic centre. In her view, this is different to the Hilton Highway site, which is located away from the CCZ and would instead allow for commercial development on this site which is unconnected to the functioning of the CCZ (and could detract from it). In other commercial zones, such as NCZ and LFRZ there are controls on the scale and nature of commercial activities to ensure that they do not undermine the purpose, function, and amenity values of the CCZ.

[441] Ms White concluded that the application of MUZ to this site would therefore not assist in achieving MUZ-O1, which is explicit about activities being provided for in the zone in a manner that reinforces the City Centre as a key commercial and civic centre. Ms White agreed with Ms Hollier's comments that it is appropriate for additional commercial activities (such as offices) on this site to be carefully considered and not just permitted through application of a MUZ zoning. Ms White noted that nearby areas, which included a range of activities, including retail and food outlets at Washdyke were also zoned GIZ in the Proposed Plan.

[442] The Panel visited the site, and has considered Mr Pipe's evidence, and the analysis undertaken by Ms White and Ms Hollier. We are satisfied that the GRZ is not the most appropriate zone given the history of the use of the site is primarily industrial in character. We agree with Ms Hollier's analysis that GIZ is the most appropriate zone, and for the reasons

given by Ms White the MUZ is not appropriate at this location given its purpose and the objectives for that zone.

3.31.2 Decision

[443] We adopt Ms White's analysis and recommendations in relation to the rezoning of properties above. The amendments are set out in **Appendix 2**.

[444] In terms of s32AA, we are satisfied that the amendments are the most appropriate option for achieving the purpose of the RMA, the relevant provisions of the Plan and for giving effect to other relevant statutory instruments.

3.32 GENERAL INDUSTRIAL ZONE – GENERAL MATTERS AND INTRODUCTION

3.32.1 Assessment

[445] We accept Ms Hollier's analysis and recommendations in response to the submissions from PS Earthmoving [204.5], Timaru TC Ratepayers [219.1] and ECan [183.1, 183.4]. We note that ECan tabled a letter²⁸⁸ which signalled acceptance of the s42A recommendations, and we received no other evidence to the contrary. We agree that no amendments are required to the Proposed Plan in response to these submissions.

[446] We address Ms Hollier's recommended amendment to GIZ-R3 PER1 in response to ECan's submission [183.1] in Section 3.38 of this Decision.

[447] We address Ms Hollier's recommended amendments to the GIZ standards in response to ECan's submission [183.4] in Section 3.39 of this Decision.

3.32.2 Decision

[448] We adopt Ms Hollier's analysis and recommendations as set out in her s42A Report. No changes are required to the Proposed Plan.

3.33 GIZ-O1, GIZ-O2, GIZ-O3

3.33.1 Assessment

[449] We accept Ms Hollier's analysis and recommendations in response to the submissions on GIZ-O1, GIZ-O2, and GIZ-O3 for the reasons set out in the s42A Report.

[450] In reaching this view we note that Fonterra confirmed general acceptance of the s42A recommendations²⁸⁹, however stated that GIZ-O1, GIZ-O2 and GIZ-O3 (along with GIZ-P1 and GIZ-P6) are not the most efficient and effective way to achieve the outcomes sought for the Clandeboye site. We discuss the Clandeboye site in Section 2.15.

²⁸⁸ Deidre Francis, Tabled Letter, 1 July 2024.

²⁸⁹ Susannah Tait, Statement of Evidence, 5 July 2024, Para 8.2.

[451] We further note we received written statements from Silver Fern Farms²⁹⁰ and the Alliance Group Ltd²⁹¹ signalling support for the s42A recommendations.

[452] We received no other evidence to the contrary.

3.33.2 Decision

[453] We adopt Ms Hollier's analysis and recommendations as set out in her s42A Report, and we find the recommended minor change to GIZ-O2 is appropriate. GIZ-O1 and GIZ-O3 remain unchanged. The amendment to GIZ-O2 is set out in **Appendix 3**.

[454] In terms of s32AA, we adopt Ms Hollier's evaluation in support of the change made.

3.34 PREC3-O1 WASHDYKE INDUSTRIAL EXPANSION PRECINCT

3.34.1 Assessment

[455] We accept Ms Hollier's analysis and recommendations in response to the submission of Kāinga Ora [229.167] on PREC3-O1 for the reasons set out in the s42A Report and agree it is appropriate to retain this provision as notified. We note that Kāinga Ora reviewed the Section 42A report and expressed general acceptance of the recommendations made by Ms Hollier and did not provide us with any further evidence on this matter.²⁹²

3.34.2 Decision

[456] We adopt Ms Hollier's analysis and recommendations as set out in her s42A Report, and we find no changes are necessary to PREC3-O1 in response to submissions.

3.35 NEW PROVISIONS FOR PROPOSED REDRUTH PROJECT

3.35.1 Assessment

[457] Enviro NZ [162.10] initially sought the addition of a new objective, policy, and rule to the GIZ to provide for a new precinct for the Redruth Landfill, along with associated map changes to recognise the Redruth Landfill and Resource Recovery Facility at 23 Shaw Street and 55A-55C Redruth Street as a precinct. However, Enviro NZ subsequently advised it no longer wished to proceed with this request²⁹³ and on this basis we have not considered this matter any further in this Decision.

3.36 GIZ-P1, GIZ-P2, GIZ-P3, GIZ-P5, GIZ-P6

[458] A range of submissions were received on these policies, as set out in Ms Hollier's s42A report.²⁹⁴ Transpower [159.99] sought an additional clause in GIZ-P6 to cover regionally significant infrastructure. Initially, Ms Hollier did not agree with the relief sought on the basis that most of the provisions of the Energy and Infrastructure Chapter take precedence over the

²⁹⁰ Steve Tuck, Mitchell Daysh Limited, for Silver Fern Farms, Letter dated 3 July 2024.

²⁹¹ Doyle Richardson, Mitchell Daysh Limited, for Alliance Group, Letter dated 3 July 2024.

²⁹² Joshua Neville, Statement of Evidence, 24 July 2024, Para 4.1.

²⁹³ Kaaren Rosser, Statement of Evidence, 23 July 2024, Para 4.1.

²⁹⁴ Alana Hollier, s42A Report, Hearings B2, 20 June 2024,

Zone Chapters. As discussed in Part 1 of the Decision, having considered Transpower's evidence and the additional evidence provided by Ms White in her s42A Interim Reply, we agree that the proposed amendment to the Introduction of the Energy and Infrastructure will assist in the efficient administration of the Proposed Plan and address Transpower's concerns appropriately, a position also adopted by Ms Hollier in her s42A Interim Reply.²⁹⁵ We also note that in addition we have inserted a new policy to ensure that the relationship between the objectives and policies of the EI Chapter and the Zone Chapters as to the 'weight' to be given to provisions in the event of conflict is clear.

[459] We generally accept Ms Hollier's analysis and recommendations in response to submissions on these policies, and find the minor amendments to GIZ-P1, GIZ-P3 and GIZ-P6 to be appropriate, and agree that no amendments are required to GIZ-P2 or GIZ-P5.

[460] We note that Fonterra confirmed general acceptance of the s42A recommendations²⁹⁶, however stated that GIZ-P1 and GIZ-P6 (along with GIZ-O1, GIZ-O2 and GIZ-O3) are not the most efficient and effective way to achieve the outcomes sought for the Clandeboye site. We discuss the Clandeboye site in Section 2.15, but note here that a number of changes have been made to the Policies to accommodate the Clandeboye Dairy Manufacturing Precinct.

[461] We further note we received written statements from Silver Fern Farms²⁹⁷ and the Alliance Group Ltd²⁹⁸ signalling support for the s42A recommendations. Kāinga Ora reviewed the s42A report and expressed general acceptance of the recommendations made by Ms Hollier.²⁹⁹

[462] In her evidence, Ms Rosser on behalf of Enviro NZ confirmed acceptance of the s42A recommendations in respect of GIZ-P5 and GIZ-P6³⁰⁰.

3.36.1 Decision

[463] We adopt Ms Hollier's analysis and recommendations as set out in her s42A Report. The amendments to GIZ-P1, GIZ-P3 and GIZ-P6 are set out in **Appendix 3**.

[464] In terms of s32AA, we adopt Ms Hollier's evaluation in support of the change made.

3.37 PREC3-P1

3.37.1 Assessment

[465] We accept Ms Hollier's analysis and recommendations in response to Kāinga Ora's [229.169] submissions on PREC3-P1³⁰¹ (and GIZ-S4) and find the amendment to PREC3-P1 is appropriate. We note that in its evidence, Kāinga Ora reviewed the s42A report and

²⁹⁵ Alana Hollier, s42A Interim Reply: Hearing B, 20 September 2024.

²⁹⁶ Susannah Tait, Statement of Evidence, 5 July 2024, Para 8.2.

²⁹⁷ Steve Tuck, Mitchell Daysh Limited, for Silver Fern Farms, Letter dated 3 July 2024.

²⁹⁸ Doyle Richardson, Mitchell Daysh Limited, for Alliance Group, Letter dated 3 July 2024.

²⁹⁹ Joshua Neville, Statement of Evidence, 24 July 2024, Para 4.1.

³⁰⁰ Kaaren Rosser, Statement of Evidence, 23 July 2024, Para 4.2-4.3.

³⁰¹ Now renumbered PREC7-P1 in the Decision Version of the provisions.

expressed general acceptance of the recommendations made by Ms Hollier³⁰² and we received no other evidence to the contrary.

3.37.2 Decision

[466] We adopt Ms Hollier's analysis and recommendations as set out in her s42A Report. The amendment to PREC3-P1 is set out in **Appendix 3**.

[467] In terms of s32AA, we adopt Ms Hollier's evaluation in support of the changes made.

3.38 GIZ-R1, GIZ-R2, GIZ-R3, GIZ-R4³⁰³.

3.38.1 Assessment

[468] As summarised in Ms Hollier's s42A Report with respect to submissions on GIZ General matters and Introduction, we accept the recommended change to GIZ-R3 PER-1 in response to ECan's submission [183.1].

[469] Enviro NZ [162.15] requested clarification of the gross floor area in GIZ-R3 PER-3 and expressed concerns about whether the scale was too large and could result in reverse sensitivity effects. Ms Hollier was not concerned as the measurement was gross floor area so included both front and back of house activities. She considered the balance was appropriate in terms of the needs of a functional working environment without compromising the commercial zones.

[470] Although Enviro NZ did not request an alternative floor area in their written submission, Ms Rosser's evidence was that 100m² was appropriate and she compared this to other District Plans. She gave examples of where larger cafes had set up near Enviro NZ facilities with resultant complaints and associated costs to resolve these.

[471] While we acknowledge the concern, Ms Rosser did not offer a s32AA analysis to support her evidence, and we did not receive sufficient evidence to support our own evaluation of the alternatives. We therefore prefer Ms Hollier's evidence on this issue.

[472] We generally accept Ms Hollier's analysis and recommendations in response to submissions on the GIZ rules for the reasons set out in her s42A Report, and we find the minor amendments to GIZ-R1, GIZ-R2 and GIZ-R3 to be appropriate. We further agree that it is appropriate to retain GIZ-R4³⁰⁴ as notified. We note that we received letters from Z Energy³⁰⁵, the Alliance Group³⁰⁶, Silver Fern Farms³⁰⁷, the Rooney Group submitters³⁰⁸ and ECan³⁰⁹ confirming acceptance of the s42A recommendations. We received no other evidence to the contrary.

³⁰² Joshua Neville, Statement of Evidence, 24 July 2024, Para 4.1.

³⁰³ Now renumbered GIZ-R5 in the Decision Version of the provisions.

³⁰⁴ Now renumbered GIZ-R5 in the Decision Version of the provisions.

³⁰⁵ Thomas Trevilla, Tabled Letter, 5 July 2024.

³⁰⁶ Doyle Richardson, Mitchell Daysh Limited, for Alliance Group, Letter dated 3 July 2024.

³⁰⁷ Steve Tuck, Mitchell Daysh Limited, for Silver Fern Farms, Letter dated 3 July 2024.

³⁰⁸ Nathan Hole, Statement of Evidence, 5 July 2024, Para 8.

³⁰⁹ Deidre Francis, Tabled Letter, 1 July 2024.

3.38.2 Decision

[473] We adopt Ms Hollier's analysis and recommendations as set out in her s42A Report. The amendments to the GIZ rules are set out in **Appendix 3**.

[474] In terms of s32AA, we adopt Ms Hollier's evaluation in support of the changes made.

3.39 GIZ STANDARDS

3.39.1 Assessment

[475] As summarised in Ms Hollier's s42A Report with respect to ECan's submission [183.4], relating to the GIZ standards, we accept the recommended changes.

[476] Fonterra raised concerns about the suitability of applying GIZ standards to the Clandeboye site in particular GIZ-S1, GIZ-S2 and GIZ-S6. We have addressed the Fonterra submission through our acceptance of a precinct with bespoke rules as set out in Section 2.15 above.

[477] Overall, we generally accept Ms Hollier's analysis and recommendations in response to submissions on the GIZ standards for the reasons set out in her s42A Report, and we find the amendments to GIZ-S4, GIZ-S5 and GIZ-S6 to be appropriate. We note that we received letters from Z Energy³¹⁰, the Alliance Group³¹¹ and Silver Fern Farms³¹² confirming acceptance of the s42A recommendations.

3.39.2 Decision

[478] We adopt Ms Hollier's analysis and recommendations as set out in her s42A Report. The amendments to the GIZ standards are set out in **Appendix 3**.

[479] In terms of s32AA, we adopt Ms Hollier's evaluation in support of the changes made.

3.40 GIZ NEW STANDARD FOR WATER SUPPLY SERVICING

3.40.1 Assessment

[480] We accept Ms Hollier's analysis and recommendations in response to FENZ's submissions [131.106, 131.112] and agree that a new standard for servicing is not required. We note we received no evidence to the contrary.

3.40.2 Decision

[481] We adopt Ms Hollier's analysis and recommendations as set out in her s42A Report. No amendments to the Proposed Plan are required.

³¹⁰ Thomas Trevilla, Tabled Letter, 5 July 2024.

³¹¹ Doyle Richardson, Mitchell Daysh Limited, for Alliance Group, Letter dated 3 July 2024.

³¹² Steve Tuck, Mitchell Daysh Limited, for Silver Fern Farms, Letter dated 3 July 2024.

3.41 GIZ NEW STANDARD FOR RAIL CORRIDOR SETBACKS

3.41.1 Assessment

[482] We have addressed the KiwiRail [187.85] submission point in our decision on GRUZ-S3 and have applied the outcome to the relevant urban zone provisions for the same reasons.

3.41.2 Decision

[483] We adopt Ms Hollier's analysis and recommendations as set out in her s42A Report, except to the extent referred above. The amendments are set out in **Appendix 3**.

[484] In terms of s32AA, we are satisfied that the amendments are the most appropriate option for achieving the purpose of the RMA, the relevant provisions of the Plan and for giving effect to other relevant statutory instruments.

3.42 GIZ-SCHED16 SCHEDULE OF PRECINCTS AND SPECIFIC CONTROL AREAS

3.42.1 Assessment

[485] We accept Ms Hollier's analysis and recommendations in response to the Silver Fern Farms [172.161] and Alliance Group [173.154] submissions, noting that we received letters from Silver Fern Farms³¹³ and the Alliance Group³¹⁴ confirming acceptance of the s42A recommendations.

3.42.2 Decision

[486] We adopt Ms Hollier's analysis and recommendations as set out in her s42A Report. No amendments to the Proposed Plan are required.

3.43 GIZ MAPS

3.43.1 Assessment

[487] As a consequence of our decisions made above we have made consequential changes to mapping in response to the submissions from Fonterra [165.2, 165.8], Port Bryson [104.3] and Hilton Development [205.3] for the reasons set out above.

[488] Canterbury Woodchip et al [52.1] requested to re-zone 2-8 Arowhenua Street and 61 Bridge Street, Arundel from GRUZ to GIZ. The submitter considers that the GIZ zoning would better reflect the sites' consented and existing use as a wood processing facility for woodchip production and ancillary transport and storage of the woodchip and ancillary wood/timber materials.

³¹³ Steve Tuck, Mitchell Daysh Limited, for Silver Fern Farms, Letter dated 3 July 2024.

³¹⁴ Doyle Richardson, Mitchell Daysh Limited, for Alliance Group, Letter dated 3 July 2024.

[489] The submitter did not attend the hearing. Ms Hollier provided a thorough analysis of the alternatives and recommended that the property remain GRUZ. We accept her recommendation.³¹⁵

[490] Simo Enterprises [148.1] requested a large area of the GIZ in Washdyke has a new precinct applied to reflect the commercial nature of this area of the GIZ. If a light industrial/commercial precinct is not applied, they sought the properties be re-zoned to MUZ. The precinct or change in zoning is sought as the submitter considers the general industrial zoning is not reflective of the businesses in this area, and any new development of these businesses would be considered a non-complying activity.

[491] The submitter did not attend the hearing. Ms Hollier provided a thorough analysis of the alternatives and recommended that the property remain GIZ with no precinct. We accept her recommendation.ⁱ

3.43.2 Decision

[492] Consequential mapping changes are made in **Appendix 2**.

[493] In terms of s32AA, we are satisfied that the amendments are the most appropriate option for achieving the purpose of the RMA, the relevant provisions of the Plan and for giving effect to other relevant statutory instruments.

3.44 PORTZ ZONE: GENERAL AND PORTZ-P1

3.44.1 Assessment

[494] We accept Ms Hollier's analysis and recommendations in response to general submissions received on the PORTZ, and submission received on PORTZ-P1, noting that we received a letter from ECan³¹⁶, Fonterra³¹⁷, PrimePort³¹⁸ and TDHL³¹⁹ confirming their respective support for the s42A recommendations.

3.44.2 Decision

[495] We adopt Ms Hollier's analysis and recommendations. No changes to the Proposed Plan are required.

³¹⁵ Alannah Hollier, s42A Report, paragraphs 7.2.4-7.2.7

³¹⁶ Deidre Francis, Tabled Letter, 1 July 2024.

³¹⁷ Susannah Tait, Statement of Evidence, 5 July 2024, Para 8.3.

³¹⁸ Kim Seaton, Statement of Evidence, representing PrimePort and TDHL, 5 July 2024, Para 19.

³¹⁹ Kim Seaton, Statement of Evidence, representing PrimePort and TDHL, 5 July 2024, Para 19.

3.45 PORTZ MAPS – HEIGHT SPECIFIC CONTROL AREA OVERLAY

3.45.1 Assessment

[496] We accept Ms Hollier’s analysis and recommendations in response to submissions noting that we received a letter from Fonterra³²⁰, PrimePort³²¹ and TDHL³²² confirming their respective support for the s42A recommendations. We find it is appropriate to delete the Height Specific Control Area Overlay from the PORTZ.

3.45.2 Decision

[497] We adopt Ms Hollier’s analysis and recommendations. The amendment is set out in **Appendix 2**.

4 MĀORI PURPOSE ZONE

4.1 MPZ MAPPING

4.1.1 Assessment

[498] Submissions from Waipopo Huts [189.1, 189.2] and Te Kotare [115.3] sought that the Proposed Plan zoning around Waipopo Huts be amended to recognise the historic Māori settlement and to provide for safe residential use and papakāinga-type development. More specifically, Waipopo Huts requested that 36 properties at Waipopo Huts be zoned MPZ, and that the PREC4³²³ Holiday Huts Precinct be removed from this land. TDC [42.73] also sought that additional land to the north at 447–475 and 550–582 Waipopo Road be zoned MPZ, noting that this area had been omitted in error.

[499] We accept Ms White’s analysis³²⁴ that zoning the 36 properties at Waipopo Huts as MPZ is appropriate and consistent with how the area has been treated elsewhere in the Plan, including TDC’s submissions on the former Māori reserve. We agree that applying MPZ across this block, rather than retaining Open Space Zoning with a bespoke precinct, provides a clearer and more coherent planning framework that better reflects the Māori purpose of the settlement. On that basis, we also accept the recommendation to remove PREC4³²⁵ from this land.

[500] In relation to 447–475 Waipopo Road, we agree with Ms White³²⁶ that it would be less efficient to create a bespoke set of provisions for papakāinga-type development when MPZ already provides an appropriate zone framework. Extending the MPZ to this land provides consistency across the settlement and avoids the need for overlapping provisions between the MPZ and a precinct or specific control area.

³²⁰ Susannah Tait, Statement of Evidence, 5 July 2024, Para 8.3.

³²¹ Kim Seaton, Statement of Evidence, representing PrimePort and TDHL, 5 July 2024, Para 19.

³²² Kim Seaton, Statement of Evidence, representing PrimePort and TDHL, 5 July 2024, Para 19.

³²³ Now renumbered PREC9 in the Decision Version of the provisions.

³²⁴ Liz White, s42A Report: SASM and MPZ Chapters, 9 December 2024, paras 9.1.6

³²⁵ Now renumbered PREC9 in the Decision Version of the provisions.

³²⁶ Liz White, s42A Report: SASM and MPZ Chapters, 9 December 2024, paras 9.1.7

[501] We also accept the recommendation³²⁷ that 550–582 Waipopo Road be zoned MPZ, with PREC4³²⁸ removed from these properties. This ensures that all land at Waipopo Huts is managed under a single, integrated zone framework that recognises the historic and ongoing Māori occupation and use of the area.

[502] For completeness, we note that submitter concerns about the application of other overlays to this land are addressed in the relevant topic decisions and are not reconsidered here.

4.1.2 Decision

[503] We accept the reporting officer's recommendations and confirm that the 36 properties at Waipopo Huts, together with 447–475 and 550–582 Waipopo Road, are zoned MPZ and that PREC4³²⁹ is removed from this land. The mapping amendments are shown in **Appendix 2**.

[504] In terms of s32AA, we adopt Ms White's evaluation insofar as it relates to these zoning changes. We are satisfied that extending the MPZ and removing PREC4³³⁰ provides a clearer and more efficient planning framework that better recognises Māori occupation and use, and is the most appropriate means of achieving the relevant objectives of the Proposed Plan and the purpose of the RMA.

4.2 MPZ FRAMEWORK

4.2.1 Assessment

[505] Submitters expressed a range of views on the MPZ rule framework. Te Rūnanga o Arowhenua [185.87], Te Kotare [115.19-115.25] and Waipopo Huts [189.29, 189.30] supported the MPZ objectives and policies, emphasising the importance of enabling papakāika development and providing a planning framework that reflects mana whenua aspirations for a thriving, sustainable, and self-sufficient Māori community.

[506] Other submitters sought broader changes. Te Tumu Paeroa [240.3, 240.9–.12] sought to extend the application of the MPZ to all Māori landowners. Waipopo Huts [189.59] sought deletion of the potable water storage standard in MPZ-S4 on the basis that it placed unnecessary burden on small dwellings. Te Kotare Trust [115.27] and TDC [42.59] sought that the MPZ include a discretionary rule for activities not otherwise listed to provide greater clarity for plan users.

[507] We accept Ms White's analysis³³¹ that the MPZ is appropriately focused on enabling development for mana whenua, consistent with the definitions in the Proposed Plan and the drafting of MPZ-O1 and MPZ-O2. Extending the chapter to all Māori landowners would not align with the zone's purpose and would broaden the framework beyond its intended scope.

³²⁷ Liz White, s42A Report: SASM and MPZ Chapters, 9 December 2024, paras 9.1.8

³²⁸ Now renumbered PREC9 in the Decision Version of the provisions.

³²⁹ Now renumbered PREC9 in the Decision Version of the provisions.

³³⁰ Now renumbered PREC9 in the Decision Version of the provisions.

³³¹ Liz White, s42A Report: SASM and MPZ Chapters, 9 December 2024, paras 9.2.13

[508] We also accept the recommendation³³² to reduce the potable water storage requirement in MPZ-S4 from 45,000 litres to 30,000 litres. In her Interim Reply³³³, Ms White records advice from Council's engineering experts that a storage volume of 30,000 litres is adequate for household supply, and that firefighting requirements can be met cumulatively within the MPZ. We consider this amendment better aligns with the purpose of the MPZ, as an unduly high storage requirement could frustrate papakāika development without materially improving environmental or safety outcomes.

[509] On site wastewater and servicing standards (MPZ-S2 and MPZ-S3), we accept Ms White's analysis³³⁴ that the requirements remain appropriate given the constraints of the local environment, including shallow groundwater and limited opportunities for alternative disposal systems. Evidence from Ms Stevenson³³⁵ on behalf of Waipopo Huts and Te Kotare Trust, and the Ogilvie Report³³⁶ supports retaining these standards to avoid public health and environmental risks that could undermine the viability of the MPZ.

[510] We do not accept submissions seeking deletion of these servicing requirements or the substitution of holding tanks as a permitted alternative. The evidence indicates that holding-tank arrangements present operational risks, impose ongoing maintenance costs, and may not provide a sustainable long term solution for the MPZ community.

[511] Finally, we accept Ms White's recommendation³³⁷ to include a discretionary "catch-all" rule (MPZ-RX³³⁸) to manage activities not otherwise listed in the chapter. This is consistent with the approach taken across other zones and improves the coherence and usability of the MPZ framework.

4.2.2 Decision

[512] We accept Ms White's analysis and recommendations as set out in her s42A Report, Interim Reply and Final Reply. The amended provisions are set out in **Appendix 3**.

[513] In terms of s32AA, we are satisfied that the amendments are the most appropriate option for achieving the purpose of the RMA, the relevant provisions of the Plan and for giving effect to other relevant statutory instruments.

4.3 OTHER MATTERS

4.3.1 Assessment

[514] Submitters raised several drafting concerns relating to internal consistency within the MPZ provisions. ECan [183.1, 183.4] sought clarification of floor-area terminology and consistent measurement of building height across the Proposed Plan. Te Kotare [115.3] and

³³² Liz White, s42A Report: SASM and MPZ Chapters, 9 December 2024, paras 9.2.18

³³³ Liz White, Interim Reply Report: SASM and MPZ Chapters, 17 April 2025, p.7

³³⁴ Liz White, Interim Reply Report: SASM and MPZ Chapters, 17 April 2025, p.8

³³⁵ Ms Stevenson, Statement of Evidence, 23 January 2025, para 16-17 and 71-73

³³⁶ Davis Ogilvie, 3-Water Servicing Options and Natural Hazards Report, July 2022, pp 9-11

³³⁷ Liz White, s42A Report: SASM and MPZ Chapters, 9 December 2024, paras 9.2.21

³³⁸ Now renumbered MPZ-R17 in the Decision Version of the provisions.

Waipopo Huts [189.3] sought recognition of servicing constraints and requested additional provisions to address potable water, wastewater, and stormwater infrastructure.

[515] We accept Ms White's analysis³³⁹ that reference to "gross floor area" provides appropriate clarity in MPZ-R5 PER-3, as "gross floor area" is a defined term in the Proposed Plan and its use avoids ambiguity created by the phrase "an area of less than 50m²." We also accept her advice³⁴⁰ that height is already addressed through the integrated rule structure of the Plan, including explicit measurement directions, and that no changes to the MPZ Chapter are required to address the concerns raised by ECan.

[516] In relation to servicing of land outside the District Plan area, we accept Ms White's assessment³⁴¹ that these matters fall within the jurisdiction of Environment Canterbury under the CLWRP and lie beyond the scope of amendments that can appropriately be made to the MPZ provisions. No further changes are required to respond to these submissions.

4.3.2 Decision

[517] We adopt Ms White's analysis and recommendations. The amended provisions are set out in **Appendix 3**.

[518] In terms of s32AA, we are satisfied that the amendments are the most appropriate option for achieving the purpose of the RMA, the relevant provisions of the Plan and for giving effect to other relevant statutory instruments.

5 OPEN SPACE ZONES - NATURAL OPEN SPACE ZONE

5.1 REALLOCATED SUBMISSIONS

[519] In his s42A report³⁴², Mr Boyes acknowledged submissions that have been reallocated from the Open Space Zone Chapters in Hearing D to other hearing streams. These were:

- (a) NZMCA [134.6] reallocated to Hearing F, Temporary Activities;
- (b) Transpower [159.100, 159.101 and 159.102] reallocated to Hearing E, Energy and Infrastructure;
- (c) Waipopo Huts Trust [189.8] reallocated to Hearing Stream E, as part of their submission to re-zone this land from OSZ to Māori Purpose Zone.

[520] Mr Boyes also advised³⁴³ that three Blandswood submissions — Whitham [121.1], Alison [126.1] and Twaddle [127.1] — had been allocated to the OSZ topic in error. The matters raised relate principally to Settlement Zone issues, including zoning appropriateness, landscape and character effects, and natural hazard risk associated with the Kowhai Stream.

³³⁹ Liz White, s42A Report: SASM and MPZ Chapters, 9 December 2024, paras 9.3.6

³⁴⁰ Liz White, s42A Report: SASM and MPZ Chapters, 9 December 2024, paras 9.3.8

³⁴¹ Liz White, s42A Report: SASM and MPZ Chapters, 9 December 2024, paras 9.3.9

³⁴² Nick Boyes, s42A Report: Open Space and Recreation Zones, 11 October 2024, Para 6.4.1

³⁴³ Nick Boyes, s42A Report: Open Space and Recreation Zones, 11 October 2024, Para 6.4.2

The natural hazard components have been considered in Part 8 of the Decision, and the planning and zoning components are addressed within the Settlement Zone Chapter.

[521] We have addressed the wider submissions on Blandswood in Section 2.14 of this Decision.

5.2 GENERAL SUBMISSIONS

5.2.1 Assessment

[522] ECan [183.1, 183.4] lodged a general submission seeking clearer and more consistent terminology for building size across the Plan, by linking floor areas to either the “building footprint” or “gross floor area”, and a submission seeking that all height standards be measured from “ground level”. In his s42A report³⁴⁴, Mr Boyes concluded that the Open Space and Recreation Zones (OSRZ) Chapters already use clearly defined terms for building and structure floor areas and recommended no changes in response to [183.1], insofar as it relates to those chapters. However, he noted that the OSZ height standards do not specify measurement from ground level and recommended amending OSZ-S1 and OSZ-S3 so that height limits are measured from ground level.

[523] Forest & Bird [156.174] sought to strengthen the recognition of habitat for indigenous fauna within the NOSZ, noting that such habitat may not always coincide with indigenous vegetation. It requested amendments to the NOSZ Introduction and NOSZ-O2 to expressly refer to habitat for indigenous fauna and sought a new matter of discretion requiring the effects of all activities on indigenous fauna to be considered.

[524] In his s42A Report³⁴⁵, Mr Boyes recommended amendments to the NOSZ Introduction, Objectives, and Standards to include explicit reference to habitat for indigenous fauna. He did not initially propose amending NOSZ-S4.3, on the basis that its reference to “ecological values” already captured fauna habitat. However, in his Interim Reply³⁴⁶, he recommended amending NOSZ-S4.3 for consistency across all relevant standards.

[525] Mr Boyes also noted that matters of discretion apply only to activities with a restricted discretionary activity status and cannot be applied across all activities in the way sought by Forest & Bird.³⁴⁷ For that reason, he recommended that the submission be accepted in part.

[526] Forest & Bird [156.175] also sought that all Public Conservation Land (PCL) be included within the NOSZ, and that additional areas of the Coastal Environment—particularly around river mouths, river floodplains and hāpua—be mapped as NOSZ. In his s42A Report³⁴⁸, Mr Boyes did not recommend any mapping changes. He noted that:

- (a) Land identified as NOSZ is predominantly publicly owned, located mainly in the hill and high country, and already includes PCL;

³⁴⁴ Nick Boyes, s42A Report: Open Space and Recreation Zones, 11 October 2024, Para 6.3.3-6.3.11.

³⁴⁵ Nick Boyes, s42A Report: Open Space and Recreation Zones, 11 October 2024, Para 7.1.12-7.1.13.

³⁴⁶ Nick Boyes, Interim Reply Report: Open Space and Recreation Zones, 18 December, Para 10-13.

³⁴⁷ Nick Boyes, s42A Report: Open Space and Recreation Zones, 11 October 2024, Para 7.1.12-7.1.13.

³⁴⁸ Nick Boyes, s42A Report: Open Space and Recreation Zones, 11 October 2024, Para 7.1.14-7.1.16.

- (b) Much of the land at river mouths, floodplains and hāpua is privately owned and therefore inconsistent with the established pattern and purpose of the NOSZ; and
- (c) The suite of coastal overlays already protects the natural character of the coastal environment and manages inappropriate subdivision, use and development.

[527] Mr Boyes advised³⁴⁹ that the part of the submission relating to the Coastal Environment would be more appropriately considered in Hearing Stream F when the Coastal Overlay maps are addressed. This component of Forest & Bird's submission relating to the Coastal Environment is considered in Part 4 of the Decision Report, where submissions on the Coastal Overlay maps are addressed.

[528] DOC [166.131] supported the Introduction, Objectives, Policies and Rules of the NOSZ as notified, except NOSZ-R7 which prohibits motorsport facilities. In her planning evidence³⁵⁰, Ms Williams clarified that DOC does not oppose NOSZ-R7. For that reason, we have not considered this matter further.

[529] NZMCA [134.6] submitted that, under the Proposed Plan, camping (including freedom camping) is often captured by the "activities not otherwise provided for" rule and therefore requires resource consent, including in the NOSZ. They considered this an unintended restriction on responsible camping and freedom camping and argued that this approach is inconsistent with DOC strategies that emphasise enabling people to use conservation areas and connect with nature.

[530] Mr Boyes noted³⁵¹ that freedom camping is primarily managed through separate legislative and regulatory frameworks, including the Freedom Camping Act 2011, rather than through District Plan provisions. In evidence for DOC³⁵², Ms Williams supported clarifying this via an advice note, indicating that freedom camping is managed under the Freedom Camping Act rather than the Proposed Plan. In his Summary Statement³⁵³, Mr Boyes acknowledged this evidence and recommended that NZMCA's submission be considered in Hearing Stream F, as the issue relates to plan-wide temporary activities rather than to the OSZ or NOSZ Chapters specifically. We note that the NZMCA submission relating to freedom camping is addressed in Part 7 of the Decision Report (Temporary Activities).

[531] We also note that, following the further explanation provided in the s42A Summary Statement, both Helicopters South Cant. [53.26] and the NZAAA [132.32, 132.33] confirmed that they accept the reporting officer's analysis regarding the application of section 4(3) of the RMA and did not pursue their requested amendments to NOSZ-P3 or the associated rules further.

³⁴⁹ Nick Boyes, s42A Report: Open Space and Recreation Zones, 11 October 2024, Para 7.1.17

³⁵⁰ Elizabeth Williams, Statement of Evidence, 29 October 2024, Para 57.

³⁵¹ Nick Boyes, s42A Report: Open Space and Recreation Zones, 11 October 2024, Para 7.1.19-7.1.21

³⁵² Elizabeth Williams, Statement of Evidence, 29 October 2024, Para 5-6

³⁵³ Nick Boyes, s42A Summary Statement: Open Space and Recreation Zones, 7 November 2024, Para 10

5.2.2 Decision

[532] We adopt Mr Boyes' analysis and recommendation to amend OSZ-S1 and OSZ-S3 to confirm that height limits are measured from ground level.³⁵⁴

[533] We adopt Mr Boyes' analysis and recommendation to amend the NOSZ Introduction, NOSZ-O2.2, NOSZ-S1.3, NOSZ-S2.4, NOSZ-S3.3 and NOSZ-S4.3 to expressly refer to habitat for indigenous fauna.

[534] The amendments are set out in **Appendix 3**.

[535] For the purposes of s32AA, we adopt Mr Boyes' evaluation in support of the change made.

[536] We adopt Mr Boyes' analysis and recommendation that no mapping amendments are necessary.

5.3 NOSZ – OBJECTIVES

5.3.1 Assessment

[537] Aside from the Forest & Bird [156.174] submission considered in the General Submissions section above, only ECan [183.161] submitted in support of the NOSZ Objectives.

5.3.2 Decision

[538] We adopt Mr Boyes analysis and recommendation³⁵⁵ to accept the ECan submission in part, given the amendments we have made to NOSZ-O2 in response to the relief sought by Forest and Bird, as discussed above.

[539] In terms of s32AA, as noted above, we adopt Mr Boyes' evaluation in support of the change made to NOSZ-O2.

5.4 NOSZ – POLICIES

5.4.1 Assessment

[540] Helicopters South Cant. [53.26] and NZAAA [132.33] sought a new definition for 'conservation activities', and amendments to NOSZ-P3 to enable a wider range of conservation activities, not only those consistent with a DOC plan or strategy.

[541] The definition of 'conservation activities' was considered in Hearing Stream A and is addressed in Part 2 of the Report.

³⁵⁴ See Panel Decision Report, Part 2 Section 4.1.1 for discussion on height related provisions.

³⁵⁵ Nick Boyes, s42A Report: Open Space and Recreation Zones, 11 October 2024, Para 7.2.1.

[542] In his s42A report³⁵⁶, Mr Boyes explains that the purpose of NOSZ-P3 is to give effect to section 4 of the RMA, which enables activities undertaken in accordance with DOC plans or strategies. Many conservation activities are governed by the Conservation Act and other legislation, and it would be incorrect to assume all such activities fall within the scope of the District Plan. Widening NOSZ-P3 to provide for all conservation activities would conflict with section 4 and create policy inconsistency. We agree with this explanation.

[543] Transpower [159.100] sought amendments to NOSZ-P6 to allow regionally significant infrastructure that has an operational or functional need to locate in the NOSZ as an “other” activity. In his s42A report³⁵⁷, Mr Boyes -considered that the objectives and policies in the Energy and Infrastructure Chapter prevail over the Zone Chapters. In our decision on the Energy and Infrastructure Chapter, we confirmed that, other than the Port Zone it is the rules in Sections A to F of the Energy and Infrastructure Chapter that apply instead of the zone rules. The objectives and policies of the Zone Chapters apply, and we have not specified that the EI objectives and policies prevail over the NOSZ objectives and policies. The relationship between the objectives and policies in the Energy and Infrastructure Chapter and those in the Zone Chapters is addressed through the Energy and Infrastructure objectives and policies themselves. As addressed in our decision on the EI Chapter³⁵⁸ we have also inserted a new policy to ensure that the relationship between the objectives and policies of the EI Chapter and the Zone Chapters as to the ‘weight’ to be given to provisions in the event of conflict is clear.

5.4.2 Decision

[544] We adopt Mr Boyes analysis and recommendation to reject the submissions seeking to amend NOSZ-P3.

[545] In Part 1 we address the relationship between the Energy and Infrastructure policies and Zone Chapters, and accordingly, no amendment to NOSZ-P6 is required as the Energy and Infrastructure framework appropriately establishes that relationship.

5.4.3 NOSZ – RULES

5.4.4 Assessment

[546] Alliance [173.150] sought an amendment to NOSZ-R3 to enable the planting of non-indigenous species for natural hazard mitigation, to align with CE-R3. In his s42A report³⁵⁹, Mr Boyes confirmed that most land within the NOSZ is PCL administered by DOC and regulated under the Conservation Act. DOC advised the s42A officer³⁶⁰ that it only supports the planting of indigenous vegetation for hazard-mitigation purposes. DOC [166.131] also supported the NOSZ rules, including NOSZ-R3, in its submission. Given that the purpose and character of the NOSZ is to maintain and enhance indigenous vegetation, Mr Boyes recommended that the Alliance submission be rejected and that non-indigenous planting remain subject to

³⁵⁶ Nick Boyes, s42A Report: Open Space and Recreation Zones, 11 October 2024, Para 7.3.10.

³⁵⁷ Nick Boyes, s42A Report: Open Space and Recreation Zones, 11 October 2024, Para 7.3.11-7.3.14.

³⁵⁸ Panel Decision Report, Part 5, Section 2.16.1

³⁵⁹ Nick Boyes, s42A Report: Open Space and Recreation Zones, 11 October 2024, Para 7.4.6-7.4.7

³⁶⁰ Nick Boyes, s42A Report: Open Space and Recreation Zones, 11 October 2024, Para 7.4.6

resource consent. Alliance confirmed in its Hearing Statement³⁶¹ that it accepts the s42A recommendations.

[547] TDC [42.58] sought a new discretionary activity rule for “any activities not otherwise listed”. In his s42A report³⁶², Mr Boyes noted that each of the Zone Chapters has a rule that applies to all other uses not listed, and that for consistency with the rest of the Plan, it would be appropriate to include a similar rule in the NOSZ Chapter.

[548] Helicopters South Cant [53.27] and NZAAA [132.34] sought a new rule to permit the use of airstrips and helicopter landing sites for conservation purposes, subject to limits on frequency and duration. In his s42A report³⁶³, Mr Boyes confirmed that most land within the NOSZ is PCL, regulated under the Conservation Act. As noted in accordance with the relevant conservation management strategy or plan. Appendix 1 of the Conservation Management Strategy permits pest control activities, including weed control, and therefore the use of helicopters for such purposes is already enabled. Mr Boyes³⁶⁴ notes that for non-PCL land, NOSZ-R2 permits animal and pest control activities, and where agricultural aviation is carried out for those purposes, a further rule is unnecessary. In his Summary Statement³⁶⁵, Mr Boyes advised that the submitters accepted his analysis and no longer pursued their requested rule. On that basis, we do not consider the matter further.

5.4.5 Decision

[549] We adopt Mr Boyes’ analysis and recommendations relating to the NOSZ Rules. All amendments are set out in **Appendix 3**.

[550] In terms of s32AA, we adopt Mr Boyes’ evaluation in support of the changes made.

6 OPEN SPACE ZONES – OPEN SPACE ZONE

6.1 OSZ – GENERAL

6.1.1 Assessment

[551] The submissions of Mr Whitam [121.1], Amy Alison [126.1], Nicolas Twaddle [127.1] on the Blandswood area are addressed above.

[552] South Rangitata Reserve Inc (SRR Inc) [206.1] sought:

- (a) Recognition of existing use rights given that huts at the South Rangitata Reserve are fully developed;
- (b) That the Proposed Plan provide for orderly exit and relocation of the huts; and

³⁶¹ Doyle Richardson, Alliance Hearing Statement, 21 October 2024. para 3.

³⁶² Nick Boyes, s42A Report: Open Space and Recreation Zones, 11 October 2024, Para 7.4.10.

³⁶³ Nick Boyes, s42A Report: Open Space and Recreation Zones, 11 October 2024, Para 7.4.11

³⁶⁴ Nick Boyes, s42A Report: Open Space and Recreation Zones, 11 October 2024, Para 7.4.13-7.4.14.

³⁶⁵ Nick Boyes, s42A Summary Statement: Open Space and Recreation Zones, 7 November 2024, Para 8.

- (c) For permanent residents to remain as part of the Holiday Hut Precinct [206.2].

[553] In his s42A report³⁶⁶, Mr Boyes said that:

- (a) It is inappropriate for the Proposed Plan to codify existing use rights which are available under section 10 of the RMA;
- (b) The Proposed Plan provides for activities in PREC4³⁶⁷ Holiday Hut Precinct which do not distinguish between permanent and temporary residents, and there is no need to do so; and
- (c) Mr Boyes submitted that Including PREC4³⁶⁸ Holiday Hut Precinct in the Proposed Plan suggests that the Council has no immediate plans to seek hut removal³⁶⁹. We do not draw any conclusions regarding land tenure in the short or long term, that is a separate function of Council and not a matter for this process.

6.1.2 Decision

[554] We agree with Mr Boyes' analysis and recommendations not to amend the Plan to recognise existing use rights or to distinguish between permanent and temporary residents.

6.2 OSZ – OBJECTIVES

6.2.1 Assessment

[555] MOE [106.47] sought for educational facilities to be expressly referenced in OSZ-O1 given they are a permitted activity under OSZ-R2. In his s42A Report³⁷⁰, Mr Boyes recommended no change to OSZ-O1. OSZ-R2 permits educational facilities only where any associated building or structure complies with OSZ-R10, which limits the scale of such activities. Larger-scale educational facilities are enabled elsewhere in the Plan. OSZ-O1 sets out the primary purpose of the zone. As educational facilities are not widely anticipated or provided for in this chapter, we agree they do not meet the threshold for inclusion.

6.2.2 Decision

[556] We adopt Mr Boyes analysis and recommendation³⁷¹ to not include educational facilities in OSZ-O1.

³⁶⁶ Nick Boyes, s42A Report: Open Space and Recreation Zones, 11 October 2024, Para 8.1.8-8.1.9.

³⁶⁷ Now renumbered PREC9 in the Decision Version of the provisions.

³⁶⁸ Now renumbered PREC9 in the Decision Version of the provisions.

³⁶⁹ Nick Boyes, s42A Report: Open Space and Recreation Zones, 11 October 2024, Para 8.1.10.

³⁷⁰ Nick Boyes, s42A Report: Open Space and Recreation Zones, 11 October 2024, Para 8.2.4-8.2.8

³⁷¹ Nick Boyes, s42A Report: Open Space and Recreation Zones, 11 October 2024, Para 8.2.4-8.2.9.

6.3 OSZ – POLICIES

6.3.1 Assessment

OSZ-P7

[557] TDC [42.56] sought a minor drafting change and spelling correction to OSZ-P7, which Mr Boyes supported in his s42A Report.³⁷²

OSZ-P10

[558] Transpower [159.101] sought to amend OSZ-P10 to better provide for the National Grid by allowing other activities where these are regionally significant infrastructure that have an operational or functional need to locate in the OSZ. As previously noted regarding NOSZ-P6, we agree with Mr Boyes who considered that the Energy and Infrastructure Chapter policies prevail over the Zone Chapter policies. In Part 5 of this Report for, we accepted Ms White's recommendation that the policy direction in the Energy and Infrastructure Chapter prevails over the Zone Chapters, and as addressed in our decision on the EI Chapter³⁷³ we have inserted a new policy to ensure that the relationship between the objectives and policies of the EI Chapter and the Zone Chapters as to the 'weight' to be given to provisions in the event of conflict is clear. Accordingly, we agree with Mr Boyes that no further amendments to OSZ-P10 are required on this point.

[559] MoE [106.48] sought an amendment to OSZ-P10 to allow other activities that have a functional need to locate within the OSZ. Mr Boyes recommended³⁷⁴ accepting the submission in part, noting that the relief sought was general. He assessed the definitions of functional need and operational need in the National Planning Standards and considered it appropriate to include activities that have either a functional need or operational need to locate in the OSZ. We agree with Mr Boyes' assessment.

6.3.2 Decision

[560] We adopt Mr Boyes' analysis and recommendations relation to OSZ-P7 and OSZ-P10. These amendments are set out in **Appendix 3**. In terms of s32AA, we are satisfied that the amendments are the most appropriate option for achieving the purpose of the RMA, the relevant provisions of the Plan and for giving effect to other relevant statutory instruments.

6.4 OSZ – RULES

6.4.1 Assessment

[561] SRR Inc [206.3] sought amendment to OSZ-R2 so that the South Rangitata Reserve can be used for recreational activities in accordance with its gazetted purpose.

³⁷² Nick Boyes, s42A Report: Open Space and Recreation Zones, 11 October 2024, Para 8.3.7.

³⁷³ Panel Decision Report, Part 5, Section 2.16.1

³⁷⁴ Nick Boyes, s42A Report: Open Space and Recreation Zones, 11 October 2024, Para 8.3.10.

[562] In his s42A Report³⁷⁵, Mr Boyes addressed only the component of the SRR Inc submission that related to existing activities. He advised that the Proposed Plan should not codify existing use rights, which arise under section 10 of the RMA. While we agree that the Plan should not codify existing use rights, we note that this was only part of the submitter's concern.

[563] At the hearing, Mr Hall for SRR Inc clarified that the relief sought was broader, stating that they sought to enable "all activity that is for the betterment of the area," which to him meant "any ordinary activity attached to a settlement community³⁷⁶". The examples provided extended beyond existing activities and events. As notified, OSZ-R2 classified community activity, cultural activity, and educational facilities as non-complying within the Holiday Hut Precinct. The s32 Report explains that this framework responds to the significant natural hazard risks affecting the settlement. We are satisfied that SRR Inc [206.3] did seek amendments to OSZ-R2, both in its written submission and through clarification at the hearing. We therefore consider that amendments to OSZ-R2 are within scope.

[564] Although Mr Boyes did not recommend changes to OSZ-R2 in either his s42A Report or Final Reply, the evidence presented at the hearing persuaded us that community and cultural activities should continue to be enabled while the hut communities remain in place.

[565] In reaching this view, we have considered the nature and scale of the activities involved. Community and cultural activities within the Holiday Hut Precinct are long-standing, low-intensity activities that reflect the established character of these settlements. They do not materially increase hazard risk or exposure beyond what already exists for residents and visitors, and they are distinguishable from new buildings or more intensive land use that may exacerbate those risks. Enabling these activities while the community remains in place provides for continuity of use and recognises the settled expectations of those who occupy the huts.

[566] SRR Inc [206.4] sought for OSZ-R10 to be amended so that buildings and structures located within a High Hazard Overlay are a restricted discretionary activity rather than non-complying. In his s42A report³⁷⁷, Mr Boyes rejected this submission, favouring a non-complying activity status because it is consistent with the avoidance direction in PREC4-P2³⁷⁸ and the provisions of the Hazard and Risk Chapters. He maintained this position in his Final Reply³⁷⁹ and did not recommend any changes to OSZ-R10. We agree that buildings and structures located in a High Hazard Overlay should remain a non-complying activity to give effect to the avoidance policy in PREC4-P2³⁸⁰ and the Hazard and Risk Chapters of the Plan. A restricted discretionary status would not adequately reflect the significant and increasing natural hazard risks affecting the Holiday Hut Precinct, nor would it give effect to the directive policy framework.

³⁷⁵ Nick Boyes, s42A Report: Open Space and Recreation Zones, 11 October 2024, Para 8.4.9

³⁷⁶ Mr Hall, Oral Submission, Day 2 of Hearing D, 13 November 2024

³⁷⁷ Nick Boyes, s42A Report: Open Space and Recreation Zones, 11 October 2024, Para 8.4.11.

³⁷⁸ Now renumbered PREC9-P2 in the Decision Version of the provisions.

³⁷⁹ Nick Boyes, Final Reply Report: Open Space and Recreation Zones, 4 August 2025, Para 5-8.

³⁸⁰ Now renumbered PREC9-P2 in the Decision Version of the provisions.

[567] NZMCA [134.7] sought amendment to OSZ-R12 to permit camping grounds and caravan parks in the OSZ. Mr Boyes rejected this submission in his s42A Report³⁸¹ noting that these are typically higher-intensity land uses that can generate a range of effects, including traffic, noise, servicing demands, and potential compatibility issues with surrounding open space values. He considered it appropriate that new camping grounds and caravan parks be assessed through the resource consent process. We agree that a discretionary activity status is appropriate for new camping grounds and caravan parks, as it enables an assessment of site-specific effects and ensures that any development of this type maintains the open space character and amenity anticipated in the zone.

6.4.2 Decision

[568] We accept the evidence of Mr Hall for SRR Inc that the Reserve is gazetted for recreational purposes and that community and cultural activities, including sports days and fishing competitions, are long-established components of the hut settlement. We agree that these activities are low intensity, occur intermittently, and are consistent with the established character and functioning of the hut community. We also agree that, while the hut communities remain in place, classifying such activities as non-complying creates unnecessary regulatory uncertainty. On that basis, we have deleted OSZ-R2.2 and amended OSZ-R2.1 so that community and cultural activities are permitted in the Holiday Hut Precinct. These amendments are set out in **Appendix 3**.

[569] In terms of s32AA, we are satisfied that these amendments are the most appropriate option for achieving the purpose of the RMA, the relevant Plan provisions and for giving effect to other relevant statutory instruments.

[570] We adopt Mr Boyes' analysis and recommendation not to amend OSZ-R10 or OSZ-R12.

6.5 OSZ – STANDARDS

6.5.1 Assessment

[571] SRR Inc [206.5-206.7] sought to amend the following OSZ Standards:

- (a) OSZ-S3, seeking to increase the 4m building height limit where greater height is needed to address flood mitigation;
- (b) OSZ-S4, seeking reduced building setback limits and clarification on whether a laneway is a road boundary or an 'other site' boundary; and
- (c) OSZ-S6, seeking increased site coverage limits.

[572] In his s42A report³⁸², Mr Boyes recommended adding an additional matter of discretion to OSZ-S3 to consider the extent to which any increase in height is required to address an increase in finished floor level in response to flood risk. In his Interim Reply³⁸³, he

³⁸¹ Nick Boyes, s42A Report: Open Space and Recreation Zones, 11 October 2024, Para 8.4.12-8.4.16.

³⁸² Nick Boyes, s42A Report: Open Space and Recreation Zones, 11 October 2024, Para 8.5.5-8.5.9.

³⁸³ Nick Boyes, Interim Reply Report: Open Space and Recreation Zones, 18 December, Para 8

recommended a consequential amendment to OSZ-S5 so that the same matter of discretion applies when considering the height in relation to boundary standard. We agree that adding a targeted matter of discretion to address flood-related increases in finished floor levels is a more appropriate and effects-based response than increasing the height limit in the standards themselves.

[573] We also record the reporting officer's advice that no consequential amendment to OSZ-S4 is required. OSZ-S4 addresses boundary setbacks for new buildings only and is not directly affected by increases in finished floor levels associated with flood-risk mitigation. In contrast, OSZ-S5 may be affected in limited circumstances, and the targeted matter of discretion inserted into OSZ-S5 accordingly maintains consistency with the approach under OSZ-S3.

[574] Mr Boyes explained in his s42A report³⁸⁴ that the SRR Inc submissions on OSZ-S4 and OSZ-S6 were concerned with the implications of the standards for existing buildings and did not seek amendments to the standards as they apply to new buildings. Submitters confirmed this at the hearing. As OSZ-S4 and OSZ-S6 apply only to new buildings and structures, we have not considered these submissions further.

[575] For completeness, we note SRR Inc's request for clarification as to whether the laneway within the Holiday Hut Precinct should be treated as a 'road boundary' for the purposes of OSZ-S4. As clarified by Mr Boyes³⁸⁵, OSZ-S4 applies only to new buildings and structures, and the submitter confirmed at the hearing that their concern related to existing buildings. Because the standard does not regulate existing structures, no further determination on this point is required as part of this decision.

6.5.2 Decision

[576] We adopt Mr Boyes' analysis and recommendation to amend OSZ-S3 and OSZ-S5. These amendments are set out in **Appendix 3**.

[577] In terms of s32AA, we are satisfied that the original s32 evaluation continues to apply due to the minor scale of the changes, which do not alter the general intent of the provisions.

6.6 OSZ – PLANNING MAPS

6.6.1 Assessment

[578] In his s42A Report, Mr Boyes acknowledged the submissions of Waipopo Huts [189.8]. We have addressed the Waipopo Huts in the MPZ section above and in our decision in Part 8 in relation to natural hazards.

[579] TDC [42.76] sought to rezone Lot 2 DP 458343 [ID:19532], Lot 1 DP72967 and Lot 1 DP 339796 [ID:19531] located on Claremont Road, from GRUZ to OSZ. In his s42A Report³⁸⁶, Mr Boyes advised that he had liaised with the TDC Parks Manager, who confirmed that TDC

³⁸⁴ Nick Boyes, s42A Report: Open Space and Recreation Zones, 11 October 2024, Para 8.5.5-8.5.9.

³⁸⁵ Nick Boyes, s42A Report: Open Space and Recreation Zones, 11 October 2024, Para 8.5.5

³⁸⁶ Nick Boyes, s42A Report: Open Space and Recreation Zones, 11 October 2024, Para 8.6.4.

were no longer pursuing the rezoning request. We accept that clarification and have not considered the matter further.

[580] SRR Inc [206.14] sought to rezone land between the existing holiday hut settlement and the Rangitata River from GRUZ to OSZ. At the hearing, the submitter clarified the specific area of land. In his Interim Reply³⁸⁷, Mr Boyes confirmed that the land is in public ownership, administered by Environment Canterbury and Land Information New Zealand. In his Final Reply³⁸⁸, he maintained that rezoning should not be recommended without consultation with those landowners. We agree that rezoning the land from GRUZ to OSZ is not appropriate at this time, given its public ownership, the absence of landowner support, and the fact that its current zoning does not affect its continued informal use for recreation and access.

6.6.2 Decision

[581] We adopt Mr Boyes' analysis and recommendation to reject the SRR Inc rezoning request.

7 OPEN SPACE ZONES – SPORTS AND ACTIVE RECREATION ZONE

7.1 SARZ – GENERAL

7.1.1 Assessment

General

[582] SCCC [135.2] opposed all the SARZ Objectives, Policies, Rules, and Standards, with their main concern focused on whether the rule framework was appropriate for their existing use rights to operate the Timaru International Motor Raceway (Levels Raceway). In his s42A Report³⁸⁹, Mr Boyes acknowledges the importance of Levels Raceway to the District, as do we. Consistent with his advice discussed elsewhere in this report, Mr Boyes advises that it is inappropriate for the Proposed Plan to codify existing use rights which are available under section 10 of the RMA, which we agree with. Mr Boyes had considered whether a Special Purpose Zone would be appropriate for the site but confirmed in the hearing that there was no submission scope for that relief. SARZ-R10 makes all motorsport events, as well as motorsport facilities and ancillary facilities, a fully discretionary activity. Mr Boyes' recommendation is that it is appropriate for new activities not authorised under the existing resource consent to have their effects assessed through the resource consent process. We agree with this recommendation.

7.1.2 Decision

[583] We adopt Mr Boyes' analysis and recommendation to reject the SCCC submission, and we find that no amendments to the Plan are necessary.

³⁸⁷ Nick Boyes, Interim Reply Report: Open Space and Recreation Zones, 18 December, Para 19-23.

³⁸⁸ Nick Boyes, Final Reply Report: Open Space and Recreation Zones, 4 August 2025, Para 19.

³⁸⁹ Nick Boyes, s42A Report: Open Space and Recreation Zones, 11 October 2024, Para 9.1.8-9.1.4.

7.2 SARZ – POLICIES

7.2.1 Assessment

[584] Transpower [159.102] sought for better provision for the National Grid by amending SARZ-P8 to allow for regionally significant infrastructure that has an operational or functional need to locate in the SARZ as an ‘other activity’. As previously discussed, Mr Boyes notes that the Energy and Infrastructure Chapter policies prevail over the Zone Chapter policies, and therefore no amendments to SARZ-P8 are needed. In Part 5, we accepted Ms White’s recommendation that policy contained in the Energy and Infrastructure Chapter shall prevail over the Zone Chapters, and as addressed in our decision on the EI Chapter³⁹⁰ we have inserted a new policy to ensure that the relationship between the objectives and policies of the EI Chapter and the Zone Chapters as to the ‘weight’ to be given to provisions in the event of conflict is clear. Accordingly, we agree with Mr Boyes that no further amendments to SARZ-P8 are needed.

7.2.2 Decision

[585] We adopt Mr Boyes’ analysis and recommendations, and we find that no changes to SARZ-P8 are necessary.

7.3 SARZ - RULES

7.3.1 Assessment

[586] TDC [42.57] sought to add a new discretionary activity rule for “any activities not otherwise listed in this chapter”. We have discussed a similar submission for the MPZ and NOSZ Chapters above.

7.3.2 Decision

[587] We adopt Mr Boyes analysis and recommendation to add a new rule to the SARZ to cover all other uses not specifically listed, as this is consistent with most other chapters in the Proposed Plan.³⁹¹ All amendments are set out in **Appendix 3**.

[588] In terms of s32AA, we are satisfied that the amendments are the most appropriate option for achieving the purpose of the RMA, the relevant provisions of the Plan and for giving effect to other relevant statutory instruments.

7.4 SARZ – STANDARDS

7.4.1 Assessment

[589] Burdon L [72.5–72.8] sought amendments to SARZ-S2 Building Scale, SARZ-S3 Height, SARZ-S4 Setbacks and SARZ-S7 Hours of Operation for commercial activities. In his s42A Report³⁹², Mr Boyes explains that almost all SARZ land is administered by Council, apart

³⁹⁰ Panel Decision Report, Part 5, Section 2.16.1

³⁹¹ Nick Boyes, s42A Report: Open Space and Recreation Zones, 11 October 2024, Para 9.4.3.

³⁹² Nick Boyes, s42A Report: Open Space and Recreation Zones, 11 October 2024, Para 9.6.2-9.6.6.

from the Geraldine Racecourse, which is public reserve land managed by Racecourse Trustees. Consistent with his advice throughout, Mr Boyes' recommends³⁹³ that it is inappropriate for the Proposed Plan to codify existing use rights, which are available under section 10 of the RMA. We accept this recommendation. The Standards, as notified, are appropriate thresholds for determining when a resource consent is required and for providing a basis for further assessment against the matters of discretion.

7.4.2 Decision

[590] We adopt Mr Boyes' analysis and recommendation to not amend the Plan and to retain the Standards as notified.

7.5 MAPS

7.5.1 Assessment

[591] Rooney AJ [177.1] sought for their property located on Domain Road and a portion of their property at 32 Milford Road, Temuka to be rezoned from SARZ to GRUZ. Mr Boyes accepted³⁹⁴ both rezoning requests as they better align with the surrounding land zoning.

7.5.2 Decision

[592] We adopt Mr Boyes' analysis and recommendation to accept the rezoning of the property located on Domain Road and the portion of the property at 32 Milford Road, Temuka from SARZ to GRUZ. All mapping amendments are set out in **Appendix 2**.

[593] In terms of s32AA, we are satisfied that the amendments are the most appropriate option for achieving the purpose of the RMA, the relevant provisions of the Plan and for giving effect to other relevant statutory instruments.

³⁹³ Nick Boyes, s42A Report: Open Space and Recreation Zones, 11 October 2024, Para 9.5.6-9.5.15.

³⁹⁴ Nick Boyes, s42A Report: Open Space and Recreation Zones, 11 October 2024, Para 9.6.2-9.6.6.

IN THE MATTER OF Resource Management Act 1991

AND

IN THE MATTER OF Proposed Timaru District Plan

Decision Report – Part 4

**Ecosystems and Indigenous Biodiversity, Natural Character, Natural Features and
Landscapes and Coastal Environment**

19 March 2026

Part 4: Ecosystems and Indigenous Biodiversity, Natural Character, Natural Features and Landscapes and Coastal Environment

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1 MATTERS CONSIDERED IN THIS PART

[1] This section of the Decision Report sets out the Hearing Panel's decisions on the submissions and further submissions relating to Ecosystems and Indigenous Biodiversity (ECO), Natural Character (NATC), Natural Features and Landscapes (NFL) and Coastal Environment (CE).

1.1 NATURAL ENVIRONMENT: ECOSYSTEMS AND INDIGENOUS BIODIVERSITY; NATURAL CHARACTER; AND NATURAL FEATURES AND LANDSCAPES

ECO Chapter

[2] The ECO Chapter seeks to protect the values of Significant Natural Areas (SNAs) and generally maintain indigenous biodiversity. The criteria for identifying SNAs are contained in APP5 of the Proposed Plan, and the SNAs are listed in SCHED7 of the Proposed Plan.¹

[3] The provisions in the ECO Chapter set out the approach to assessment and management of biodiversity values, including managing the clearance of indigenous vegetation within SNAs; managing the clearance of indigenous vegetation outside SNAs and in identified areas considered to be more sensitive; managing the clearance of trees in areas providing important habitat for Long-Tailed bats; and managing the planting of species that are likely to adversely affect indigenous biodiversity values.

[4] Our decisions on submissions are set out in Section 2 of this Report.

NATC Chapter

[5] 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.²

[6] The provisions in the NATC Chapter set out how activities are to be managed so that natural character values are preserved; provide for and encourages restoration and/or enhancement of natural character in particular instances; and provide for certain activities anticipated in riparian margins.

[7] Our decisions on submissions are set out in Section 3 of this Report.

NFL Chapter

[8] The NFL Chapter manages activities within Outstanding Natural Features (ONFs) and Outstanding Natural Landscapes (ONLs) so that the values in these areas are protected from inappropriate subdivision, use and development; and manages activities within Visual Amenity

¹ Liz White, s42A Report: Ecosystems and Indigenous Biodiversity; Natural Character; and Nature Features and Landscapes, 9 October 2024, Para 2.1.6.

² Liz White, s42A Report: Ecosystems and Indigenous Biodiversity; Natural Character; and Nature Features and Landscapes, 9 October 2024, Para 2.1.10.

Landscapes (VALs) so that the values in these areas can be maintained or enhanced.³ The specific ONL, ONF and VAL areas are listed in SCHED8, SCHED9 and SCHED10 of the Proposed Plan respectively.

[9] The provisions in the NFL Chapter set out the management approach to protect identified values and characteristics of ONFs and ONLs and to maintain or enhance the identified values and characteristics of VALs.

[10] Our decisions on submissions are set out in Section 4 of this Report.

CE Chapter

[11] The intent of the CE Chapter is to preserve the existing natural character of the CE and protect it from inappropriate subdivision, use, and development. This intent is achieved through the application of a CE Overlay, which applies more directive rules to development and activities within the CE than would otherwise be applied in the underlying zones.⁴

[12] Our decisions on submissions are set out in Section 5 of this Report.

2 NATURAL ENVIRONMENT - ECOSYSTEMS AND INDIGENOUS BIODIVERSITY PROVISIONS

2.1 BROAD SUBMISSIONS

2.1.1 Assessment

[13] As summarised in Ms White's s42A Report⁵, numerous submitters were variously concerned with:

- (a) the adequacy of the Proposed Plan's approach to managing indigenous biodiversity outside of identified SNAs;
- (b) the lack of provision for managing indigenous biodiversity in other sensitive areas;
- (c) unnecessary overlap with consenting for Regional Council activities within the beds of rivers; and
- (d) whether the Proposed Plan gives proper effect to national direction required by the NZCPS, NES-PF and the proposed NPS-IB.

³ Liz White, s42A Report: Ecosystems and Indigenous Biodiversity; Natural Character; and Nature Features and Landscapes, 9 October 2024, Para 2.1.12.

⁴ Andrew Willis, s42A Report: Natural Hazards, Coastal Environment and Drinking Water Protection 25 March 2025, Para 2.1.6.

⁵ Liz White, s42A Report: Ecosystems and Indigenous Biodiversity; Natural Character; and Nature Features and Landscapes, 9 October 2024, Para 7.1.2 – 7.1.14.

Indigenous vegetation clearance outside identified SNAs / in other sensitive areas

[14] In response to submitters, Ms White (relying on evidence of Mr Harding⁶, Independent Ecologist, agreed that additional controls are required to manage indigenous vegetation clearance outside identified SNA areas to meet the Council's function under RMA s31(1)(b)(iii). On this basis Ms White recommended a new Policy ECO-PX⁷ and a new Rule ECO-R1.4 be added to the ECO Chapter.

[15] While Ms Williams for DOC [166] supported the s42A recommendations to include new Policy ECO-PX⁸ and new Rule ECO-R1.4 (insofar as these provisions will enable the maintenance of indigenous biodiversity⁹), she stated that:

I consider there is a gap in the ECO chapter policies relating to how adverse effects of activities on indigenous biodiversity will be *avoided* within SNAs and *managed* outside SNAs by applying the effects management hierarchy and recommend amendments to better align with the NPSIB¹⁰

[16] On this basis Ms Williams considered that the Proposed Plan should be amended to give effect to the NPS-IB via inclusion of the following:

- (a) A specific policy to avoid adverse effects on SNAs as specified in NPS-IB clause 3.10(2)(a)-(e); and
- (b) An effects hierarchy approach to addressing significant adverse effects on indigenous biodiversity outside of SNAs, consistent with NPS-IB clause 3.16.¹¹

[17] We are satisfied that having considered the legal submissions provided by Ms Vella¹², there is scope '*in principle*' to make the amendments sought. However, we further note the complexity of the NPS-IB and the possibility that significant amendments may be required to the Proposed Plan which may cut across existing policy direction, or rules that have been relied upon by parties who have decided not to participate. For this reason, we are reluctant to accept the relief sought by Ms Williams. We further note that the Government released a suite of amended and new pieces of national direction in late 2025, including an amended NPS-IB which came into effect on 15 January 2026. We asked Council to advise us of any impact of the amended NPS-IB on our decision-making process.

[18] Having considered the amended NPS-IB, Ms White did not consider it necessary to change her recommendations.¹³ She remained of the view that giving effect to the amended NPS-IB could require significant changes to the Proposed Plan, create natural justice issues, and would be better undertaken in an integrated manner when the Council makes changes to

⁶ Mike Harding, Appendix 3 to the s42A Report, July 2004 (edited September 2024).

⁷ Now renumbered ECO-P6 in the Decision Version of the provisions.

⁸ Now renumbered ECO-P6 in the Decision Version of the provisions.

⁹ Elizabeth Williams, Statement of Evidence, 29 October 2024, Para 27.

¹⁰ Elizabeth Williams, Statement of Evidence, 29 October 2024, Para 18.

¹¹ Elizabeth Williams, Statement of Evidence, 29 October 2024, Para 30.

¹² Jen Vella, Legal Submissions of Counsel in response to Minute 19, 18 December 2024

¹³ Memorandum of Counsel in response to Minute 50, 20 January 2026.

give effect to the NPS-IB in full. We agree that it is preferable for this matter to be addressed by Council as part of future plan change to give effect to the NPS-IB in its entirety.

[19] Forest and Bird [156] confirmed its support for Ms White's recommended new Policy ECO-PX¹⁴, however considered that ECO-PX¹⁵ and ECO-R1.4 would be more efficient and effective if they could be combined with the mapping of areas of fully converted or developed land. Mr Williams explained that this would enable and encourage appropriate activities within these areas, while also limiting and discouraging new conversion of land that is likely to hold indigenous biodiversity values.¹⁶ We were not persuaded by Mr Williams' argument on this matter, and favour Ms White's assessment as set out in her s42A Report and Interim Reply.¹⁷ In particular, we agree with Ms White that, given the submitter supported the introduction of ECO-R1.4, it is not clear how the mapping referred to would assist with the implementation of the rule, given the rule applies to any areas not otherwise covered in ECO-R1.1, ECO-R1.2 or ECO-R1.3, and does not refer to "fully converted" or "developed land" which might be defined via mapping.¹⁸

[20] We note that the amendment to ECO-R1.2, PER-4(d) to limit clearance within an area of improved pasture is consistent with the circumstances set out in other rules¹⁹ in that it permits grazing that is not overgrazing/trampling where grazing has previously been undertaken. We find this to be appropriate and note this matter is further discussed below in response to the submission by Hart, J R [149.2] regarding ECO-R1.1 where we accept the addition of a definition for 'overgrazing/trampling' to the Definitions Chapter.

Overlap with Regional Council Consenting Functions

[21] We heard from Mr Hole on behalf of the Rooney Group²⁰ who explained his concerns about the duplication between the Proposed Plan rules and Regional Plan rules for riverbeds. In Minute 19²¹ we directed Ms White, in conjunction with the Rooney Group and Rangitata Diversion Race Management Limited (RDRML), to provide us with an analysis of the relevant provisions of the Proposed Plan and the Regional Plan to identify gaps and/or duplication.

[22] We were provided with this analysis as part of Ms White's Interim Reply²² which informed a revised recommendation to exclude the application of a number of rules within riverbed areas, including:

- (a) quarrying and mining within ONLs and VALs (NFL-R10);
- (b) earthworks within ONLs and VALs (NFL-R2);

¹⁴ Now renumbered ECO-P6 in the Decision Version of the provisions.

¹⁵ Now renumbered ECO-P6 in the Decision Version of the provisions.

¹⁶ Tim Williams, Speaking Notes, 13 November 2024, Para 5.

¹⁷ Liz White, Interim Reply, 18 December 2024, Appendix A.

¹⁸ Liz White, Interim Reply, 18 December 2024, Appendix A.

¹⁹ See ECO-R1.1 PER-6 (now PER-7); ECO-R1.4, PER-1.7

²⁰ Nathan Hole, Statement of Evidence, 25 October 2024: Representing submitters Rooney Holdings Ltd [174.30], Rooney, GJH [191.30], Rooney Group [249.30], Rooney Farms [250.30] and Rooney Earthmoving [251.30] and TDL [252.30].

²¹ Panel Minute 19, 21 November 2024.

²² Liz White, Interim Reply, 18 December 2024, Appendix C, Table 1.

- (c) earthworks within SNAs - noting this includes quarrying and mining activities (ECO-R5);
- (d) temporary buildings and structures within ONLs and VALs (NFL-R1); and
- (e) underground network utilities within ONLs and VALs (NFL-R3.1 PER-2 and NFL-R3.1 PER-2).

[23] The analysis assisted the Panel's understanding of the relationship between the relevant provisions within the Proposed Plan and the Regional Plan. We generally accept Ms White's recommendations, and we are satisfied that the submitters' concerns have been appropriately addressed, and importantly, duplication and overlap between the Regional and District consenting functions will be avoided.

Alignment with National Direction

[24] In respect of DOC's submission that the Proposed Plan should be amended to give effect to the NPS-IB, we concluded above that is preferable for Council to give full effect to the NPS-IB as part of a future plan change.

[25] Ms Pearson, planner for Port Blakely [94.1] generally accepted that Ms White's recommended amendments largely address the concerns raised by Port Blakely with respect to the ECO, NATC and NFL Chapters of the Proposed Plan. However, she sought that the advice notes relating to commercial forestry activities being regulated under the NES-CF (previously the NES-PF) are applied consistently across the ECO and NATC Chapters, particularly with respect to the rules applying to earthworks and indigenous vegetation clearance in High Naturalness Water Bodies.²³ In her Interim Reply, Ms White agreed with Ms Pearson's view, and relying on Ms Vella's legal submissions²⁴ on the legal effect of advisory notes in District Plans, put forward an alternative drafting option which removed the reference to 'advice note' while retaining the exemption for activities regulated under the NES-CF. We agree and find the amendments to be appropriate.

Other

[26] We accept Ms White's analysis and recommendations in response to those submitters concerned that roadside SNAs may expand and encroach on farming operations and that there is uncertainty regarding management of these areas, such as continued mowing of roadside locations to control fire risk in roadside SNAs.²⁵ In reaching this view we note we received no evidence to the contrary.

²³ Melissa Pearson, Statement of Evidence, 25 October 2024, Para 11.

²⁴ Jen Vella, Legal Submissions of Counsel in response to Minute 19, 18 December 2024, paras 79-88.

²⁵ Liz White, s42A Report: Ecosystems and Indigenous Biodiversity; Natural Character; and Nature Features and Landscapes, 9 October 2024, Para 7.1.18-7.1.19.

2.1.2 Decision

[27] We adopt Ms White's analysis and recommendations. New policies ECO-PX²⁶, ECO-PY²⁷, new Rule ECO-R1.4, new definition for 'overgrazing/trampling', and amendments to ECO-P3, ECO-P5, ECO-R1.2, ECO-R2 and ECO-R3 are set out in **Appendix 3**.

[28] In terms of s32AA, we are satisfied that the amendments are the most appropriate option for achieving the purpose of the RMA, the relevant provisions of the Plan and for giving effect to other relevant statutory instruments.

2.2 MAPPING / SCHEDULING OF SITES AND AREAS

2.2.1 Assessment

[29] We generally accept Ms White's analysis and recommendation on submissions relating to the mapping and/or scheduling of sites and areas and note that while several submitters opposed the identification of SNAs on their property, we agree that there is insufficient justification to remove any of the SNAs opposed for the reasons set out in the s42A Report.²⁸ The reasons provided by Ms White are consistent with our understanding of the obligations of Councils across New Zealand under the RMA and are underpinned with the technical evidence of Mr Harding.

[30] We find that it is appropriate to include the additional area identified by the Pye Group submission [35.3] in SCHED7 for the reasons set out in the s42A Report and in Mr Harding's evidence.²⁹ We also accept that the minor amendments recommended by Ms White to provisions in response to submissions are either minor and will provide clarity for plan users, or do not alter the effect of the provision.³⁰

[31] Te Rūnanga o Ngāi Tahu tabled a letter disagreeing with Ms White's recommendation to reject its submission [185.38] that sought to cross reference the SASM references within SCHED7 to ensure that the cultural values are fully recognised and protected as required by case law for landscape assessments. Te Rūnanga o Ngāi Tahu also pursued this same submission point in relation to SCHED-8 and SCHED-10 [185.39, 185.40]. Specifically, Ms Pull stated that:

The National Planning Standards state that Mana Whenua content must be integrated throughout the plan where appropriate. It is not enough to solely rely on the SASM chapter to recognise and provide for the Mana Whenua relationship with the land, water sites, wāhi tapu and other taonga (s6(e) RMA). The Boffa Miskell Landscape Report that was the evidence for this chapter states that the study approach for their report did not include the engagement of cultural specialist advice or Mana Whenua liaison (pg7), despite the RPS

²⁶ Now renumbered ECO-P6 in the Decision Version of the provisions.

²⁷ Now renumbered ECO-P8 in the Decision Version of the provisions.

²⁸ Liz White, s42A Report: Ecosystems and Indigenous Biodiversity; Natural Character; and Nature Features and Landscapes, 9 October 2024, Paras 7.2.6, 7.2.15.

²⁹ Liz White, s42A Report: Ecosystems and Indigenous Biodiversity; Natural Character; and Nature Features and Landscapes, 9 October 2024, Paras 7.2.13, 7.2.23.

³⁰ Liz White, s42A Report: Ecosystems and Indigenous Biodiversity; Natural Character; and Nature Features and Landscapes, 9 October 2024, Paras 7.2.25, 7.2.26.

stating Tangata Whenua values being a mandatory assessment requirement (pg5).

The purpose of this submission was to ensure that Mana Whenua values that are recognised as part of the values of these schedules are protected in the same manner as in the SASM. The SASM and chapters that protect the areas identified in the schedules have different objectives and therefore it is not reasonable to state that the SASM will protect all associative values for the landscape overlays. Given the lack of Mana Whenua involvement in the identification and protection of landscape values, I recommend that the schedules are reviewed by Kāti Huirapa cultural experts for completeness in the associative values and the rating of them and that better cross referencing is considered.³¹

[32] Having considered the evidence, we agree that it is essential that the associative values (and ratings of them) set out in the schedules should accurately capture the values of these landscapes to mana whenua. In her Interim Reply, Ms White helpfully explained the engagement that has since occurred with Ms Pull and Ms Hall (planner at AEC) on available options to address the concerns of Te Rūnanga o Ngāi Tahu.³² We have carefully considered the merits of available options and consider the option promoted by Ms Pull (Option 2) to be an appropriate solution, being the addition of cross references to SASM in SCHED8 (ONL) and SCHED9 (ONF).

[33] We accept that changes to SCHED7 (SNAs) are not required for the reasons set out in Ms White's Interim Reply.

2.2.2 Decision

[34] We adopt Ms White's analysis and recommendations. The amended schedules and minor amendments are set out in **Appendix 3**, and consequential mapping change in **Appendix 2**.

[35] In terms of s32AA, we are satisfied that the amendments to the Schedules are the most appropriate option for achieving the purpose of the RMA, the relevant provisions of the Plan and for giving effect to other relevant statutory instruments.

[36] We are further satisfied that the minor amendments are either minor and will provide clarity for plan users and/ or do not alter the effect of the provision to which it relates. On this basis, no s32AA is required for these matters.

2.3 INTRODUCTION

2.3.1 Assessment

[37] We accept Ms White's analysis and recommendations in response to submissions from Forest and Bird [156.97] and DOC [166.30] requesting further detail be added to the

³¹ Rachel Pull, Tabled Letter to the Hearing Panel, 22 October 2024.

³² Liz White, Interim Reply, 18 December 2024, Appendix C, Table 1.

Introduction of the ECO Chapter, noting that both submitters were comfortable with the recommended amendments put forward in the s42A Report.³³

2.3.2 Decision

[38] We adopt Ms White's analysis and recommendations. The amendments to the Introduction of the ECO Chapter are set out in **Appendix 3**.

[39] We are satisfied that the changes to the Introduction are minor in nature and do not alter the effect of the provisions in the Proposed Plan. On this basis, no s32AA analysis is required and the original s32 continues to apply.

2.4 OBJECTIVES

2.4.1 Assessment

[40] We accept Ms White's analysis and recommendations in response to submissions on ECO-O1, ECO-O2 and ECO-O3.³⁴ In reaching this view we note that Forest and Bird [156.98, 156.99, 156.100]³⁵, Silver Fern Farms [172.47, 172.48]³⁶, Alliance Group [173.50, 173.51]³⁷, Federated Farmers [182.100, 182.101]³⁸, ECan [183.68, 183.69, 183.70]³⁹ and DOC [166.31, 166.32]⁴⁰ confirmed support for Ms White's recommendations in her s42A Report, and we received no evidence to the contrary from Alpine Energy [55.2, 55.3], Frank, H [90.2] or NZAAA [132.14].

2.4.2 Decision

[41] We adopt Ms White's analysis and recommendations. The minor amendment to ECO-O1 is set out in **Appendix 3**.

[42] In terms of s32AA, we adopt Ms White's evaluation in support of the change made.

2.5 POLICIES - GENERAL

2.5.1 Assessment

[43] OWL [181.61] sought that the policies and rules in the ECO Chapter include similar provisions to those in NFL-P4.7(d) and NFL-R3 relating to RSI/network utilities. Ms White recommended this submission be rejected⁴¹, a position subsequently accepted by the

³³ Elizabeth Williams, Statement of Evidence, 29 October 2024, Para 13; Tim Williams, Speaking Notes, 12 November 2024, Para 7.

³⁴ Liz White, s42A Report: Ecosystems and Indigenous Biodiversity; Natural Character; and Nature Features and Landscapes, 9 October 2024, Paras 7.4.8 – 7.4.13.

³⁵ Tim Williams, Speaking Notes, 12 November 2024, Para 7.

³⁶ Steve Tuck, Tabled Letter, 22 October 2024.

³⁷ Doyle Richardson, Tabled Letter, 21 October 2024.

³⁸ Rachel Thomas and Greg Anderson, Statement of Evidence, 29 October 2024, Para 6.

³⁹ Deidre Francis, Summary Statement, 12 November 2024, Para 8.

⁴⁰ Elizabeth Williams, Statement of Evidence, 29 October 2024, Para 13.

⁴¹ Liz White, s42A Report: Ecosystems and Indigenous Biodiversity; Natural Character; and Nature Features and Landscapes, 9 October 2024, Paras 7.5.3-7.5.6.

submitter.⁴² We are satisfied that OWL's submission has been satisfactorily addressed, and we find that no changes to provisions are required.

2.5.2 Decision

[44] We adopt Ms White's analysis and recommendations for the reasons set out in the s42A Report. No changes to provisions are required.

2.6 ASSESSMENT AND IDENTIFICATION (ECO-P1 AND APP5)

2.6.1 Assessment

[45] As set out in the s42A Report, ECO-P1 and APP5 (Criteria for Identifying Significant Natural Areas) attracted numerous submissions⁴³, both in support and opposition.

[46] We heard from Mr Hole on behalf of the Rooney Group⁴⁴ who considered that the Proposed Plan contains confusing and unnecessary overlap with consenting for Regional Council activities within the beds of rivers. Given our previous finding we are now satisfied that the submitter's concerns have been appropriately addressed, and importantly, duplication and overlap between the Regional and District consenting functions will be avoided.

[47] We heard from DOC [166.33, 166.48] at the hearing who confirmed acceptance of the s42A recommendations in response to submissions.⁴⁵ Ms Williams confirmed that she was generally comfortable with the s42A report officers' recommendation that it would be appropriate for the Proposed Plan to be updated to align with the NPS-IB criteria at the time a plan change is undertaken to give full effect to the NPS-IB.⁴⁶ We received no evidence to the contrary from other submitters on this matter.

[48] Overall, we accept Ms White's assessment and recommendations and agree that it is appropriate that ECO-P1 and APP5 are retained as notified.

2.6.2 Decision

[49] We adopt Ms White's assessment and recommendations. ECO-P1 and APP5 are to be retained as notified.

⁴² Julia Crossman, Statement of Evidence, 25 October 2024, Para 3.3.

⁴³ Liz White, s42A Report: Ecosystems and Indigenous Biodiversity; Natural Character; and Nature Features and Landscapes, 9 October 2024, Para 7.6.2.

⁴⁴ Nathan Hole, Statement of Evidence, 25 October 2024: Representing submitters Rooney Holdings Ltd [174.30], Rooney, GJH [191.30], Rooney Group [249.30], Rooney Farms [250.30], Rooney Earthmoving [251.30] and TDL [252.30].

⁴⁵ Elizabeth Williams, Statement of Evidence, 29 October 2024, Para 13.

⁴⁶ Hearing D Response to Minute 19, 4 December 2024

2.7 APPROPRIATE CLEARANCE IN SNAs (ECO-P2)

2.7.1 Assessment

[50] We heard from Mr Anderson⁴⁷ on behalf of the Telcos⁴⁸ who responded to Ms White's alternate relief as recommended in the s42A Report (in response to Alpine [55.4] and KiwiRail [187.54]) which specifically identified some but not all, RSI as defined in the Proposed Plan. In his view, an amendment to ECO-P2.5 is required. We have considered the evidence on this matter, and in particular note the issue of scope raised by Ms White in her Interim Reply.⁴⁹ While we acknowledge the relief sought at a conceptual level, we are concerned that the amendment sought is not within scope of any primary submission. Further, if the policy was to be amended to apply to RSI more broadly this would create difficulties when considered against ECO-R1.1. On this basis we prefer the evidence of Ms White and decline to accept the relief as sought.

[51] Ms McLeod for Transpower [159.70] provided evidence in support of Transpower's submission that sought the inclusion of 'or upgrade' in Policy ECO-P2.5.⁵⁰ In her Interim Reply, Ms White remained of the view that amending the policy to enable all upgrades is not required to align with the higher order direction⁵¹ and on this basis recommended that ECO-P2.5 and NATC-P5.5 are amended to provide for 'minor upgrades' (which are those that are permitted under the NES-ETA). On the evidence, we agree with Ms White's recommended amendments, and find the amendment to ECO-P2 to be appropriate. We also discuss this matter in relation to NATC-P5.5.

[52] Port Blakely [94.5], represented by Ms Pearson at the hearing, confirmed its acceptance of the s42A recommendation in response to its submission and agreed it was not appropriate to amend ECO-P2 in the manner initially sought.⁵² We agree that it not appropriate to include text in the policy regarding the NES-CF regulations overriding the District Plan, or to amend the policy to reference specific regulatory requirements of the NES-CF, as this would simply duplicate the requirements of the NES-CF.

[53] Forest and Bird [165.102] does not support the proposed changes to ECO-P2 and at the hearing Mr Williams explained that he considers that the wording is broader than the exception supported by Mr Harding, and that wording should be included which indicates it is grazing at the same frequency, intensity and scale that is permitted. Further, he did not support an extension of the policy to the electricity distribution network as this is not subject to the NPS-ET or exempted from the NPS-IB.⁵³ On the evidence, we agree with Ms White that the extension of the policy to the electricity distribution network is appropriate given its status as regionally significant infrastructure under the CRPS.

⁴⁷ Tom Anderson, Statement of Evidence, 25 October 2024, Para 9-11.

⁴⁸ Submission points: [176.70, 208.70, 209.70 and 210.70].

⁴⁹ Liz White, Interim Reply, 18 December 2024, Appendix A.

⁵⁰ Ainsley McLeod, Statement of Evidence, 25 October 2024, Paras 40-45.

⁵¹ Liz White, Interim Reply, 18 December 2024, Appendix A.

⁵² Melissa Pearson, Statement of Evidence, 25 October 2024, Para 47.

⁵³ Tim Williams, Speaking Notes, 12 November 2024, Paras 8-13.

[54] DOC [166.34]⁵⁴ and ECan [182.72]⁵⁵ indicated support for the s42A recommendations in response to their submission points, as did Silver Fern Farms [172.51]⁵⁶ and the Alliance Group [173.54]⁵⁷.

[55] Overall, we accept Ms White's assessment and recommendation and agree with the recommended amendments to ECO-P2.

2.7.2 Decision

[56] We adopt Ms White's analysis and recommendations. The amendments to ECO-P2 are set out in **Appendix 3**.

[57] In terms of s32AA, we are satisfied that the amendments achieve consistency with the wording of s5 of the RMA and does not affect the achievement of ECO-O1. We consider the amendment is the most appropriate option for achieving the purpose of the RMA, the relevant provisions of the Plan and for giving effect to other relevant statutory instruments.

2.8 PROTECTION OF SNAs (ECO-P5)

2.8.1 Assessment

[58] Transpower [159.71] sought 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. In her evidence, Ms McLeod accepted Ms White's recommendation that Transpower's relief should be accepted if a National Grid specific policy is included in the EI Chapter, as sought in Transpower's submission. Part 5 of the Decision Report addresses the new policy specific to the National Grid that was recommended and considered as part of Hearing E. Given our findings on that matter, we find the relief sought by Transpower⁵⁸ to be appropriate, noting that the ECO-P5 now includes a specific reference to the new policy National Grid EI-PX.⁵⁹

[59] Similarly, we heard from Forest and Bird [156.105] who explained that while they remain concerned about ECO-P5 in respect of the definition of RSI and the reference to EI-P2 within the policy, they would pursue the relief sought at the EI Chapter Hearing.⁶⁰ This is addressed in Part 5 of the Decision Report.

[60] DOC [166.38] signalled support for Ms White's recommended new Policy ECO-PZ⁶¹ for requiring the restoration of indigenous biodiversity in response to their submission.⁶² Ms Williams accepts that a further Plan Change is required to give full effect to the NPS-IB, however she remained of the view that policies can be amended to direct the avoidance of

⁵⁴ Elizabeth Williams, Statement of Evidence, 29 October 2024, Para 13.

⁵⁵ Deidre Francis, Summary Statement, 12 November 2024, Para 40.

⁵⁶ Steve Tuck, Tabled Letter, 22 October 2024.

⁵⁷ Doyle Richardson, Tabled Letter, 21 October 2024.

⁵⁸ Ainsley McLeod, Statement of Evidence, 25 October 2024, Para 26.

⁵⁹ Now renumbered EI-P5 in the Decision Version of the provisions.

⁶⁰ Tim Williams, Speaking Notes, 12 November 2024, Para 21.

⁶¹ Now renumbered ECO-P9 in the Decision Version of the provisions.

⁶² Elizabeth Williams, Statement of Evidence, 29 October 2024, Para 66.

adverse effects within SNAs and to manage the adverse effects outside of the SNAs in accordance with the NPS-IB and CRPS.⁶³ Ms Williams explained that in her view there is scope within the submissions to amend ECO-P5 (along with ECO-P3 and ECO-PX⁶⁴) to address the avoidance of adverse effects within SNAs and to introduce an effects management hierarchy approach to managing adverse effects outside SNAs.⁶⁵ As previously addressed in Section 2.1, we find it is preferable for this matter to be addressed by Council as part of a future plan change to give effect to the NPS-IB in its entirety.

[61] Port Blakely [94.6]⁶⁶ and ECan [182.75]⁶⁷ indicated support for the s42A recommendations in response to their submission points, as did Silver Fern Farms [172.51]⁶⁸ and the Alliance Group [173.54]⁶⁹.

[62] Overall, we accept Ms White's assessment and recommendations⁷⁰ in respect of ECO-P5 and agree with the recommended amendments to ECO-P5, new Policy ECO-PZ, and the inclusion of the definition of 'specified Māori land'.

2.8.2 Decision

[63] We adopt Ms White's analysis and recommendations. The amendments are set out in **Appendix 3**.

[64] In terms of s32AA, we are satisfied that the amendments are the most appropriate option for achieving the purpose of the RMA, the relevant provisions of the Plan and for giving effect to other relevant statutory instruments.

2.9 PROTECTION IN SENSITIVE AREAS (ECO-P3)

2.9.1 Assessment

[65] Having considered submissions received on ECO-P3, Ms White did not recommend any changes to ECO-P3 for the reasons set out in her s42A Report.⁷¹

[66] We heard from both DOC [166.35] and Forest and Bird [156.103] at the hearing.

[67] DOC [166.35] sought 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. As discussed below in respect of ECO-P5, Ms William's explained that in her view there is scope within the

⁶³ Elizabeth Williams, Statement of Evidence, 29 October 2024, Para 66.

⁶⁴ Now renumbered ECO-P6 in the Decision Version of the provisions.

⁶⁵ Elizabeth Williams, Statement of Evidence, 29 October 2024, Para 36-39.

⁶⁶ Melissa Pearson, Statement of Evidence, 25 October 2024, Para 47.

⁶⁷ Deidre Francis, Summary Statement, 12 November 2024, Para 40.

⁶⁸ Steve Tuck, Tabled Letter, 22 October 2024.

⁶⁹ Doyle Richardson, Tabled Letter, 21 October 2024.

⁷⁰ Liz White, s42A Report: Ecosystems and Indigenous Biodiversity; Natural Character; and Nature Features and Landscapes, 9 October 2024, Para 7.8.1-7.8.25.

⁷¹ Liz White, s42A Report: Ecosystems and Indigenous Biodiversity; Natural Character; and Nature Features and Landscapes, 9 October 2024, Para 7.9.7-7.9.9.

submissions to amend ECO-P3 (along with ECO-P5 and ECO-PX⁷²) to address the avoidance of adverse effects within SNAs and to introduce an effects management hierarchy approach to managing adverse effects outside SNAs.⁷³ As discussed previously, we find that it is preferable for this matter to be addressed by Council as part of a future plan change to give effect to the NPS-IB in its entirety.

[68] Forest and Bird [156.103] sought two additional clauses be added to ensure sensitive areas include areas that are predominantly covered in indigenous vegetation but not identified as SNAs. While Mr Williams acknowledged at the hearing that areas dominated by native vegetation and areas with a community of threatened indigenous species are both potentially captured by the recommended new Policy ECO-PX⁷⁴ and ECO-R1.4, he sought that ECO-P3 be extended to provide further policy guidance for relevant restricted discretionary activities under ECO-R1.4. He also expressed concern that Forest and Bird's submission that lake margins should be included (as well as riparian margins) had not been addressed in this context.⁷⁵ Having considered the evidence on these matters, we are not persuaded that the relief put forward by Forest and Bird is appropriate. We are satisfied that ECO-PX⁷⁶ and ECO-R1.4 provide sufficient protection, without extending the scope of ECO-P3. We further note that we accept Ms White's evidence⁷⁷ that there is no need for ECO-P3 to cover lake margins, noting there are no lakes in the District.

[69] ECan [182.73]⁷⁸ indicated broad support for the s42A recommendations, as did Silver Fern Farms [172.52]⁷⁹ and the Alliance Group [173.55]⁸⁰. We received no further evidence from other submitters.

[70] Overall, we accept Ms White's assessment and recommendation in respect of ECO-P3, noting the minor Clause 10(2)(b) changes in response to the submissions from Federated Farmers [182.117] and Forest and Bird [156.5].

2.9.2 Decision

[71] We adopt Ms White's analysis and recommendations. No substantial changes to the provision are required.

[72] We are satisfied that the amendments to ECO-P3 are minor in nature and do not alter the effect of the provisions in the Proposed Plan. On this basis, no s32AA analysis is required and the original s32 continues to apply.

⁷² Now renumbered ECO-P6 in the Decision Version of the provisions.

⁷³ Elizabeth Williams, Statement of Evidence, 29 October 2024, Paras 29-39.

⁷⁴ Now renumbered ECO-P6 in the Decision Version of the provisions.

⁷⁵ Tim Williams, Speaking Notes, 12 November 2024, Paras 15-17.

⁷⁶ Now renumbered ECO-P6 in the Decision Version of the provisions.

⁷⁷ Liz White, Interim Reply, 18 December 2024, Appendix A.

⁷⁸ Deidre Francis, Summary Statement, 12 November 2024.

⁷⁹ Steve Tuck, Tabled Letter, 22 October 2024.

⁸⁰ Doyle Richardson, Tabled Letter, 21 October 2024.

2.10 PROTECTION FOR LONG-TAILED BATS (BAT PROTECTION AREA OVERLAY, ECO-P4 AND ECO-R4)

2.10.1 Assessment

[73] The BPA Overlay, ECO-P4 and ECO-R4 were traversed at length during the hearing with submitters including ECan [183.74, 183.79], the Rooney Group⁸¹, Port Blakely [94.8], DOC [166.36, 166.37, 166.44], Forest and Bird [156.104, 156.112] and Federated Farmers [182.108].

[74] A matter to arise was whether there is scope for us to consider Ms White's recommended amendments to the Bat Protection Overlay (BPA) in response to submissions.⁸² The recommended change extends the BPA to additional areas, meaning that the effect of the recommended change is that ECO-P4 and ECO-R4 would apply to an additional 2000 properties. We have considered Ms Vella's legal submissions on this matter and note that of these 2000 properties, the number of rural and rural lifestyle properties likely to be affected by the proposed change is approximately 650, and of these properties, any clearance of trees would only require consent as a restricted discretionary activity if they cannot achieve compliance with the permitted activity conditions PER-1 and PER-2. Having considered the legal submissions we are satisfied that the recommended change is within the scope of submissions for the reasons provided.⁸³ We further find the recommended amendment to rename the overlay 'Long-tailed Bat Habitat Protection Area' is appropriate.

[75] Following the hearing, as set out in Minute 19⁸⁴, we asked Ms White to engage further with Port Blakely, ECan and DOC with a view to reaching an agreement on the preferred drafting approach for ECO-R4. We received an agreed drafting approach as part of Ms White's Interim Reply, and we are satisfied that the proposed wording is appropriate and achieves the direction in ECO-P4 and ECO-O1. Further, we are satisfied that the recommended amendments go some way to addressing the concerns of Forest and Bird shared with us at the hearing.

[76] Overall, we accept Ms White's analysis and recommendations regarding the BPA Overlay, ECO-P4 and ECO-R4, noting that parties have reached agreement on suitable drafting of ECO-R4.

2.10.2 Decision

[77] We adopt Ms White's analysis and recommendations. The amendments are set out in **Appendix 3**. The extended, and relabelled 'Long-tailed Bat Habitat Protection Area' is included in **Appendix 2**.

⁸¹ Nathan Hole, Statement of Evidence, 25 October 2024: Representing submitters Rooney Holdings Ltd [174.30] Rooney, GJH [191.33], Rooney Group [249.33], Rooney Farms [250.30], Rooney Earthmoving [251.33], and TDL [252.30].

⁸² Jen Vella, Legal Submissions of Counsel in response to Minute 19, 18 December 2024, paras 79-88.

⁸³ Jen Vella, Legal Submissions of Counsel in response to Minute 19, 18 December 2024, paras 79-88.

⁸⁴ Panel Minute 19, 21 November 2024.

[78] In terms of s32AA, we are satisfied that the amendments are the most appropriate option for achieving the purpose of the RMA, the relevant provisions of the Plan and for giving effect to other relevant statutory instruments.

2.11 NEW POLICIES

2.11.1 Assessment

[79] Federated Farmers [182.104] sought that a new policy be added to the ECO Chapter to address a perceived gap in the provision for existing activities. Ms White did not consider this change is necessary for the reasons set out in the s42A Report.⁸⁵ We heard from Mr Anderson and Ms Thomas who disagreed and continued to pursue the additional policy on the grounds that the policy would clarify existing use rights in the Proposed Plan. They provided an example of such a provision in the Proposed Gore District Plan in support of their position.⁸⁶ Having considered the evidence, we are satisfied that the recommended changes to ECO-P2 are sufficient. We agree with Ms White⁸⁷ that it is not clear how the Gore District example provided would be suitably incorporated into the drafting of the Proposed Plan and we note the submitter did not provide sufficient evidence in this regard.

2.11.2 Decision

[80] We adopt Ms White's analysis and recommendations. No additional policy is required.

2.12 RULES – GENERAL

2.12.1 Assessment

[81] Mr Hart's [149.2] property contains several proposed SNAs, and BPAs and he expressed concern that the Proposed Plan may significantly impact his farming operations. He sought that the ECO Chapter be amended to avoid '*putting a ban on livestock grazing in restricted areas*'. In response to Panel questions, he explained that a key concern was around the future ability of landowners to change land use and the intensity of grazing. In his view this represented an unjustified level of restriction on farming activities.

[82] In considering Mr Hart's concerns, we sought clarification from the s42A author as to how the proposed rules apply to Mr Hart's property, including how they apply to changes in land use and mob-stocking.⁸⁸ We received a breakdown of how the relevant rules apply to the submitter's property as part of Ms White's Interim Reply. Having considered the way in which the rules apply, we are not persuaded that the regulations amount to an unjustified level of restriction. We agree with Ms White that the recommended amendments to ECO-P2 and ECO-R1.1 (in consultation with Mr Harding) are appropriate.⁸⁹ We agree that the amendments

⁸⁵ Liz White, s42A Report: Ecosystems and Indigenous Biodiversity; Natural Character; and Nature Features and Landscapes, 9 October 2024, Para 7.11.4-7.11.5.

⁸⁶ Rachel Thomas and Greg Anderson, Statement of Evidence, 29 October 2024, Paras 8-11.

⁸⁷ Liz White, Interim Reply, 18 December 2024, Appendix A.

⁸⁸ Panel Minute 19, 21 November 2024, Para 8(c).

⁸⁹ Liz White, s42A Report: Ecosystems and Indigenous Biodiversity; Natural Character; and Nature Features and Landscapes, 9 October 2024, Para 7.12.5-7.12.7.

would provide greater certainty by providing for grazing in SNAs in limited circumstances, while still being effective at protecting the vegetation that is significant.

[83] We further note here that at the hearing, Mr Hart raised further general concerns about the process used by the Council to identify SASMs. We have addressed these matters in Part 1 of this Decision.

2.12.2 Decision

[84] We adopt Ms White's analysis and recommendations. No additional rules are necessary.

2.13 ECO-R1

2.13.1 Assessment

[85] Federated Farmers [182.105]⁹⁰ opposed the 50m setback from any wetland for permitted clearance noting that the NES-CF only requires 10m. It sought that ECO-R1.2 be amended to remove the 50m setback from any wetland. Ms White rejected this submission point for the reason that the purpose of the NES-CF is different to the outcomes sought for indigenous biodiversity through the Proposed Plan.⁹¹ In their evidence, Ms Thomas and Mr Anderson promoted a cautious approach given the uncertainty around the notification timing for the proposed CRPS and Plan Change 8 to the Canterbury Land and Water Plan. As discussed with Ms Thomas at the hearing, we cannot speculate on the outcome of a future planning regime which has yet to be notified and we note Ms White's opinion to this effect in her Interim Reply.⁹²

[86] Federated Farmers also sought the removal of the 2m clearance width specified in ECO-R1.4. In response to Panel questions Mr Anderson shared the practical difficulties that in his view would be encountered with a 2m clearance limit. In response to the submitter's concern, we asked Ms White to identify the evidential basis of the measurement for the purposes of ECO-R1.2 (PER-2) and its use in ECO-R5 (PER-1) in relation to earthworks, and the basis for the new 'within' 2m standard for ECO-R1.4 (PER-1).⁹³ We received a helpful account of the genesis of the 2m measurements within these provisions in Ms White's Interim Reply.⁹⁴ Having considered the evidence, we agree that removing the 2m limit from ECO-R1.4 (PER 1) is appropriate, will not compromise the achievement of ECO-O2, and is a more efficient approach.

[87] As discussed in Section 2.1, we accepted Ms White's recommendation to include new Policy ECO-PX⁹⁵ and new Rule ECO-R1.4 to provide a permitted activity status for vegetation clearance outside areas specified in ECO-R1.1-3 that meet the listed conditions and note that we are satisfied there is scope to do so. Ms Francis, for ECan [183.8] confirmed that the new

⁹⁰ Note that Ms White's s42A Summary incorrectly referred to submission point 182.104.

⁹¹ Liz White, s42A Report: Ecosystems and Indigenous Biodiversity; Natural Character; and Nature Features and Landscapes, 9 October 2024, Para 7.13.31.

⁹² Liz White, s42A Report Interim Reply, 18 December 2024, Appendix A.

⁹³ Panel Minute 19, 21 November 2024.

⁹⁴ Liz White, Interim Reply, 18 December 2024, Appendix C.

⁹⁵ Now renumbered ECO-P6 in the Decision Version of the provisions.

policy and rule would largely address the concerns raised by ECan⁹⁶, subject to some minor issues as raised by Dr Jack (ecologist for ECan) being addressed:

- (a) the definition of 'improved pasture' being retained;
- (b) further clarity being provided over 'cultivated land' in PER-1.6;
- (c) the term 'depositional landforms' being further described or possibly mapped to increase the certainty of where these occur in the upper Rakitata catchment;
- (d) whether significant habitats for indigenous fauna are adequately covered if the habitat they depend on is not indigenous vegetation. 97

[88] In respect to (a) we accept Ms White's assessment and find that no changes to the definition are required.⁹⁸ In response to (b) and (c), Ms White agreed, based on input from Mr Harding, that greater certainty regarding the terms proposed to be used in the rule could be made and on that basis supported additional definitions, or changes to the wording of the rule being made, in relation to 'cultivated land' in PER-1.6 and 'depositional landforms' in PER-1.8 as sought. In her Interim Reply, Ms White put forward specific drafting for ECO-R1.4 PER-1 which in her view addressed the submitter's concern.⁹⁹ We agree that the amendments provide greater certainty and find the addition of a definition for 'originally rare ecosystems' in alignment with the CRPS to be appropriate. We further find that the additional clause recommended in PER-1.8 addresses (d) above.

[89] The Rooney Group¹⁰⁰ of submitters considered 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. Ms White did not consider this to be appropriate, and we agree based on the reasons set out in her s42A Report¹⁰¹ noting that Mr Hole did not pursue this submission point in his evidence.¹⁰²

[90] Forest and Bird [156.109] considered that the provision for clearance within an area of improved pasture in the areas covered in ECO-R1.2 should also exclude 'overgrazing/trampling'.¹⁰³ Given our previous findings on this matter, we are satisfied that the submitter's concerns have been addressed.

[91] Forest and Bird were also concerned that the wording in ECO-R1 PER-6 does not refer to changes in grazing activity (such as from sheep to cattle or deer grazing) which may potentially have adverse effects on an SNA. We sought further information from Ms White and Mr Harding following the hearing and requested further clarity regarding the sufficiency of the s42A recommended definition of 'overgrazing/trampling' in the context of the protection of

⁹⁶ Jean Jack, Statement of Evidence, 25 October 2024, Paras 24-29.

⁹⁷ Deidre Francis, Summary Statement, 12 November 2024, Para 10.

⁹⁸ Liz White, s42A Report, 9 October 2024, Para 7.20.14.

⁹⁹ Liz White, Interim Reply, 18 December 2024, Appendix A.

¹⁰⁰ Including submitters Rooney Holdings Ltd [174.32], Rooney, GJH [191.32], Rooney Group [249.32], Rooney Farms [250.32], Rooney Earthmoving [251.32], and TDL [252.32]

¹⁰¹ Liz White, s42A Report: Ecosystems and Indigenous Biodiversity; Natural Character; and Nature Features and Landscapes, 9 October 2024, Para 7.13.30.

¹⁰² Nathan Hole, Statement of Evidence, 25 October 2024.

¹⁰³ Tim Williams, Speaking Notes, 12 November 2024, Para 27.

indigenous biodiversity in SNAs.¹⁰⁴ We received this information as part of Ms White's Interim Reply and we are now satisfied that the additional recommended changes put forward address this matter appropriately.¹⁰⁵

[92] DOC [166.40]¹⁰⁶, Port Blakely [94.7]¹⁰⁷ Silver Fern Farms [172.54]¹⁰⁸ and Alliance Group¹⁰⁹ [173.57] all confirmed their acceptance of the s42A recommendations, and we received no other evidence to the contrary from other submitters.

[93] Overall, we accept Ms White's assessment and recommended amendment to ECO-R1 along with the consequential change to ECO-P2.2 and the addition of a new definition for 'originally rare ecosystems'.

2.13.2 Decision

[94] We adopt Ms White's analysis and recommendations. The amendments are set out in **Appendix 3**.

[95] In terms of s32AA, we are satisfied that the amendments are the most appropriate option for achieving the purpose of the RMA, the relevant provisions of the Plan and for giving effect to other relevant statutory instruments.

2.14 NATURAL HAZARD MITIGATION CLEARANCE - ECO-R2

2.14.1 Assessment

[96] We accept Ms White's assessment and recommendations and find the amendments to ECO-R2 to be appropriate for the reasons set out in the s42A Report¹¹⁰, noting that OWL [181.62]¹¹¹, Alliance Group [173.58]¹¹², DOC [166.42] and Federated Farmers [182.106]¹¹³ have accepted the s42A recommendations, and that the relief sought by ECan [183.77] is addressed in Part 8 of the Decision Report. In that Decision a statement is added to the NH-R3¹¹⁴ that the ECO, NATC, NFL and SASM chapter rules to not apply to this rule.

2.14.2 Decision

[97] We adopt Ms White's analysis and recommendations. The amendments are set out in **Appendix 3**.

[98] In terms of s32AA, we adopt Ms White's evaluation in support of the change made.

¹⁰⁴ Panel Minute 19, 21 November 2024.

¹⁰⁵ Liz White, Interim Reply, 18 December 2024, Appendix C.

¹⁰⁶ Elizabeth Williams, Statement of Evidence, 29 October 2024, Para 40-41.

¹⁰⁷ Melissa Pearson, Statement of Evidence, 25 October 2024, Paras 10, 45-46.

¹⁰⁸ Steve Tuck, Tabled Letter, 22 October 2024.

¹⁰⁹ Doyle Richardson, Tabled Letter, 21 October 2024.

¹¹⁰ Liz White, s42A Report: Ecosystems and Indigenous Biodiversity; Natural Character; and Nature Features and Landscapes, 9 October 2024, Para 7.14.17-7.14.11.

¹¹¹ Julia Crossman, Statement of Evidence, 25 October, Para 3.3.

¹¹² Doyle Richardson, Tabled Letter, 21 October 2024.

¹¹³ Rachel Thomas and Greg Anderson, Statement of Evidence, 29 October 2024, Para 16.

¹¹⁴ Now renumbered NH-R4.

2.15 NATIONAL GRID – ECO-R3

2.15.1 Assessment

[99] Transpower [159.72] initially sought an extension to ECO-R3 to provide for ‘upgrades’ of the National Grid which it considered to be consistent with the NES-ETA and gives effect to the NPS-ET. In response to the s42A Report assessment, Ms McLeod provided evidence that for all existing National Grid transmission lines, the rule would not be relevant and would not apply to the operation, maintenance, or upgrading of those lines. On this basis, Ms McLeod did not pursue the initial relief sought.¹¹⁵ We address the same relief sought in the context of the related Policy ECO-P2 in Section 2.7.

[100] Mr Williams for Forest and Bird [156.111] did not support Ms White’s recommendation to include the entire electricity distribution network (not just the National Grid) in ECO-R3. In his view there is no higher order policy justification for managing the adverse effects on SNAs of the rest of the electricity distribution network differently to other activities.¹¹⁶ We have considered the evidence and we prefer Ms White’s conclusion that given the electricity distribution network is RSI under the CRPS, the provisions in the Proposed Plan must be considered in the context of how they achieve the objectives of both the EI Chapter and the ECO Chapter.¹¹⁷ On this basis, we find that the recommended extension of the rule to the electricity distribution network is appropriate and gives effect to the relevant provisions of the CRPS.¹¹⁸

[101] Overall, we accept Ms White’s assessment and recommendations and find the amendments to ECO-R3 to be appropriate. We note that Federated Farmers [182.107]¹¹⁹, DOC [166.43]¹²⁰ and ECan [183.78]¹²¹ all expressed support for the s42A recommendations.

2.15.2 Decision

[102] We adopt Ms White’s analysis and recommendations. The amendments are set out in **Appendix 3**.

[103] In terms of s32AA, we are satisfied that the amendments are the most appropriate option for achieving the purpose of the RMA, the relevant provisions of the Plan and for giving effect to other relevant statutory instruments.

2.16 EARTHWORKS IN SNAs – ECO-R5

2.16.1 Assessment

[104] Forest and Bird [156.113] sought that the wording of the rule is tightened due to the perceived risk of adverse effects of earthworks on SNAs. They provided a drafting option and

¹¹⁵ Ainsley McLeod, Statement of Evidence, 25 October 2024, Paras 38.

¹¹⁶ Tim Williams, Speaking Notes, 12 November 2024, Paras 28-29.

¹¹⁷ Liz White, Interim Reply, 18 December 2024, Appendix A.

¹¹⁸ Including Objective 5.2.2, and Policy 16.3.4

¹¹⁹ Rachel Thomas and Greg Anderson, Statement of Evidence, 29 October 2024, Para 17.

¹²⁰ Elizabeth Williams, Statement of Evidence, 29 October 2024, Para 16.

¹²¹ Deidre Francis, Statement of Evidence, 25 October 2024, Para 15-16.

suggested that ECO-R5 could apply where earthworks are ‘required’ for the purpose of maintenance, repair, or replacement of existing lawfully established infrastructure.¹²² Mr Williams suggested this would also help to ensure consistency with the NATC Rules which use the word ‘required’ in relation to earthworks. In her Interim Reply, Ms White agreed that it is appropriate to align the wording of this rule with that used in the NATC Chapter and to be explicit that earthworks are ‘required’. We agree.¹²³

[105] As discussed above in relation to ECO-R3, Ms McLeod concluded in her evidence that for all existing National Grid transmission lines, the rule would not be relevant and would not apply to the operation, maintenance, or upgrading of those lines. On this basis, Ms McLeod did not pursue the initial relief sought.¹²⁴ We address the same relief sought in the context of the related Policy ECO-P2 above.

[106] Overall, we are satisfied that Ms White’s recommended amendments to ECO-R1 and ECO-R5 in response to submissions and the recommended new Rule ECO-RX¹²⁵ relating to earthworks and indigenous vegetation clearance (that are proposed as part of the restoration or enhancement of an SNA) are appropriate. In reaching this view we note that Silver Fern Farms [172.55]¹²⁶, Alliance Group [173.59]¹²⁷, Federated Farmers [182.109]¹²⁸, and ECan [183.80]¹²⁹ signalled acceptance of the s42A recommendations, while DOC [166.43] and the Rooney Group¹³⁰ did not pursue their respective submissions further in evidence, and we received no evidence to the contrary from any other submitter.

2.16.2 Decision

[107] We adopt Ms White’s analysis and recommendations. The amendments are set out in **Appendix 3**.

[108] In terms of s32AA, we are satisfied that the amendments are the most appropriate option for achieving the purpose of the RMA, the relevant provisions of the Plan and for giving effect to other relevant statutory instruments.

2.17 SUBDIVISION - ECO-R6¹³¹

2.17.1 Assessment

[109] The Rooney Group¹³² considered that subdivision which does not intersect a boundary of an SNA will not have an impact on an SNA and should not be subject to a discretionary

¹²² Tim Williams, Speaking Notes, 12 November 2024, Para 32.

¹²³ Liz White, Interim Reply, 18 December 2024, Appendix A.

¹²⁴ Ainsley McLeod, Statement of Evidence, 25 October 2024, Paras 38.

¹²⁵ Now renumbered ECO-R6 in the Decision Version of the provisions.

¹²⁶ Steve Tuck, Tabled Letter, 22 October 2024.

¹²⁷ Doyle Richardson, Tabled Letter, 21 October 2024.

¹²⁸ Rachel Thomas and Greg Anderson, Statement of Evidence, 29 October 2024, Para 18.

¹²⁹ Deidre Francis, Statement of Evidence, 25 October 2024, Para 59.

¹³⁰ Including submitters Rooney Holdings Ltd [174.34], Rooney, GJH [191.34], Rooney Group [249.34], Rooney Farms [250.34], Rooney Earthmoving [251.34] and TDL [252.34]

¹³¹ Now renumbered SUB-R12 in the Decision Version of the provisions.

¹³² Including submitters Rooney Holdings Ltd [174.35], Rooney, GJH [191.35], Rooney Group [249.35], Rooney Farms [250.35], Rooney Earthmoving [251.35] and TDL [252.35].

activity status. Having considered the evidence we are not persuaded that the relief sought is appropriate for the reasons set out in the s42A Report and repeated in Ms White's Interim Reply.¹³³ We note in particular that subdivision fencing or additional roading/accessways arising from a subdivision may affect vegetation that buffers or links an SNA and, on this basis, we do not accept the submitter's view that subdivision which does not intersect a boundary of an SNA will not have an impact. We further note that the Rooney Group did not provide any technical evidence in support of its view. We agree that no amendments to ECO-R6 are required, noting the locational change of the rule to the Subdivision Chapter now entitled 'SUB-R12 Subdivision and significant natural areas'.

2.17.2 Decision

[110] We adopt Ms White's analysis and recommendations. The rule is retained as notified, noting the locational change to the Subdivision Chapter as shown in **Appendix 3**

2.18 PLANTING OF POTENTIAL PESTS – ECO-R7

2.18.1 Assessment

[111] We accept Ms White's assessment and recommendations as set out in the s42A Report¹³⁴, noting that Federated Farmers [182.111] has signalled support for the recommended amendments¹³⁵ and we received no evidence to the contrary from other submitters on this rule.

2.18.2 Decision

[112] We adopt Ms White's analysis and recommendations. The amendments to ECO-R7 are set out in **Appendix 3**.

[113] In terms of s32AA, we adopt Ms White's evaluation in support of the changes made.

2.19 NEW RULES

2.19.1 Assessment

[114] Forest and Bird's submission [156.3 (part), 156.116] sought a rule to implement the recommended Policy ECO-PX¹³⁶ on maintaining indigenous vegetation outside scheduled SNAs. In his speaking notes, Mr Williams stated that while recommended ECO-R1.4 goes some way to addressing the relief sought, Forest and Bird maintain the view that the mapping of fully converted land would enable the maintenance of indigenous vegetation outside such areas to be achieved in a more efficient and effective way.¹³⁷ We have addressed this matter

¹³³ Liz White, s42A Report: Ecosystems and Indigenous Biodiversity; Natural Character; and Nature Features and Landscapes, 9 October 2024, Para 7.17.8-7.17.12.

¹³⁴ Liz White, s42A Report: Ecosystems and Indigenous Biodiversity; Natural Character; and Nature Features and Landscapes, 9 October 2024, Para 7.18.5-7.18.7.

¹³⁵ Rachel Thomas and Greg Anderson, Statement of Evidence, 29 October 2024, Para 21.

¹³⁶ Now renumbered ECO-P6 in the Decision Version of the provisions.

¹³⁷ Tim Williams, Speaking Notes, 12 November 2024, Para 33.

in above in response to ECO-PX¹³⁸ and given our findings on this matter, we see no merit in the relief sought.

[115] We accept Ms White's assessment and recommendations in response to submissions as set out in the s42A Report¹³⁹ and agree that the addition of a rule for the clearance of indigenous vegetation that is for a quarrying activity is not required.

2.19.2 Decision

[116] We adopt Ms White's analysis and recommendations. No additional rule is required.

2.20 DEFINITIONS RELATING TO ECO CHAPTER

2.20.1 Assessment

Clearance of indigenous vegetation

[117] Federated Farmers [182.8] raised a concern that:

...the definition for the clearance of indigenous vegetation does not exclude vegetation clearance which is ancillary to primary production activities which are important for safety reasons and can provide ecological benefits. In their view, farmers should not have to incur unnecessary delay and cost for routine vegetation clearance which will result in no more than minor adverse environmental effects.¹⁴⁰

[118] Having considered the submitter's concerns and the evidence presented to us we find that the amendment is not required for the reasons set out in Ms White's Interim Reply.¹⁴¹

[119] DOC [165] requested 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. We agree with Ms White's recommended amendment to add reference to 'destruction' in the definition, for the reasons stated in the s42A Report.¹⁴²

Significant Natural Area

[120] As set out in the s42A Report, ECan [183.8], Forest and Bird [156.63] and DOC [166.12] sought similar relief in relation to the definition of 'Significant Natural Area'.¹⁴³ We accept Ms White's assessment and recommendation to reject the relief sought, and in reaching this view note that Ms Francis for ECan accepted Ms White's recommendation,¹⁴⁴ and we received no further evidence on this matter from Forest and Bird or DOC.

¹³⁸ Now renumbered ECO-P6 in the Decision Version of the provisions.

¹³⁹ Liz White, s42A Report: Ecosystems and Indigenous Biodiversity; Natural Character; and Nature Features and Landscapes, 9 October 2024, Para 7.19.3.

¹⁴⁰ Rachel Thomas and Greg Anderson, Statement of Evidence, 29 October 2024, Para 26.

¹⁴¹ Liz White, Interim Reply, 18 December 2024, Appendix A.

¹⁴² Liz White, s42A Report: Ecosystems and Indigenous Biodiversity; Natural Character; and Nature Features and Landscapes, 9 October 2024, Para 7.20.13.

¹⁴³ Liz White, s42A Report: Ecosystems and Indigenous Biodiversity; Natural Character; and Nature Features and Landscapes, 9 October 2024, Para 7.20.10.

¹⁴⁴ Deidre Francis, Summary Statement, 12 November 2024, Para 46.

Indigenous vegetation and improved pasture

[121] ECan also confirmed its support for the definitions of 'indigenous vegetation' and 'improved pasture' to be retained as notified in alignment with the s42A recommendations.¹⁴⁵

Biodiversity/biological diversity

[122] Forest and Bird [156.9] submitted that the definition of 'biodiversity/biological diversity' needed amendment to align with RMA, s2 and sought a minor amendment to align the definition accordingly. Ms White agreed, as do we.

2.20.2 Decision

[123] We adopt Ms White's analysis and recommendations. The amendments to the definition of 'Biodiversity/Biological Diversity' and 'Clearance of Indigenous Vegetation' are set out in **Appendix 3**.

[124] We are satisfied that these minor amendments will provide clarity for plan users and/or do not alter the effect of the provision to which it relates. On this basis, we are satisfied that the original s32 evaluation continues to apply.

2.21 OTHER MATTERS

2.21.1 Assessment

[125] We accept Ms White's assessment and recommendation as set out in the s42A Report.¹⁴⁶

2.21.2 Decision

[126] We adopt Ms White's analysis and recommendation and no changes are required.

3 NATURAL ENVIRONMENT - NATURAL CHARACTER PROVISIONS

3.1 BROAD SUBMISSIONS

3.1.1 Assessment

[127] We accept Ms White's assessment and recommendation as set out in the s42A Report¹⁴⁷ and we agree that no changes to the NATC Chapter are required in response to broad submissions. We heard no evidence to the contrary, noting that Port Blakely's submission [94.1] relating to the NES-PF, and Forest and Bird's submissions [156.117, 156.118] relating to lake margins being addressed in the NATC Chapter are addressed below in sections relating to specific provisions.

¹⁴⁵ Deidre Francis, Summary Statement, 12 November 2024, Para 31.

¹⁴⁶ Liz White, s42A Report: Ecosystems and Indigenous Biodiversity; Natural Character; and Nature Features and Landscapes, 9 October 2024, Para 7.21.3.

¹⁴⁷ Liz White, s42A Report: Ecosystems and Indigenous Biodiversity; Natural Character; and Nature Features and Landscapes, 9 October 2024, Para 8.18-1.1.11.

3.1.2 Decision

[128] We adopt Ms White's analysis and recommendation and no changes are required.

3.2 OBJECTIVE – NATC-O1

3.2.1 Assessment

[129] Forest and Bird [156.117, 156.118] consider that lake margins should be addressed in the NATC Chapter in NATC-O1.¹⁴⁸ As we record above and in Part 7 in relation to the Activities on the Surface of Water (ASW) Chapter there are no lakes in the District.

[130] In response to Forest and Bird's submission [156.119] that sought a new objective be added to explicitly relate to restoration of natural character, Ms White recommended an amendment to NATC-O1 instead.¹⁴⁹ We agree that this is more appropriate, and that a new objective is not required.

[131] Overall, we accept Ms White's assessment, noting that Silver Fern Farms [172.56]¹⁵⁰, Alliance Group [173.60]¹⁵¹ and ECan [183.82]¹⁵² signalled their support for the s42A recommendations.

3.2.2 Decision

[132] We adopt Ms White's analysis and recommendations. The amendment to NATC-O1 is set out in **Appendix 3**.

[133] We are satisfied that this minor amendment will provide clarity for plan users and/or do not alter the effect of the provision to which it relates. On this basis, we are satisfied that the original s32 evaluation continues to apply.

3.3 POLICIES – GENERAL

3.3.1 Assessment

[134] We accept Ms White's assessment and recommendation and find the amendment to NATC-P4 in response to the submissions from TDC [42.35] and OWL [181.75] to be appropriate. We note that Ms Crossman for OWL supported Ms White's recommendations and that the matter raised had been satisfactorily addressed.¹⁵³ NATC-P4 is discussed in more detail below.

¹⁴⁸ Tim Williams, Speaking Notes, 12 November 2024, Para 34.

¹⁴⁹ Liz White, s42A Report: Ecosystems and Indigenous Biodiversity; Natural Character; and Nature Features and Landscapes, 9 October 2024, Para 8.2.6.

¹⁵⁰ Steve Tuck, Tabled Letter, 22 October 2024.

¹⁵¹ Doyle Richardson, Tabled Letter, 21 October 2024.

¹⁵² Deidre Francis, Summary Statement, 12 November 2024, Para 10.

¹⁵³ Julia Crossman, Statement of Evidence, 25 October 2024, Para 3.3.

3.3.2 Decision

[135] We adopt Ms White’s analysis and recommendations. The amendment to NATC-P4 is set out in **Appendix 3**.

[136] In terms of s32AA, we are satisfied that the amendments are the most appropriate option for achieving the purpose of the RMA, the relevant provisions of the Plan and for giving effect to other relevant statutory instruments.

3.4 NATURAL CHARACTER VALUES AND INCENTIVES (NATC-P1 AND NATC-P3)

3.4.1 Assessment

[137] We accept Ms White’s assessment and recommendation on NATC-P1 and NATC-P3, noting we heard no evidence to the contrary. We find the recommended amendment to NATC-P1 to be appropriate.

3.4.2 Decision

[138] We adopt Ms White’s analysis and recommendations. The amendment to NATC-P1 is set out in **Appendix 3**. NATC-P3 is retained as notified.

[139] In terms of s32AA, adopt Ms White’s evaluation in support of the changes made.

3.5 PRESERVATION OF NATURAL CHARACTER (NATC-P4)

3.5.1 Assessment

[140] We heard from Forest and Bird [156.122] that they did not agree with Ms White’s assessment and recommendation in response to its submission. Mr Williams maintained their position, stating that:

... “minimising” adverse effects does not give effect to s6(a) RMA, which requires the relevant values to be protected as a matter of national importance.

The changes recommended in the s42A report would further weaken NATC-P4 by altering NATC-P4 clause 1 to read: “or if avoidance is not practical ~~possible~~”. Practicability will refer to the circumstances of the applicant (including financial resources) and, especially when combined with a requirement only to minimise, this policy will not be effective in protecting the relevant values.¹⁵⁴

[141] We have considered the evidence and we accept Ms White’s assessment that given the policy direction refers to avoiding effects in the first instance, and minimisation is only required in circumstances where avoidance is not practicable, the policy direction is consistent with s6(a) that refers to preservation of the natural character of water bodies and their margin and their protection from inappropriate subdivision, use and development.¹⁵⁵ We do not find that the relief sought is appropriate.

¹⁵⁴ Tim Williams, Speaking Notes, 12 November 2024, Para 21.

¹⁵⁵ Liz White, Interim Reply, 18 December 2024, Appendix A.

[142] Transpower [159.71] does not support NATC-P4 because the policy fails to recognise that the National Grid must traverse riparian margins to transmit electricity across New Zealand. Ms McLeod accepted Ms White's recommendation to include a cross reference to E1-P2, however, supported a further amendment to the policy to include a cross-reference to the National Grid specific policy sought in Transpower's submission.¹⁵⁶ Having considered the evidence, we accept Ms White's recommended amendment which addresses the submitter's concern by referencing both E1-P2 and EI-PX¹⁵⁷.

[143] We generally accept the assessment and recommendations of Ms White in response to submissions¹⁵⁸, and note that Silver Fern Farms [172.59]¹⁵⁹, Alliance Group [173.63]¹⁶⁰ and Rangitata Dairies [44.7]¹⁶¹ are supportive of the conclusions reached by Ms White, and we heard no evidence to the contrary from other submitters.

[144] Overall, we find the recommended amendments to NATC-P4 to be appropriate.

3.5.2 Decision

[145] We adopt Ms White's analysis and recommendations. The amendments to NATC-P4 are set out in **Appendix 3**.

[146] In terms of s32AA, we are satisfied that the amendments are the most appropriate option for achieving the purpose of the RMA, the relevant provisions of the Plan and for giving effect to other relevant statutory instruments.

3.6 ANTICIPATED ACTIVITIES, BUILDING AND STRUCTURES IN RIPARIAN MARGINS (NATC-P5 AND NATC-P6)

3.6.1 Assessment

[147] As addressed previously, Ms McLeod for Transpower [159.75] provided evidence to us in support of Transpower's submission that sought the inclusion of 'or upgrade' in Policy NATC-P5.¹⁶² As addressed in relation to ECO-P2, we are not persuaded that the amendment sought to enable all upgrades is required. We are satisfied that, as recommended by Ms White, NATC-P5.5 appropriately provides for 'minor upgrades' (which are those that are permitted under the NES-ETA).

[148] Transpower [159.70, 159.75] did not support NATC-P5 (or NATC-P4) because the policy fails to recognise that the National Grid must traverse riparian margins to transmit electricity across New Zealand. Ms McLeod accepted Ms White's recommendation to include a cross reference to E1-P2, however, supported a further amendment to the policy to include

¹⁵⁶ Ainsley McLeod, Statement of Evidence, 25 October 2024, Para 28.

¹⁵⁷ Now renumbered EI-P5 in the Decision Version of the provisions.

¹⁵⁸ Liz White, s42A Report: Ecosystems and Indigenous Biodiversity; Natural Character; and Nature Features and Landscapes, 9 October 2024, Para 8.5.9-8.5.13.

¹⁵⁹ Steve Tuck, Tabled Letter, 22 October 2024.

¹⁶⁰ Doyle Richardson, Tabled Letter, 21 October 2024.

¹⁶¹ Justin O'Brien, Statement of Evidence presented at Hearing, un-dated.

¹⁶² Ainsley McLeod, Statement of Evidence, 25 October 2024, Paras 40-45.

a cross-reference to the National Grid specific policy sought in Transpower's submission.¹⁶³ Given our previous finding in relation to NATC-P4, we are satisfied that the recommended amendments to NATC-P4 appropriately address the submitter's concern by referencing both E1-P2 and EI-PX¹⁶⁴.

[149] KiwiRail [187.58] was concerned with Ms White's recommended use of the term 'railways' in NATC-P5.5 rather than 'rail network'. Ms Grinlinton-Hancock's evidence was that the term 'rail network' is preferred as it captures all the interlinking and ancillary activities (including sidings, storage racks, tracks, loading and maintenance yards, and mechanical facilities which help to service the network) that are necessary to ensure the safe and efficient operation of the rail network.¹⁶⁵ Given our previous findings in terms of setbacks from the rail corridors in Part 3 of the Report, we find that terminology is now less relevant. We are satisfied that the term 'railways' is used consistently throughout the Plan.

[150] We generally accept the assessment and recommendations of Ms White in response to submissions¹⁶⁶, and note that Rangitata Dairies [44.7]¹⁶⁷ have indicated support of the conclusions reached by Ms White.

[151] We find the recommended amendments to NATC-P5 to be appropriate, and we also agree it is appropriate to retain NATC-P6 as notified. We note that Ms White recommended several other consequential changes in her s42A Report¹⁶⁸. We agree it is appropriate to amend the Introduction to the NATC Chapter, ECO-P3.1, ECO-R1.2, ECO-R2, and ECO-R3 to be appropriate. We also agree it is appropriate to delete NATC-R1.

3.6.2 Decision

[152] We adopt Ms White's analysis and recommendations. The amendments are set out in **Appendix 3**.

[153] In terms of s32AA, we adopt Ms White's evaluation in support of the changes made.

3.7 NEW POLICIES

3.7.1 Assessment

[154] We accept Ms White's assessment and recommendation in response to Forest and Bird's submission [156.121] that sought a new policy providing for the identification of further High Naturalness Water Bodies. We agree that the relief sought cannot be addressed via this process and would require a separate future plan change process and note that Forest and Bird did not pursue this matter any further.

¹⁶³ Ainsley McLeod, Statement of Evidence, 25 October 2024, Para 28.

¹⁶⁴ Now renumbered EI-P5 in the Decision Version of the provisions.

¹⁶⁵ Michelle Grinlinton-Hancock, Tabled Letter, 24 October, Appendix A.

¹⁶⁶ Liz White, s42A Report: Ecosystems and Indigenous Biodiversity; Natural Character; and Nature Features and Landscapes, 9 October 2024, Para 8.6.10-8.6.18.

¹⁶⁷ Justin O'Brien, Statement of Evidence presented at Hearing, un-dated.

¹⁶⁸ Liz White, s42A Report: Ecosystems and Indigenous Biodiversity; Natural Character; and Nature Features and Landscapes, 9 October 2024, Para 8.6.19-8.6.26.

3.7.2 Decision

[155] We adopt Ms White's analysis and recommendations; no changes are required.

3.8 RULES – GENERAL

3.8.1 Assessment

[156] Transpower [159.78] supported the s42A assessment in response to its submission to include reference to 'operational need' alongside 'functional need' in the matters of discretion and supported the recommended amendments to NATC-R1¹⁶⁹, NATC-R2¹⁷⁰, NATC-R3¹⁷¹ and NATC-R5¹⁷² relating to functional needs.¹⁷³ In response to the evidence of Ms McLeod, Ms White also agreed that there is policy support for the consideration of benefits of activities within the matters of discretion included in the NATC Chapter, consistent with the NFL and ECO Chapters¹⁷⁴. We agree with the recommended amendment in this regard.

[157] Ms William's in her evidence for DOC [166.53] stated that she considered DOC's submission point had been accepted in part (as opposed to rejected as stated in the s42A Report) due to the recommended changes. These changes move the provisions for indigenous vegetation clearance along riparian margins from this Chapter to the ECO Chapter, resulting in a note within the Introduction to the NATC Chapter that there are also provisions within the ECO Chapter that apply to the clearance of indigenous vegetation within riparian margins.¹⁷⁵

[158] We accept Ms White's assessment and find the recommended amendments to be appropriate.

3.8.2 Decision

[159] We adopt Ms White's analysis and recommendations. The amendments are set out in **Appendix 3**.

[160] We are satisfied that this minor amendment will provide better alignment between provisions and that the original s32 evaluation continues to apply.

3.9 NATC-R1¹⁷⁶ – VEGETATION CLEARANCE

3.9.1 Assessment

[161] Given our earlier finding to delete NATC-R1, we agree with Ms White that, based on the advice of Ms Pflüger, 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

¹⁶⁹ Rule now deleted in the Decisions Version of the provisions.

¹⁷⁰ Rule now renumbered NATC-R1 in the Decision Version of the provisions.

¹⁷¹ Rule now renumbered NATC-R2 in the Decision Version of the provisions.

¹⁷² Rule now renumbered NATC-R4 in the Decision Version of the provisions.

¹⁷³ Ainsley McLeod, Statement of Evidence, 25 October 2024, Paras 48-49.

¹⁷⁴ Liz White, s42A Summary Statement, 7 November, Para 10 (a).

¹⁷⁵ Elizabeth Williams, Statement of Evidence, 29 October 2024, Appendix 1.

¹⁷⁶ Rule now deleted from the Decisions Version of the provisions.

indigenous vegetation clearance in such areas, it is more efficient to manage this clearance under one rule (ECO-R1.2). For this reason, we do not consider the submissions¹⁷⁷ on NATC-R1 any further in this Decision and accordingly reject the relief requested by submitters on this issue. We find that it is appropriate to delete this rule. In reaching this view we note that Transpower [159.76] did not pursue its submission point on this matter any further¹⁷⁸, Ms Pearson for Port Blakely [94.1, 94.9] confirmed that Ms White's recommended amendments to ECO-R1.2 effectively address the submitter's concerns¹⁷⁹, and that the Alliance Group [173.64]¹⁸⁰, Silver Fern Farms [172.60]¹⁸¹ and OWL [181.12FS]¹⁸² accepted the s42A recommendations.

[162] KiwiRail [187.59] sought that an additional clause be added to NATC-R1 to permit vegetation clearance that is for the operation, maintenance in response, Ms White instead recommended an amendment to NATC-R3.1 to provide the relief sought. In her evidence, Ms Grinlinton-Hancock accepted the amendment to ECO-R1.2 PER-2, however sought the use of the term 'rail network' rather than 'railways' ¹⁸³ We have previously discussed terminology and find that the consistent use of the term 'railways' is appropriate.

[163] We accept the assessment and recommendation of Ms White in response to the submission by Te Kotare [115.29] and the Waipopo Huts [189.41] and find the amendments to be appropriate for the reasons set out in her s42A Report.

[164] We accept the assessment and recommendations of Ms White and find the recommended amendments to ECO-R1.2 PER-2, ECO-R1.2 PER-5, and ECO-R1.2 PER-7 to be appropriate.

3.9.2 Decision

[165] We adopt Ms White's analysis and recommendations. The amendments are set out in **Appendix 3**.

[166] In terms of s32AA, we adopt Ms White's evaluation in support of the changes made.

3.10 VEGETATION PLANTING - NATC-R2¹⁸⁴

3.10.1 Assessment

[167] We accept Ms White's assessment and recommendation as set out in the s42A Report, noting the management of natural hazard mitigation works is addressed in the Natural Hazards topic in Part 8 of the Decision Report, and is not intended to be subject to duplicative assessment under NATC-R2.

¹⁷⁷ Submissions including Forest and Bird [156.124], Transpower [159.76], Road Metals [169.23], Fulton Hogan [170.24], Port Blakely [94.1, 94.9].

¹⁷⁸ Ainsley McLeod, Statement of Evidence, 25 October 2024, Para 38.

¹⁷⁹ Melissa Pearson, Statement of Evidence, 25 October 2024, Para 70.

¹⁸⁰ Doyle Richardson, Tabled Letter, 21 October 2024.

¹⁸¹ Steve Tuck, Tabled Letter, 22 October 2024.

¹⁸² Julia Crossman, Statement of Evidence, 25 October, Para 3.3.

¹⁸³ Michelle Grinlinton-Hancock, Tabled Letter, 24 October, Appendix A.

¹⁸⁴ Now renumbered NATC-R1 in the Decision Version of the provisions.

3.10.2 Decision

[168] We adopt Ms White's assessment and recommendation and find it is appropriate to retain NATC-R2¹⁸⁵ as notified, except for the amendments to matters of discretion 6 and 7 in response to Transpower, as discussed in Section 3.8.1.

3.11 EARTHWORKS – NATC-R3¹⁸⁶

3.11.1 Assessment

[169] Given our findings in Section 2.15 relating to ECO-R3 we are satisfied that the relief sought by Transpower [159.77] has been appropriately addressed, noting Ms McLeod did not pursue this matter further in her evidence.

[170] At the hearing, Forest and Bird [156.125] maintained its position that PER-3 is too permissive. In Mr William's view, in the context of water-body margins, spatial limits should relate to the width of the margin in which the activity is to occur. Mr Williams submitted that if all RSI is to be included as recommended in the s42A Report (which Forest and Bird did not support) this makes it even more important to include spatial limits. His submission was that the limits should relate to the width of the margin in which the activity is to occur.¹⁸⁷ Mr Williams went on to say that in circumstances where proposed earthworks are substantial and would have significant adverse effects on the riparian margins of High Naturalness Water Bodies (HNWB), it would be appropriate for Council to be able to manage these adverse effects through a consenting process. We invited the submitter to provide alternative drafting to NATC-R3¹⁸⁸ PER-3 which permits earthworks for a 3m wide track.¹⁸⁹ We received a Memorandum in response to our request which suggested an alternative to limit earthworks to the lesser of 20% of the width of the margin, or 2m in width, or to limit the purpose of the track to that for use of walkers and bicycle.¹⁹⁰ We have considered the evidence and legal submissions on this matter, and find that it is not appropriate to limit the rule to what the use of the track will be, as this does not relate to the effects of such a track. We accept Ms White's evidence where she noted that riparian margins are typically between 10m-100m and as such there is no significant difference between 2m and 3m which would justify amendment of the rule.

[171] We generally accept the assessment and recommendations of Ms White in response to submissions¹⁹¹, and note that Rangitata Dairies [44.7]¹⁹² have indicated support of the conclusions reached by Ms White, as have Silver Fern Farms [172.61]¹⁹³, the Alliance Group

¹⁸⁵ Now renumbered NATC-R1 in the Decision Version of the provisions.

¹⁸⁶ Now renumbered NATC-R2 in the Decision Version of the provisions.

¹⁸⁷ Para 13; Tim Williams, Speaking Notes, 12 November 2024, Para 39-31.

¹⁸⁸ Now renumbered NATC-R2 in the Decision Version of the provisions.

¹⁸⁹ Panel Minute 19, 21 November 2024.

¹⁹⁰ Memorandum of Counsel, Tim Williams, 4 December 2024, paras 5-9.

¹⁹¹ Liz White, s42A Report: Ecosystems and Indigenous Biodiversity; Natural Character; and Nature Features and Landscapes, 9 October 2024, Para 8.6.10-8.6.18.

¹⁹² Justin O'Brien, Statement of Evidence presented at Hearing, un-dated.

¹⁹³ Steve Tuck, Tabled Letter, 22 October 2024.

[173.65]¹⁹⁴, OWL [181.13FS]¹⁹⁵, DOC [166.55]¹⁹⁶, Port Blakely [94.10]¹⁹⁷, and KiwiRail [187.60]¹⁹⁸ We heard no further evidence from submitters in response to the s42A Report.

[172] We accept Ms White's assessment and recommendation in response to the submissions by Te Kotare [115.30] and the Waipopo Huts [189.42] and find the recommended amendments to be appropriate for the reasons set out in her s42A Report.

3.11.2 Decision

[173] We adopt Ms White's analysis and recommendations. The amendments to NATC-R3¹⁹⁹ are set out in **Appendix 3**.

[174] In terms of s32AA, we adopt Ms White's evaluation in support of the changes made.

3.12 FENCES, BUILDINGS AND OTHER STRUCTURES – NATC-R4²⁰⁰ AND NATC-R5²⁰¹

3.12.1 Assessment

[175] We heard from Mr Speirs at the hearing [66.24] who sought that NATC-R4 be amended to also provide for a 'post and netting' fence, stating that such a fence will be appropriate in many situations. Mr Speirs helpfully shared with us examples of why the term 'post and wire' fencing would not be sufficiently clear. We consider the amendment proposed by Ms White in her Interim Reply to specifically reference 'post and netting fence'²⁰² is a sensible solution and one that addresses the submitter's concern appropriately.

[176] We accept Ms White's assessment and recommended amendments in response to the submissions by Te Kotare [115.31] and the Waipopo Huts [189.43].

[177] We accept the assessment of Ms White as set out in the s42A Report and agree with her recommendations.

3.12.2 Decision

[178] We adopt the assessment and recommendations of Ms White. The changes to NATC-R4 and NATC-R5 are set out in **Appendix 3**.

[179] In terms of s32AA, we are satisfied that the amendments are the most appropriate option for achieving the purpose of the RMA, the relevant provisions of the Plan and for giving effect to other relevant statutory instruments.

¹⁹⁴ Doyle Richardson, Tabled Letter, 21 October 2024.

¹⁹⁵ Julia Crossman, Statement of Evidence, 25 October, Para 3.3.

¹⁹⁶ Elizabeth Williams, Statement of Evidence, 29 October 2024, Appendix 1.

¹⁹⁷ Melissa Pearson, Statement of Evidence, 25 October 2024, Para 73-74.

¹⁹⁸ Michelle Grinlinton-Hancock, Tabled Letter, 24 October, Appendix A.

¹⁹⁹ Now renumbered NATC-R2 in the Decision Version of provisions.

²⁰⁰ Now renumbered NATC-R3 in the Decision Version of the provisions.

²⁰¹ Now renumbered NATC-R4 in the Decision Version of the provisions.

²⁰² Liz White, Interim Reply, 18 December 2024, Appendix A.

3.13 SUBDIVISION - NATC-R6²⁰³

3.13.1 Assessment

[180] We accept Ms White's assessment and recommendation as set out in the s42A Report, noting the locational change of the rule to the Subdivision Chapter now entitled 'SUB-R13 'Subdivision within a riparian margin'.

3.13.2 Decision

[181] We adopt Ms White's assessment and recommendation and find it is appropriate to retain NATC-R6 as notified, noting the locational change to the Subdivision Chapter.

3.14 DEFINITIONS RELATING TO NATC CHAPTER

3.14.1 Assessment

[182] Mr Speirs [66.6] spoke to us at the hearing in support of his submission to amend the definition of 'riparian margin'. Specifically, he considered that an additional diagram is required of a river without a flood plain. In response, Ms White recommended that given the diagram does not represent all examples, that it be removed from the definition.²⁰⁴ We agree that this change will avoid any confusion for plan users and note that the effect of the definition in the Plan will not be altered.

[183] Federated Farmers [182.26] sought the deletion of the definition of 'riparian zone (in relation to a river or lake)' as the term is not included anywhere in the Proposed Plan. Ms White agreed with its deletion.

[184] We accept Ms White's assessment and recommendations relating to the definitions used in the NATC Chapter, noting we heard no evidence to the contrary.

3.14.2 Decision

[185] We adopt Ms White's assessment and recommendations, and the changes are set out in **Appendix 3**.

[186] In terms of s32AA, we are satisfied that the deletion of the diagram used in the definition of 'riparian margin' has no consequential impact on the use and meaning of the definition, and that the deletion of the definition of 'riparian zone (in relation to a river or lake)' has no practical effect given the term is not used in the Proposed Plan. On this basis, we are satisfied that the original s32 evaluation continues to apply.

²⁰³ Now relocated and renumbered SUB-R13 in the Decision Version of the provisions.

²⁰⁴ Liz White, Interim Reply, 18 December 2024, Appendix A.

4 NATURAL FEATURES AND LANDSCAPES PROVISIONS

4.1 NFL CHAPTER – BROAD SUBMISSIONS

4.1.1 Assessment

[187] We have considered the broad submissions received on the NFL Chapter and generally accept Ms White’s assessment and recommendations, noting that we received no evidence to the contrary.

[188] Given our previous finding in Section 2.1 we are satisfied that the concerns of the Rooney Group²⁰⁵ in relation to the NFL Chapter have been appropriately addressed, and importantly, duplication and overlap between the Regional and District consenting functions will be avoided.

[189] We address the concerns of Port Blakely [94.1, 94.11] regarding some rules in the Proposed Plan being stricter than the NES-CF, in later sections corresponding to the specific provisions.

4.1.2 Decision

[190] We adopt Ms White’s assessment and recommendations; no changes in response to submissions are required.

4.2 NFL CHAPTER – MAPPING / SCHEDULING

4.2.1 Assessment

[191] Te Rūnanga o Ngāi Tahu [185.39, 185.40] sought that the NFL schedules should cross reference to SASM to ensure that the cultural values are fully recognised and protected as required by case law for landscape assessments. We have previously addressed this matter in Section 2.2.

[192] Mr Hart [149.1] attended the hearing and shared his concerns regarding ONF-2c in SCHED-9 including that the related provisions in the Proposed Plan may restrict what is possible on the land, resulting in reductions in productivity and property values. We are not persuaded that the regulations amount to an unjustified level of restriction. In reaching this view we note Ms White’s detailed review of how the rules apply to Mr Hart’s property where she states that:

In the areas identified as ONF, changes in land use that would include earthworks, tree planting (including afforestation), new irrigation or cultivation, or quarrying or mining would result in a consent. Changes to grazing, such as from sheep to deer, or mobstocking, would not trigger a consent requirement, if this was able to be undertaken without new irrigation or cultivation.²⁰⁶

²⁰⁵ Nathan Hole, Statement of Evidence, 25 October 2024: Representing submitters Rooney Holdings Ltd [174.30], Rooney, GJH [191.30], Rooney Group [249.30], Rooney Farms [250.30], Rooney Earthmoving [251.30] and TDL [252.30].

²⁰⁶ Liz White, Interim Reply, 18 December 2024, Appendix C.

[193] The Telcos²⁰⁷ sought that roads should be excluded from the provisions relating to the Outstanding Natural Features (ONF), Outstanding Natural Landscapes (ONL), and Visual Amenity Landscapes (VAL) overlays as they are a modified environment. In his evidence, Mr Anderson disagreed with Ms White's assessment and remained of the view that a greater height is required for facilities to achieve the functional and operational requirements of the telecommunication infrastructure.²⁰⁸ He considered a height limit of 25m is appropriate, provided the structures are slimline so as to not dominate the landscape. Mr Anderson also considered that it was appropriate for telecommunications services to be readily available in areas where people work and live, including those General Rural and Rural Lifestyle zoned land areas subject to VAL overlays.²⁰⁹ He noted that the Ms White considered VALs to be of a lower threshold than ONFs/ONLs and on this basis considered it was inappropriate for VALs to be subject to the same location provisions as ONFs/ONLs.

[194] In response to Panel questions, Mr Anderson confirmed for us that his view was based on his planning experiences with such structures in the Queenstown Lakes context and did not reflect any technical landscape expertise. Having considered the evidence on these matters we have placed considerable weight on the landscape expertise of Ms Pflüger and on that basis prefer the planning evidence of Ms White. We accept the recommended amendments to NFL-R3 and in doing so accept that higher heights can be supported in VALs given these are less sensitive and more modified rural environments.²¹⁰ NFL-R3 is discussed further in Section 4.9.

[195] RDRML [234.1] sought that all District Plan layers are removed from the Rangitata River, including ONLs and VALs, and questioned the lawfulness of mapping of ONLs and VALs in the riverbed. We heard from Mr McCormick at the hearing who helpfully explained the Rangitata Diversion Race (RDR) scheme, and the process involved with the ongoing maintenance, repair and replacement of the rock weir.²¹¹ Legal Counsel for RDRML then presented a range of drafting options that would address the relief sought by the submitter.²¹²

[196] In response to Panel questions, it became apparent that the RDRML Scheme rock weir is not located within the ONL, but is within the VAL.²¹³ As previously addressed in Section 2.1, in Minute 19²¹⁴ we directed Ms White, in conjunction with the Rooney Group and RDRML to provide us with an analysis of the relevant provisions of the Proposed Plan and the Regional Plan for the purposes of identifying gaps and/or duplication. We also requested further clarity of the ONL and VAL overlays in relation to the rock weir. Based on the evidence provided in response to Minute 19, we accept Ms White's evidence²¹⁵ and find the amendment to NFL-R2 to exclude application of the earthworks rules within ONLs and VALs to riverbeds to be appropriate.

²⁰⁷ Submission points: Connexa [176.73-176.75]; Spark [208.73-208.75]; Chorus [209.73-209.75] and Vodafone [210.73-210.75].

²⁰⁸ Tom Anderson, Statement of Evidence, 25 October 2024, Paras 12-20.

²⁰⁹ Tom Anderson, Statement of Evidence, 25 October 2024, Paras 21-25.

²¹⁰ Liz White, Interim Reply, 18 December 2024, Appendix A.

²¹¹ Tony McCormick, Statement of Evidence, 25 October 2024.

²¹² Vanessa Hamm / Cory Lipinski, 1 November 2024, Para 18.

²¹³ Liz White, Interim Reply to Minute 19, Appendix C, line 14.

²¹⁴ Panel Minute 19, 21 November 2024.

²¹⁵ Liz White, Interim Reply, 18 December 2024, Appendix A.

4.2.2 Decision

[197] We adopt Ms White's assessment and recommendations and find the changes to SCHED-8 and SCHED-9 and to NFL-R2 to be appropriate. The amendments are included in **Appendix 2** and **Appendix 3**.

[198] In terms of s32AA, we are satisfied that, given the minor nature of the changes to the Schedules, the original s32 evaluation continues to apply.

[199] Further, we are satisfied that the amendment to NFL-R2 is the most appropriate option for achieving the purpose of the RMA, the relevant provisions of the Plan and for giving effect to other relevant statutory instruments.

4.3 NFL CHAPTER – OBJECTIVES

4.3.1 Assessment

[200] ECan [183.88] and Te Rūnanga o Ngāi Tahu [185.80] confirmed acceptance of the s42A recommendations in relation to NFL-O1. We agree with Ms White's recommendation in her Interim Reply²¹⁶ that a reference to 'characteristics' as well as landscape values, is added to NFL-O1, to achieve drafting consistency with SCHED8 and SCHED9.

[201] In terms of NFL-O2, Te Rūnanga o Ngāi Tahu [185.81] sought that the reference to 'visual' amenity values be removed on the basis that amenity values have a broader meaning and that this achieves consistency with the terminology used in SCHED10.²¹⁷ We agree, and, on this basis, we accept Ms White's recommended amendment to the wording of NFL-O2 to achieve consistency with SCHED10.

4.3.2 Decision

[202] We adopt Ms White's assessment and recommendations and the changes to NFL-O1 and NFL-O2 are set out in **Appendix 3**.

[203] In terms of s32AA, we are satisfied that the amendments are the most appropriate option for achieving the purpose of the RMA, the relevant provisions of the Plan and for giving effect to other relevant statutory instruments.

4.4 NFL CHAPTER – APPROPRIATE USE AND DEVELOPMENT - NFL-P2

4.4.1 Assessment

[204] Te Rūnanga o Ngāi Tahu [185.83] sought that 'existing non-intensive primary production' is deleted from this policy 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 note that if the intent is to apply to existing activities, then these have existing use rights.

²¹⁶ Liz White, Interim Reply, 18 December 2024, Appendix A

²¹⁷ Rachel Pull, Tabled Letter to the Hearing Panel, 22 October 2024.

In response to the submission, Ms White recommended an amendment to NFL-P2 to align the policy with what is enabled in the rule framework.²¹⁸ In their tabled evidence, Te Rūnanga o Ngāi Tahu accepted Ms White's recommendation in part, however, remained of the view that the policy creates confusion as to which activities are appropriate or not and how that is assessed.²¹⁹ Having considered the provision and the evidence we agree with Ms White's assessment and concur that it is unclear what further changes are sought to NFL-P2. We are satisfied the provision is sufficiently clear and that no further changes are required in response to this submission.²²⁰

[205] We accept Ms White's assessment and recommendations in relation to the submissions from Federated Farmers [182.124] and Waka Kotahi [143.90] and find the amendments to NFL-P2 to be appropriate. We heard no other evidence to the contrary.

4.4.2 Decision

[206] We adopt Ms White's assessment and recommendations and the amendments to NFL-P2 are set out in **Appendix 3**.

[207] In terms of s32AA, we adopt Ms White's evaluation in support of the changes made.

4.5 NFL CHAPTER – VISUAL AMENITY LANDSCAPES (NFL-P3) AND PROTECTING ONFs AND ONLs (NFL-P4)

4.5.1 Assessment

[208] As addressed elsewhere in this Decision, Transpower [159.79, 159.80] accepts Ms White's recommendation that Transpower's relief should be accepted if a National Grid specific policy is included in the Energy and Infrastructure Chapter, as sought in Transpower's submission. We are satisfied that the recommended amendments to NFL-P4 address Transpower's submission appropriately.²²¹

[209] We accept Ms White's assessment and recommendations and note we received no evidence to the contrary.

4.5.2 Decision

[210] We adopt Ms White's analysis and recommendations. The amendments are set out in **Appendix 3**.

[211] In terms of s32AA, we are satisfied that the amendments are the most appropriate option for achieving the purpose of the RMA, the relevant provisions of the Plan and for giving effect to other relevant statutory instruments.

²¹⁸ Liz White, s42A Report: Ecosystems and Indigenous Biodiversity; Natural Character; and Nature Features and Landscapes, 9 October 2024, Para 9.4.8.

²¹⁹ Rachel Pull, Tabled Letter to the Hearing Panel, 22 October 2024.

²²⁰ Liz White, Interim Reply, 18 December 2024, Appendix A.

²²¹ Ainsley McLeod, Statement of Evidence, 25 October 2024, Para 29.

4.6 NFL CHAPTER – NEW POLICIES

4.6.1 Assessment

[212] Te Rūnanga o Ngāi Tahu [185.84] sought an additional policy to recognise and give guidance to cultural values and natural features and landscape areas. Ms White did not consider the policy was required for the reasons set out in her s42A Report and recommended the submission be rejected.²²²

[213] In its tabled letter, Te Rūnanga o Ngāi Tahu remained of the view that a new policy is required to provide better guidance to plan users on the associative values of the proposed ONLs in Schedule 8.²²³ As we have addressed previously, we find that this matter has been satisfactorily addressed by the introduction of cross references to SASM in SCHED8 and SCHED9 and on this basis we do not consider an additional policy is required.

4.6.2 Decision

[214] We adopt Ms White’s analysis and recommendations and agree an additional policy is unnecessary.

4.7 NFL CHAPTER – RULES – GENERAL

4.7.1 Assessment

[215] Te Rūnanga o Ngāi Tahu [185.86] sought that a matter of discretion relating to the extent of any impact on cultural values be added to all restricted discretionary activity rules in the NFL Chapter. Te Rūnanga o Ngāi Tahu disagreed with Ms White’s s42A assessment and continued to pursue the relief sought.²²⁴

[216] We find that this matter has been satisfactorily addressed by the introduction of cross references to SASM in SCHED8 and SCHED9 and on this basis we do not consider that an additional matter of discretion is required for the restricted discretionary activity rules in the NFL Chapter.

4.7.2 Decision

[217] We adopt Ms White’s analysis and recommendations and agree that no changes are required in response to this submission.

4.8 NFL CHAPTER – NFL-R1 AND NFL-R2

4.8.1 Assessment

[218] We accept the assessment and recommendations of Ms White, noting that we received no evidence to the contrary.

²²² Liz White, s42A Report: Ecosystems and Indigenous Biodiversity; Natural Character; and Nature Features and Landscapes, 9 October 2024, Para 9.7.3-9.7.4.

²²³ Rachel Pull, Tabled Letter to the Hearing Panel, 22 October 2024.

²²⁴ Rachel Pull, Tabled Letter to the Hearing Panel, 22 October 2024.

[219] Given our previous finding relating to the submission and evidence from RDRML in respect of the Rangitata Diversion Race Scheme's rock weir, we are satisfied that the exclusion of existing rock weirs from NFL-R2 is appropriate.

4.8.2 Decision

[220] We adopt Ms White's assessment and recommendation and the changes to NFL-R1 and NFL-R2 are set out in **Appendix 3**.

[221] In terms of s32AA, we are satisfied that the amendments are the most appropriate option for achieving the purpose of the RMA, the relevant provisions of the Plan and for giving effect to other relevant statutory instruments.

4.9 NFL CHAPTER – NETWORK UTILITIES – NFL-R3

4.9.1 Assessment

[222] Given our previous findings on the evidence²²⁵ presented to us by the Telcos²²⁶, we find the requested amendment to NFL-R3 to be inappropriate and agree with Ms White's assessment in this regard. We find the recommended changes to increase the permitted height for telecommunication facilities within VALs to 13m in the RLZ and 20m in the GRUZ to be acceptable given the landscape evidence provided by Ms Pflüger. While we acknowledge that the higher height limit as sought by the submitters would better provide for operational and functional needs of telecommunication facilities, we are satisfied that higher heights can be considered through a resource consent process on a case-by-case basis to ensure that landscape effects can be appropriately managed, consistent with EI-P2. We note that we have also addressed changes to NFL-R3 in Section 4.2 of this Report.

4.9.2 Decision

[223] We adopt Ms White's assessment and recommendation as set out in her Interim Reply.²²⁷ The changes to NFL-R3 are set out in **Appendix 3**.

[224] In terms of s32AA, we adopt Ms White's evaluation in support of the changes made.

4.10 NFL CHAPTER – FENCES, PLANTINGS AND PRIMARY PRODUCTION (NFL-R4, NFL-R5 AND NFL-R6).

4.10.1 Assessment

[225] Given our previous finding in response to the submission from Mr Speirs [66.24] and others in relation to NATC-R4 on the matter of providing for 'post and netting' fences, we accept Ms White's assessment and recommendations and find the recommended changes to NATC-R4 in response to submissions should apply in the same way to NFL-R4.

²²⁵ Tom Anderson, Statement of Evidence, 25 October 2024, Paras 12-25

²²⁶ Submission points: Connexa [176.76]; Spark [208.76]; Chorus [209.76] and Vodafone [210.76].

²²⁷ Liz White, Interim Reply, 18 December 2024, Appendix A.

[226] We accept Ms White's analysis and recommendations on Rules NFL-R4, NFL-R5 and NFL-R6 in response to submissions from Zolve [164.5] and Federated Farmers [182.130-182.132] and we find the recommended amendments to be appropriate, noting that we received no further evidence on NFL-R4, NFL-R5 and NFL-R6 from submitters.

4.10.2 Decision

[227] We adopt Ms White's assessment and recommendation and the changes to NFL-R4, NFL-R5 and NFL-R6 are set out in **Appendix 3**.

[228] In terms of s32AA, we adopt Ms White's evaluation in support of the changes made.

4.11 NFL CHAPTER – AFFORESTATION AND NEW ROADS AND TRACKS (NFL-R7 AND NFL-R8)

4.11.1 Assessment

[229] Several submissions were received on NFL-R7 and NFL-R8, as set out in Ms White's s42A Report.²²⁸ We accept the assessment and analysis of Ms White on NFL-R7 and NFL-R8 and find that the minor amendments to NFL-R7 and the deletion of NFL-R8 are appropriate to address submitter concerns. In reaching this view we note we received no further evidence to the contrary.

4.11.2 Decision

[230] We adopt Ms White's assessment and recommendation and the changes to NFL-R7 and deletion of NFL-R8 are set out in **Appendix 3**.

[231] In terms of s32AA, we adopt Ms White's evaluation in support of the changes made.

4.12 NFL CHAPTER SUBDIVISION – NFL-R9²²⁹

4.12.1 Assessment

[232] The Rooney Group²³⁰ opposed the inclusion of boundary adjustment subdivisions or subdivisions facilitating primary production activities in NFL-R9²³¹ and requested that the VAL Overlay be removed in its entirety from the rule. In his evidence, Mr Hole considered that a restricted discretionary activity rule would be more appropriate for boundary adjustment subdivisions or subdivision of land used for primary production within the VAL overlay.

[233] In terms of boundary adjustment subdivisions, we find that Ms White's recommendation in her Interim Reply²³² to amend NFL-R9²³³ to exclude the application of the

²²⁸ Liz White, s42A Report: Ecosystems and Indigenous Biodiversity; Natural Character; and Nature Features and Landscapes, 9 October 2024, Para 9.13.1-9.13.7.

²²⁹ Now relocated and renumbered SUB-R14 in the Decision Version of the provisions.

²³⁰ Nathan Hole, Statement of Evidence, 25 October 2024: Representing submitters Rooney Holdings Ltd [174.30], Rooney, GJH [191.30], Rooney Group [249.30], Rooney Farms [250.30], Rooney Earthmoving [251.30], and TDL [252.30].

²³¹ Now relocated and renumbered SUB-R14 in the Decision Version of the provisions.

²³² Liz White, Interim Reply, 18 December 2024, Appendix A.

²³³ Now relocated and renumbered SUB-R14 in the Decision Version of the provisions.

rule to boundary adjustments is appropriate and on this basis the submission is accepted in part.²³⁴ With regard to the matter of amending the rule to remove its application to the VAL Overlay, or to exclude boundary adjustment subdivisions and subdivisions of land used for primary production activities, Ms White remained of the view (relying on the Landscape and Coastal Study²³⁵) that this would not assist in the achievement of NFL-O1 or NFL-O2. We accept the recommendation of Ms White on this matter and find that it is inappropriate to accept the relief sought²³⁶.

[234] We accept Ms White's assessment and recommendations, noting the locational change of NFL-R9, now entitled SUB-R14 'Subdivision (excluding boundary adjustments) and natural features and landscapes' within the Subdivision Chapter.

4.12.2 Decision

[235] We adopt Ms White's assessment and recommendation and the change to NFL-R9²³⁷ is set out in **Appendix 3**, noting the locational change of this rule to the Subdivision Chapter.

[236] In terms of s32AA, we are satisfied that the amendments are the most appropriate option for achieving the purpose of the RMA, the relevant provisions of the Plan and for giving effect to other relevant statutory instruments.

4.13 NFL CHAPTER – NEW RULES

4.13.1 Assessment

[237] Te Rūnanga o Ngāi Tahu [185.85] requested the addition of a new rule in the NFL Chapter that would provide for Kāti Huirapa activities. Ms Pull disagreed with Ms White's recommendation to reject this submission on the basis that:

Both the schedules for ONL and ONF note that the Outstanding Landscape values and characteristics of these areas include Kāti Huirapa activities. Given these activities add to the high value of these landscapes, they should be a permitted activity, along with activities that enhance these values such as conservation.

Section 6 matters of national importance are of equal weight in law, meaning that ONL and ONF provisions should not override the relationship of Kāti Huirapa with their land, water, sites, wāhi tapu and other taonga. Without a permitted rule, there is the potential that this overlay will restrict these activities that are sought to be enabled in the underlying zoning or other overlays.

It is noted that buildings and structures associated with rural or residential activities or for a public amenity or network utility is permitted. Therefore, some buildings and structures are appropriate for these landscapes, depending on

²³⁴ We note that the recommended change to NFL-R9 as set out in Ms White's Interim s42A Reply did not carry over to the Reply version of provisions. We have made this change in the relocated and renumbered SUB-R14 provision in the Decision Versions of the provisions.

²³⁵ Timaru Landscape and Coastal Study report (Boffa Miskell, 2020)

²³⁶ Liz White, Interim Reply, 18 December 2024, Appendix A.

²³⁷ Now relocated and renumbered SUB-R14 in the Decision Version of the provisions.

the activity. The Kāti Huirapa activities proposed all link to the identified high values of these areas and therefore a continuation of them will only strengthen those values.²³⁸

[238] We accept Ms White’s assessment and recommendations and agree that while the Proposed Plan needs to recognise and provide for the relationship of Māori with sites and other taonga, it also needs to recognise and provide for the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development. Ms White’s opinion is that buildings and structures associated with Mahika kai should not be a permitted activity in areas identified as having significant landscape values, however, she noted that 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 with an ONF/ONL/VAL. Although Ms Pull provided commentary on the s42A response in her letter, there was no accompanying s32AA evaluation to support consideration of a new rule with potentially wide-ranging effects, given the buildings for the list of activities proposed by Ms Pull should be permitted activities on ONF/ONL and VAL landscapes. We did not have sufficient evidence before us to accept the relief sought by Ms Pull.

4.13.2 Decision

[239] We adopt Ms White’s recommendation and find that no new rule is justified on the evidence before us.

4.14 NFL CHAPTER – STANDARDS

4.14.1 Assessment

[240] In response to a submission from Mr Frank [19.16], Ms White, relying on technical input from Ms Pflüger, accepted the relief sought in part and recommended amendments to NFL-R1 and NFL-S2.1 to amend the ONL and ONF mapping to apply above 500m, instead of 900m as notified. In Minute 19 we directed that further information be provided on the recommended changes in terms of how many landowners may be affected along with an additional 32AA analysis if required. Having reviewed Ms Vella’s legal submissions²³⁹, Ms White’s Interim Reply²⁴⁰, and Ms Pflüger’s updated map²⁴¹ (which more clearly outlines the areas affected by reducing NFL-S2.1 from 900m to 500m), we are satisfied that the recommended changes are within scope and that they are appropriate.

[241] Rooney Group²⁴², Federated Farmers [182.134] and TDC [42.36] also sought a range of amendments to NFL-S3, S4, S5 and S6. We accept Ms White’s assessment and recommendations in relation to these Standards. We find the amendments to NFL-R1, NFL-

²³⁸ Rachel Pull, Tabled Letter to the Hearing Panel, 22 October 2024.

²³⁹ Jen Vella, Legal Submissions of Counsel, 19 December 2024, Paras 44-47.

²⁴⁰ Liz White, Interim Reply, 18 December 2024, Appendix C.

²⁴¹ Liz White, Interim Reply, 18 December 2024, Attachment 1.

²⁴² 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], and TDL [252.40, 252.41, 252.42, 252.43]

S2.1, NFL-S5.2, NFL-S6.1.1 and NFL-S6.2.1 to address submitter concerns appropriately. We note we received no evidence to the contrary.

4.14.2 Decision

[242] We adopt Ms White's analysis and recommendations. The changes to provisions are set out in **Appendix 3**.

[243] In terms of s32AA, we adopt Ms White's evaluation in support of the changes made.

4.15 DEFINITIONS RELATING TO NFL CHAPTER

4.15.1 Assessment

[244] We accept Ms White's assessment and recommendations and agree that no changes are required to the definition of 'amenity planting'. In reaching this view we note that Federated Farmers [182.6] did not pursue this submission point further in response to the s42A recommendation.

4.15.2 Decision

[245] We adopt Ms White's assessment and recommendation; no changes are required.

5 COASTAL ENVIRONMENT

5.1 COASTAL ENVIRONMENT OVERVIEW – COASTAL HAZARDS

5.1.1 Assessment

[246] As notified, coastal hazards were addressed in the CE Chapter (as required by the NPS). However, Mr Willis, the s42A author for both the NH and CE Chapters recommended that the CE natural hazard provisions be merged into the NH Chapter.²⁴³ PrimePort [175], whose activities are significantly impacted by the CE Chapter, agreed that the provisions would be better merged into the NH Chapter.²⁴⁴ We agree and in our decision on the NH Chapter considered that natural hazard provisions are unnecessarily duplicated and potentially confusing given the interrelationship between multiple hazard sources in the District.

[247] Having considered the requirements of the NPS and the structure of the Proposed Plan we are satisfied that provided there are appropriate linkages between the two Chapters, to direct plan users based in the CE Chapter to the NH Chapter for the relevant provisions, then a similar outcome is achieved, and is not inconsistent with the direction in the NPS.

[248] The Panel directed expert conferencing between Mr Willis and Mr Walsh, on behalf of PrimePort, to provide a merged set of replacement provisions to ensure that the Port of Timaru (which is the regionally significant infrastructure located in the coastal environment) is appropriately addressed through the merging of the provisions. In effect the outcome was to:

²⁴³ Andrew Willis, s42A Report, 25 March 2025, paragraph 1.25 and 1.26

²⁴⁴ Statement of Evidence, Tim Walsh, 9 April 2025, paragraph 50

- (a) make changes to the PrimePort provisions as agreed between Mr Willis and Mr Walsh;²⁴⁵
- (b) delete the coastal hazards related provisions in the CE Chapter;
- (c) insert the coastal hazards provisions into the NH Chapter as standalone provisions (e.g. NH-OX²⁴⁶, NH-P9, NH-P12, NH-P13, and NH-R2²⁴⁷);
- (d) merge other provisions into the natural hazards provisions where possible (e.g. amending NH-P3 and NH-P11, and amending NH-R3, NH-R4, NH-R5 and NH-R6²⁴⁸ to include the Coastal Environment Area Overlay, Sea Water Inundation Overlay and Coastal Erosion Overlay provisions where required);
- (e) amend the NH Chapter introduction to specify it also covers coastal hazards; and
- (f) other minor amendments (such as provision re-numbering).

[249] The Panel has reviewed the amendments recommended by Mr Willis, as updated in the Final Reply (dated 10 October 2025) and considers the changes to the structure to be appropriate. We adopt Mr Willis' recommendation in relation to the structure of the merged provisions.

[250] Our assessment of the remaining CE Chapter is exclusive of the amended provisions relating to coastal hazards as these are now addressed in our decision of the NH Chapter. Where provision numbers have changed in the Decision Version of provisions in **Appendix 3** from the notified Plan, we have used the Decision Version numbering in the section headings, following the order of provisions as set out in the Decision Version of the CE Chapter, and provided a footnote with the notified provision number to assist the reader of this Decision. We note that provision numbering containing an X, Y or Z were proposed in the s42A Report. Refer to **Appendix 1** for a list of renumbered provisions in the CE and NH Chapters.

5.1.2 Decision

[251] We adopt the recommended amendments to the structure of CE Chapter including any consequential deletions and amendments to matters now addressed in the NH Chapter. We adopt the provisions in **Appendix 3**.

[252] We adopt Mr Willis' advice that no further s32AA evaluation is required for this structural change. To the extent the provisions are modified to address the submission of PrimePort, we adopt the s32AA evaluation as set out in Mr Willis and Mr Walsh (for PrimePort) JWS. We are satisfied that the structural changes can be accommodated in accordance with RMA, Schedule 1, cl 16(2)(b).

²⁴⁵ Joint Witness Statement, 30 June 2025 in response to Minute 34

²⁴⁶ Now renumbered NH-O2 in the Decision Version of the provisions.

²⁴⁷ Now renumbered NH-R3 in the Decision Version of the provisions.

²⁴⁸ Now renumbered NH-R4, NH-R5, NH-R7 and NH-R8 in the Decision Version of the provisions.

5.2 DEFINITION OF AMENITY PLANTING

5.2.1 Assessment

[253] Federated Farmers [182.6] consider the definition of ‘amenity planting’ is clear but considers it would be appropriate to add further to the definition to include rural residential development within the definition.

[254] Mr Willis did not support this change to the definition, as the definition enables amenity planting to be associated with a house irrespective of the zone it is located within. Making the changes sought by the submitter would add new, undefined terms, which would not assist in its implementation.

[255] We agree with Mr Willis and make no changes to the definition of amenity plantings.

5.2.2 Decision

[256] We adopt Mr Willis’ analysis and recommendations and make no changes to the definition of amenity planting.

5.3 GENERAL AND INTRODUCTION

5.3.1 Assessment

[257] Forest and Bird [156.138, 156.140, 156.162] identified perceived shortcomings in the provisions, in particular that there are no provisions for the protection of ONLs and ONFs in the coastal environment, and that the Chapter does not appropriately address matters in the NZCPS. The submitter also considered there are deficiencies in the objectives and policies, meaning that the rules cannot be supported given these deficiencies. We did not hear further from the submitter at the hearing.

[258] Federated Farmers [182.169] considered it is important that the Proposed Plan provides for everyday agricultural activities to occur in the coastal environment and that it is appropriate to delete areas of coastal High Natural Character (HNC).

[259] ECan [183.107 and 183.110] considered there appears to be several gaps in relation to the provisions for activities in the coastal environment, for example, implementation of Policy 11 relating to indigenous biological diversity. ECan’s submission sought that the Chapter is reviewed against the NZCPS to ensure that it gives effect to all the requirements of it. The submission also considered it was unclear how the provisions address key provisions in the NZCPS, particularly what it calls the ‘bottom line’ provisions of policies 11, 13 and 15, which require, in its view, a ‘no adverse effects’ outcome on certain significant resources. DOC was a further submission supporting these submission points [FS166.23 and FS166.24].

[260] Mr Willis in his s42A Report considered the submissions from both Forest and Bird and ECan related to the CE Chapter having gaps and deficiencies. With respect to Forest and Bird’s submission that provisions for ONF and ONLs are not appropriately addressed, Mr Willis noted that there is only one ONF in the coastal environment, being ONF-5. He considered

that, for efficiency and consistency, it was appropriate for ONFs to be addressed in the NFL Chapter as proposed in the Plan. Mr Willis also relied on the evidence of Ms Pflüger in Appendix 5 of his s42A report (under Federated Farmers [182.169]), that there are no Outstanding Natural Character (ONC) areas in the CE that meet the threshold for inclusion in the Proposed Plan. Mr Willis did not recommend any changes be made in relation to these submissions. We did not receive any further evidence or information from Forest and Bird at the hearing. The Panel agrees with Mr Willis that no changes are required in response to these submissions.

[261] With respect to the submission from ECan, Mr Willis was not clear which matters ECan considered were missing from the Chapter. He went on to note that this is clarified in the ECan [183.110] submission. Regarding indigenous biodiversity (NZCPS Policy 11), there are SNAs in the CE, but these are managed in the ECO Chapter. Regarding natural character (NZCPS Policy 13), there are no areas identified with ONC (NZCPS Policy 13(1)(a)), there are, however, areas identified as High Natural Character (HNC) (NZCPS Policy 13(1)(b)). He considered that the CE Chapter does seek to avoid significant adverse effects, and to avoid, remedy or mitigate other adverse effects of activities on natural character, and this is clearly reflected in CE-P10 and CE-P11²⁴⁹ and in rules that implement these. As with the submissions of Forest and Bird, Mr Willis considered that natural features and landscapes (NZCPS Policy 15) are addressed in the NFL Chapter. Mr Willis recommended that the introduction of the CE Chapter be changed to set out the reliance on provisions in other chapters and recommended wording to achieve this. Ms Francis²⁵⁰ appearing at the hearing for ECan supported the recommendation of Mr Willis in response to these submission points. Ms Williams²⁵¹ appearing for DOC on their further submission also expressed her support for Mr Willis' recommended changes.

[262] Regarding the Federated Farmers [182.169] submission, Mr Willis considered it important that the Proposed Plan provides for everyday agricultural activities to occur in the coastal environment. He noted that the plan generally supports these activities, except for primary production activities in the HNC Overlay, which is the overlay the submitter is seeking to delete. Based on evidence of Ms Pflüger, who considered the requirements for high natural character under NZCPS 13(1)(c), Mr Willis considered that the Council could only remove these areas if evidence is presented showing that the identified HNC areas fail to meet the necessary threshold for inclusion. Mr Willis noted that the submitter did not provide such evidence in their submission and his recommendation was that the submission be rejected. We did not receive any further evidence or information from the submitter at the hearing.

[263] We agree with Mr Willis' recommendations, which are supported by Ms Francis and Ms Williams. Updating the Introduction of the CE Chapter to clearly show how provisions in other chapters relate to coastal matters will help users understand how this chapter integrates with the rest of the Plan.

²⁴⁹ Now renumbered CE-P8 and CE-P9 in the Decision Version of the provisions.

²⁵⁰ Evidence of Ms Francis to Hearing F, 9 April 2025 Appendix 2

²⁵¹ Evidence of Ms Williams to Hearing F, 9 April 2025, Paragraph 73

5.3.2 Decision

[264] We adopt Mr Willis' analysis and recommendations. The amended wording of the Introduction is set out in **Appendix 3**.

[265] In terms of s32AA, we are satisfied that the scale of changes is minor and provide clarity that will assist with the integration of the Proposed Plan. The amendments are the most appropriate option for achieving the purpose of the relevant provisions of the Plan and for giving effect to other relevant statutory instruments.

5.4 OBJECTIVE CE-O1 COASTAL NATURAL CHARACTER

5.4.1 Assessment

[266] Forest and Bird [156.142] submitted that the objective conflates s5 with s6 of the RMA which is not appropriate. Forest and Bird sought to amend the objective to remove consideration of enabling people and communities to provide for their social, economic, and cultural wellbeing and their health and safety. We did not hear further from the submitter at the hearing.

[267] Mr Willis, in his s42A Report²⁵², noted that NZCPS Objective 6 clearly seeks to enable people and communities to provide for their social, economic, and cultural wellbeing and their health and safety, through subdivision, use, and development, and then proceeds to refine matters and areas to recognise. He did not recommend making any changes. We did not receive any further evidence or information from Forest and Bird at the hearing. We agree with Mr Willis that no changes are required in response to these submissions.

5.4.2 Decision

[268] We adopt Mr Willis' analysis and recommendations. No changes are made to the provision.

5.5 OBJECTIVE CE-O2 QUALITY OF THE COASTAL ENVIRONMENT

5.5.1 Assessment

[269] Forest and Bird [156.143] sought that the objective be deleted as the submitter considered it is subjective as to what "quality" of the coastal environment is. The submitter considered that the wording is not clear as it is more about access to beaches and public spaces, than the coastal environment generally.

[270] Mr Willis recognised that the term 'quality' could be subjective but noted that the NZCPS Objective 4 uses the term 'qualities'. Mr Willis identified that Policy CE-P8²⁵³ in the Proposed Plan lists the qualities of the coastal environment that are to be maintained or enhanced. He considered that it was not necessary to further define this term. We did not receive any further information or evidence from the submitter on this provision.

²⁵² Andrew Willis S42A report paragraph 8.4.4

²⁵³ Now renumbered CE-P6 in the Decision Version of the provisions.

[271] We accept Mr Willis' analysis and recommendations addressing this objective and we consider that the wording is appropriate. The policy that implements the objective provides appropriate guidance as to the qualities being addressed.

5.5.2 Decision

[272] We adopt Mr Willis' analysis and recommendations. No changes are made to the provision.

5.6 OBJECTIVE CE-O3 KĀTI HUIRAPA VALUES

5.6.1 Assessment

[273] Te Rūnanga o Ngāi Tahu [185.42] submitted that the relationship of Kāti Huirapa with their values and traditions is important and sought that the wording of the objective be expanded to identify what this relationship includes by referencing the exercise of rakatirataka and kaitiakitaka.

[274] Mr Willis considered the mana whenua provisions (MW2.1.5 and MW2.1.6) and noted that rangatirataka and kaitiakitaka are addressed in defined ways. Mr Willis noted the relationship between the CE Chapter and the SASM Chapter. SASM-P1 seeks to recognise and provide for the exercise of rangitirataka by Kāti Huirapa in decisions made in relation to SASMs. Mr Willis supported including qualified additions of rangatirataka and kaitiakitaka that are consistent with MW2.1.5 and MW2.1.6, as expressed through MW2.2.5, rather than the wording specifically sought by the submitter. We did not hear further from the submitter at the hearing. Mr Willis recommended the submission be accepted in part.

[275] We accept Mr Willis' analysis and recommendations addressing this objective, in particular ensuring that the wording and use of terms is consistent with the provisions in the MW Chapter.

5.6.2 Decision

[276] We adopt Mr Willis' analysis and recommendations. The amendments to CE-O3 are set out in **Appendix 3**.

[277] In terms of s32AA, we are satisfied that the amendments are the most appropriate option for achieving the relevant provisions of the Proposed Plan, particularly the MW Chapter and for giving effect to other relevant statutory instruments.

5.7 OBJECTIVE CE-O4 EXISTING URBAN ACTIVITIES²⁵⁴

5.7.1 Assessment

[278] There were three submissions seeking changes to this objective. Forest and Bird [156.147] considered the Timaru Port is already captured by the RSI provisions in the EI Chapter and that not all existing activities can be assumed to be appropriate or even lawfully

²⁵⁴ Previously CE-O6

established. The submitter considered that when considering what is “appropriate” under the NZCPS, this is in the context of what is to be protected. They sought amendments to reference that some activities may not be inappropriate, but to exclude the reference to the Port of Timaru. We did not hear further from the submitter at the hearing.

[279] Fenlea Farms [171.20] opposed the objective as it does not protect existing rural activities and sought amendments to recognise existing rural activities and to provide for these activities or include a new objective for this. Silver Fern Farms [172.80] considered that the objective fails to recognise existing activities located outside the urban environment but within highly modified parts of the mapped “coastal environment” - such as the Pareora processing site, where substantial industrial development is present within the proposed Coastal Environment Overlay.

[280] Mr Willis considered that the objective is principally focussed on urban activities in urban zoned areas of the coastal environment as these are highly modified environments but may also cover other existing urban-type activities in the rural zone. It does not seek to enable all existing activities, including rural activities, as these may not be within highly modified environments. Mr Willis considered focusing on highly modified environments is the correct approach, rather than seeking to protect existing use rights per se (which already have statutory protection under the RMA). He also considered it is appropriate to continue to provide for these activities in highly modified environments.

[281] Mr Willis recommended a minor change to the objective to refer to “urban zoned areas”. This approach would support recognising Silver Fern Farms GIZ-zoned Pareora processing site as being highly modified.

[282] We agree that the clarification provided by Mr Willis will improve the ability to apply the objective. We accept that, particularly within urban areas, the coastal environment is highly modified, and it is appropriate for the objective to explicitly recognise this.

5.7.2 Decision

[283] We adopt Mr Willis’ analysis and recommendations. The amendments to Objective CE-O4²⁵⁵ are set out in **Appendix 3**.

[284] In terms of s32AA, we are satisfied that the amendments seek to provide clarity in the application of the provisions and are the most appropriate option for achieving the purpose of the RMA, the relevant provisions of the Plan and for giving effect to other relevant statutory instruments.

²⁵⁵ Previously CE-O6

5.8 NEW OBJECTIVE

5.8.1 Assessment

[285] KiwiRail [187.68] sought a new objective to provide a link to Objective EI-O2 to ensure RSI can be located in sensitive environments (such as the CE) where there is a functional or operational need to be in that location.

[286] Mr Willis acknowledged that Policy CE-P11.1²⁵⁶ directly addresses RSI and refers to EI-P2 (in addition, CE-R7 and CE-R8²⁵⁷ expressly cover RSI in the Coastal Environment). While there is a policy linkage to the EI Chapter within the CE Chapter, he recognised that it lacks any RSI specific guidance at the objective level, and adding such an objective would be beneficial.

[287] Mr Willis considered that EI-O2 and EI-P2 seek to appropriately manage RSI in the CE. We have addressed these provisions Part 5 of the Report. In that decision we altered the wording EI-O2 and EI-P2, but they remain the key provisions for managing infrastructure in sensitive environments including the CE. The recommended wording of the new objective for inclusion in the CE Chapter specifically references EI-O2 as the relevant objective in the EI Chapter. Ms Heppelthwaite²⁵⁸ giving planning evidence for KiwiRail agreed with the reasoning and wording recommended by Mr Willis.

[288] We accept the recommendation of Mr Willis supported by Ms Heppelthwaite and consider that the wording of the new objective will work with the amended wording for EI-O2, which we determined in Part 5 of the Decision Report.

5.8.2 Decision

[289] We adopt Mr Willis' analysis and recommendations. The wording of the new Objective CE-O5 (in the Decision Version of the provisions) is set out in **Appendix 3**.

[290] In terms of s32AA, we are satisfied that the amendments seek to provide clarity and promote integration with provisions applying to infrastructure within the Proposed Plan, particularly within the EI Chapter. We consider the new objective is the most appropriate option for achieving the relevant provisions of the Plan and for giving effect to other relevant statutory instruments.

5.9 POLICY CE-P2 IDENTIFYING AREAS OF HIGH COASTAL NATURAL CHARACTER

5.9.1 Assessment

[291] Forest and Bird [156.150] submitted that there is no requirement in the policy to map areas of high natural character and sought CE-P2 be amended to include this. Mr Willis

²⁵⁶ Now renumbered CE-P9 in the Decision Version of the provisions.

²⁵⁷ Now renumbered CE-R8 and CE-R9 in the Decision Version of the provisions.

²⁵⁸ Evidence of Ms Heppelthwaite to Hearing F, 9 April 2025 Paragraph 6e.

identified that the Proposed Plan has identified these areas through an Overlay on the planning maps and as such considered a reference to mapping could be included.

[292] We accept the recommendation of Mr Willis.

5.9.2 Decision

[293] We adopt Mr Willis' analysis and recommendations. The wording of Policy CE-P2 is set out in **Appendix 3**.

[294] In terms of s32AA, we are satisfied that the amendments are minor and reflect the approach already taken in the Proposed Plan. We are satisfied that the original s32 evaluation continues to apply.

5.10 POLICY CE-P3²⁵⁹ COASTAL NATURAL CHARACTER MATTERS

5.10.1 Assessment

[295] Forest and Bird [156.153] sought that the policy recognise that the list of matters included in the policy is not an exhaustive list of matters to be considered, in line with NZCPS Policy 13(2).

[296] Te Rūnanga o Ngāi Tahu [185.43] considered that the attributes/qualities of the Coastal Natural Character include its cultural values as identified in the Objectives for this Chapter. The submitter considered this should be provided for in the policy recognising these matters and sought recognition of the relationship and values of Kāti Huirapa within the policy.

[297] Mr Willis recommended that it is appropriate to clarify that the matters in the policy are not an exhaustive list. With respect to the submission of Te Rūnanga o Ngāi Tahu Mr Willis²⁶⁰ stated that:

Regarding the Te Rūnanga o Ngāi Tahu [185.43] submission, I disagree that attributes/qualities of the Coastal Natural Character includes the relationship and values of Kāti Huirapa because this policy is about natural character, not social or cultural character or other associative values. I note that the relationship of Kāti Huirapa's relationship with the coastal environment is already covered in CE-P6. I therefore recommend that this submission is rejected.

[298] We did not receive any further evidence from the submitter at the hearing on this matter. We accept in part the analysis and reasoning of Mr Willis regarding the focus of the policy being on natural character values, but do not fully agree that the policy does not address social or other associative values. The policy does address experiential attributes including the sounds and smell of the sea; and their context. Therefore, while not fully accepting the reasoning of Mr Willis we do accept that a change is not required to this policy. We note that Policy CE-P4²⁶¹ specifically addresses Kāti Huirapa values. Given that the policies will be

²⁵⁹ Previously CE-P5

²⁶⁰ Mr Willis S42A report paragraph 8.14.6

²⁶¹ Previously CE-P6

considered as a suite of provisions, it is not necessary to include Kāti Huirapa values within CE-P3²⁶² as it is already addressed in CE-P4²⁶³.

5.10.2 Decision

[299] We adopt Mr Willis' analysis in part and have provided our own analysis where we did not accept Mr Willis' reasoning. We adopt Mr Willis' recommendations. The wording of Policy CE-P3²⁶⁴ is set out in **Appendix 3**.

[300] In terms of s32AA, we are satisfied that the amendment is minor and more accurately reflects the wording in the higher order NZCPS Policy 13.

5.11 POLICY CE-P5²⁶⁵ RESTORATION OR REHABILITATION OF NATURAL CHARACTER

5.11.1 Assessment

[301] Forest and Bird [156.155] considered this policy did not give effect to NZCPS Policy 14 and that it uses the word enhancement, rather than restore or rehabilitate. The submitter sought that the wording better aligns with the NZCPS policy. Mr Willis agreed that the policy should better align with NZCPS Policy 14 and recommended the submission be accepted.

[302] We accept the recommendation of Mr Willis and make changes to better align the provision with NZCPS Policy 14.

5.11.2 Decision

[303] We adopt Mr Willis' analysis and recommendations. The wording of Objective CE-P5²⁶⁶ is set out in **Appendix 3**.

[304] In terms of s32AA we consider the amended wording is the most appropriate option for achieving the relevant provisions of the Plan and for giving effect to other relevant statutory instruments, particularly NSCPS Policy 14.

5.12 POLICY CE-P6²⁶⁷ MAINTAIN AND/OR ENHANCE THE QUALITY OF THE COASTAL ENVIRONMENT

5.12.1 Assessment

[305] ECan [183.122] considered the drafting of this policy uses very permissive language ("enable"), whereas the structure of the NZCPS, particularly in relation to Policy 7, is to consider how and when to provide for development in the CE, and to identify where development is inappropriate. Amendments were sought by the submitter.

²⁶² Previously CE-P5

²⁶³ Previously CE-P6

²⁶⁴ Previously CE-P5

²⁶⁵ Previously CE-P7

²⁶⁶ Previously CE-P7

²⁶⁷ Previously CE-P8

[306] Te Rūnanga o Ngāi Tahu [185.45] supported this policy but submitted that the attributes of the CE as documented in the Schedules are also a consideration. The submitter sought that the attributes and values that are identified in any Overlay relating to the site be included within the policy.

[307] Regarding the ECan submission, Mr Willis reviewed NZCPS Policy 7 and also NZCPS Policy 6 and considered on balance that the amendments sought by the submitter were more aligned with the NZCPS and its Objectives for the CE, together with the supporting CE Chapter Rules (for example CE-R4.2 which requires resource consent for large buildings and CE-R11²⁶⁸ which requires consent for subdivision). He recommended the submission be accepted. In doing so he noted that the wording 'enable...where' is the more usual Proposed Plan drafting style, however he supported departing from this to align with the NZCPS. Ms Francis²⁶⁹ appearing for ECan supported the recommendation of Mr Willis.

[308] Regarding Te Rūnanga o Ngāi Tahu Mr Willis agreed that the attributes / values identified in the applicable Overlays relating to the site are relevant considerations. He noted that while these are already separately managed in other Chapters of the Proposed Plan, that in this instance referencing these helps integration.

[309] We accept the analysis and recommendation provided by Mr Willis that the changes sought by the submitters will better align with the NZCPS policies and will assist integration within the Plan.

5.12.2 Decision

[310] We adopt Mr Willis' analysis and recommendations. The amendments to Policy CE-P6²⁷⁰ are set out in **Appendix 3**.

[311] In terms of s32AA, we are satisfied that the amendments are the most appropriate option for achieving the purpose of the relevant provisions of the Plan and for giving effect to other relevant statutory instruments, particularly the NZCPS.

5.13 POLICY CE-P7²⁷¹ ANTICIPATED ACTIVITIES

5.13.1 Assessment

[312] Forest and Bird [156.156] considered this policy did not give effect to the NZCPS, particularly Policy 6, and that it should be deleted. We did not hear further from the submitter at the hearing.

[313] Silver Fern Farms [172.85] did not support this policy as it disregards the significant extent of industrial development that is outside the defined 'urban areas'. The particular focus for the submitter was their Pareora processing site.

²⁶⁸ Now relocated and renumbered SUB-R6 in the Decision Version of the provisions.

²⁶⁹ Evidence of Ms Francis to Hearing F, 9 April 2025 Appendix 2

²⁷⁰ Previously CE-P8.

²⁷¹ Previously CE-P9

[314] ECan [183.123] considered that the drafting of this policy uses very permissive language ("enable"), whereas the structure of the NZCPS, particularly in relation to Policy 7, is to consider how and when to provide for development in the CE, and to identify where development is inappropriate.

[315] Mr Willis did not agree with Forest and Bird that the policy did not give effect to the NZCPS. Mr Willis specifically considered NZCPS Policy 6(b) covers built development and infrastructure where this does not compromise values of the coastal environment and Policy 6(f) relates to maintaining the character of the existing built environment. We did not hear further from the submitter on this matter.

[316] Regarding the Silver Fern Farms submission, Mr Willis stated that his understanding was that this policy was intended to apply to urban zoned areas, rather than 'urban areas' as defined in the Proposed Plan. He agreed with the submitter that the GIZ zone at Pareora is significant and existing and should be considered as urban under clause 2 of the policy. Consistent with other related recommendations, he recommended the policy be amended to refer to "urban zoned areas".

[317] Regarding the ECan submission, consistent with his assessment on ECan [183.122] Mr Willis concluded on balance that the amendments sought by ECan are more aligned with the NZCPS and its Objectives for the CE, together with the supporting CE Chapter Rules (for example CE-R4.2 which requires a resource consent for large buildings and CE-R11²⁷² which requires a resource consent for subdivision). Ms Francis²⁷³ appearing for ECan supported the recommendation of Mr Willis.

[318] We accept the analysis and recommendation provided by Mr Willis that the changes sought by the submitters will better align with the NZCPS policies and will assist integration within the Proposed Plan.

5.13.2 Decision

[319] We adopt Mr Willis' analysis and recommendations. The amendments to Policy CE-P7²⁷⁴ are set out in **Appendix 3**.

[320] In terms of s32AA, we adopt the evaluation of Mr Willis in support of the changes made.

5.14 POLICY CE-P8²⁷⁵ PRESERVING THE NATURAL CHARACTER OF THE COASTAL ENVIRONMENT

5.14.1 Assessment

[321] Several submissions were received on this provision, some in support and others opposing and seeking changes.

²⁷² Now renumbered SUB-R6 in the Decision Version of the provisions.

²⁷³ Evidence of Ms Francis to Hearing F, 9 April 2025 Appendix 2

²⁷⁴ Previously CE-P9

²⁷⁵ Previously CE-P10

[322] Forest and Bird [156.157] considered this policy did not reflect the NZCPS Policy 13 in full. The submitter considered there should be at least three classifications of natural character in the coastal environment, i.e., Outstanding Natural Character, High Natural Character, and other natural character. The submitter sought to delete the policy and add a new policy in accordance with NZCPS Policy 13.

[323] Transpower [159.84] supported the explicit cross reference to Policy EI-P2 and considered that providing the direction in respect of the RSI and natural character in the CE in one place avoids duplication and the potential for conflict. The submitter also sought the inclusion of a further cross-reference to a proposed new Policy EI-PX which was contained in Transpower's submission on the EI Chapter, and we have addressed this in Part 5 of our Decision Report.

[324] The next group of submitters all addressed matters relevant to rural activities or rural industry. Fonterra [165.90] supported the recognition that some activities have a functional need to locate in areas within the coastal environment and sought to add 'rural industry'. Fenlea Farms [171.21] opposed the policy as intensive farming can be managed appropriately within a CE through matters of control or discretion and should not be automatically non-complying. Alliance Group [173.86] considered this policy is generally consistent with NZCPS Policy 13 (preservation of natural character), however sought minor amendments to improve the precision of the policy. Hort NZ [245.74] supported the recognition that in Rural Zoned areas, buildings and structures for non-intensive primary production and residential activities may be appropriate depending on their size, scale, and nature. They considered there is also a need to recognise that primary production land use is also appropriate in the CE.

[325] ECan [183.124] considered the drafting of this policy uses very permissive language ("enable"), whereas the structure of the NZCPS, particularly in relation to Policy 7, is to consider how and when to provide for development in the CE, and to identify where development is inappropriate.

[326] In addressing the submissions of Forest and Bird, Mr Willis considered that the policy does reflect NZCPS Policy 13. He identified that there are no references to ONC areas not because the policy is deficient but because, based on the evaluation of Ms Pflüger, there are no character areas identified that meet the threshold for an ONC. We did not hear further from the submitter at the hearing.

[327] Mr Willis supported the submission of Transpower to include reference to the specific policy in the EI Chapter addressing the National Grid. Transpower²⁷⁶ confirmed its support for this recommendation.

[328] Regarding the submissions from Fonterra and Hort NZ Mr Willis noted that 'rural industry' would include activities such as horticultural / agricultural / aquaculture packing sheds and processing of products for distribution (e.g. meat and milk factories, sawmills) while 'primary production' activities would encompass activities such as mining and quarrying. Mr

²⁷⁶ Letter from Transpower dated 9 April 2025 Attachment A

Willis²⁷⁷ referred to the evidence of Ms Pflüger, in response to the submissions, who stated that while farming is a land use that already occurs within the CE, there are few instances where rural industry occurs within this area in the Rural Zone and that, along with mining and quarrying (as part of primary production), these activities are likely to have adverse effects on the natural character of the CE. Her opinion is that these activities would only be appropriate if they are of a limited scale, leading to very localised effects and that consideration should also be given to the effects on adjacent areas of HNC which are more sensitive to natural character effects.

[329] Mr Willis noted that CE-R13²⁷⁸ would permit primary production and rural industry outside of HNC areas, depending on the status of these activities in the underlying zone. Based on this and Ms Pflüger's advice he recommended that the policy should be amended to include rural industry as well as a reference to proximity to areas of HNC. He recommended alternative wording to that proposed by the submitters. Hort NZ appeared at the hearing but did not address matters related to the CE Chapter. Ms Tait²⁷⁹ appearing for Fonterra provided general support for the recommendations of Mr Willis.

[330] Regarding the Fenlea Farms submission, Mr Willis stated that given Ms Pflüger's advice on activity scale and that there are no restrictions on intensive primary production in the CE Rules, he considered that "non-intensive" could be deleted from the policy. Mr Willis did not support the additional changes sought by the Alliance Group as the Chapter is limited to the CE Overlay. Alliance Group²⁸⁰ provided a written statement stating that it has reviewed, and accepts, the recommendations of the s42A reports.

[331] Regarding the ECan [183.124] submission, Mr Willis agreed that a 'manage' approach is more consistent with the NZCPS's overall approach to activities within the CE and would be more consistent with the rules applying to this area. Ms Francis²⁸¹ appearing at the hearing for ECan supported the recommendations of Mr Willis.

[332] We agree with Mr Willis' recommendations, which are supported by Ms Francis, Ms Tait, and Transpower. The changes provide clarity as to the matters addressed and will improve integration within the Proposed Plan.

5.14.2 Decision

[333] We adopt Mr Willis' analysis and recommendations. The amendments to Policy CE-P8²⁸² are set out in **Appendix 3**.

[334] In terms of s32AA, we adopt Mr Willis' evaluation in support of the changes made.

²⁷⁷ Mr Willis S42A report paragraph 8.18.12

²⁷⁸ Now renumbered CE-R12 in the Decision Version of the provisions.

²⁷⁹ Evidence of Ms Tait, 9 April 2025, Section 8

²⁸⁰ Alliance Group Statement tabled at Hearing F dated 4 April 2025, Para 3

²⁸¹ Evidence of Ms Francis to Hearing F, 9 April 2025 Appendix 2

²⁸² Previously CE-P10

5.15 POLICY CE-P9²⁸³ PRESERVE THE NATURAL CHARACTER QUALITIES OF AREAS WITH COASTAL HIGH NATURAL CHARACTER

5.15.1 Assessment

[335] Forest and Bird [156.158] considered this policy did not give effect to NZCPS, for example the EI Chapter elevates many forms of infrastructure to RSI. The submitter sought the deletion of the policy and the creation of a new policy in accordance with NZCPS Policy 13.

[336] Transpower [159.84] supported the explicit cross reference to Policy EI-P2 and considered that providing the direction in respect of the RSI and natural character in the CE in one place avoids duplication and the potential for conflict. The submitter also sought the inclusion of a further cross-reference to a proposed new Policy EI-PX which was contained in Transpower's submission on the EI Chapter, and we have addressed this in Part 5 of our Decision Report.

[337] DOC [166.114] supported the intent of this policy but sought amendments to ensure that all adverse effects of activities on natural character in areas of the coastal environment with ONC are avoided. This gives effect to Policy 13 of the NZCPS and Policy 8.3.4 of the CRPS.

[338] Fenlea Farms [171.22] opposed this policy as it does not recognise that several activities may be appropriate depending on their size, scale, and nature. Silver Fern Farms [172.86] and Alliance Group [173.87] considered that this policy is generally consistent with NZCPS Policy 13 (Preservation of natural character) but seek minor amendments to improve the precision of the policy.

[339] In addressing the submissions of Forest and Bird Mr Willis considered that NZCPS Policy 6(a) seeks to recognise that the provision of infrastructure is important to the social, economic and cultural well-being of people and communities while NZCPS Policy 13(1)(b) seeks to avoid significant adverse effects and avoid, remedy or mitigate other adverse effects of activities on natural character in all other areas of the CE. In his opinion CE-P11²⁸⁴ gives effect to these provisions (e.g. CE-P11.2(a) and (b)), and CE-P11.1 via EI-P2 and EI-PX). We did not hear further from the submitter at the hearing.

[340] Mr Willis supported the submission of Transpower to include reference to the specific policy in the EI Chapter addressing the National Grid. We received written confirmation from Transpower²⁸⁵ that this recommendation was supported.

[341] Regarding the DOC submission, Mr Willis stated that there are no identified areas of ONC and therefore the amendments proposed by DOC are not needed. Ms Williams²⁸⁶ appearing at the hearing did not seek further changes to the provision.

²⁸³ Previously CE-11

²⁸⁴ Now renumbered CE-P9 in the Decision Version of the provisions.

²⁸⁵ Letter from Transpower dated 9 April 2025 Attachment A

²⁸⁶ Evidence of Ms Williams to Hearing F, 9 April 2025, Paragraph 73

[342] In addressing the Fenlea Farms submission, Mr Willis²⁸⁷, based on Ms Pflüger's advice in response to Fenlea Farms Limited [171.26], understands that HNC Overlay areas are either immediately adjacent to the coastal interface or to river mouths and lagoons and that these areas are considered to be more sensitive to intensive farming practices including irrigation. In response to [171.22] Ms Pflüger stated that since areas of HNC contain notable natural character values that differentiate them from other parts of the CE, she considered it preferable for buildings and structures to be located outside of identified HNC. While these areas are not ONC, they have a lower ability to absorb change, and the presence of larger-scale buildings has the potential to impact on the biophysical and perceptual aspects of their natural character.

[343] Mr Willis identified that CE-R4.3 only permits very small buildings in the HNC overlay. Given Ms Pflüger's advice and the scale of buildings provided for under CE-R4.3, he did not consider it appropriate or necessary to include in CE-P11²⁸⁸ that buildings and structures for primary production (including intensively farmed stock) and residential activities may be appropriate depending on their size, scale and nature. We did not hear further from this submitter at the hearing.

[344] In relation to the Silver Fern Farms and Alliance Group submissions, Mr Willis²⁸⁹, considered that some of the suggested amendments clarify the interpretation of the policy. He understood that an HNC area adjacent to a modified industrial or urban site may have a reduced sense of openness, however the HNC itself is still relatively remote and wild, if not, then it would not meet the threshold for being an HNC. He recommended minor amendments in response to these submissions to improve clarity only. Silver Fern Farms²⁹⁰ and Alliance Group²⁹¹ lodged written statements at the hearing. Further changes were not sought. Mr Willis also identified a minor change under RMA 16(2) that clause (d) is renumbered to clause (i) as this clause hangs under clause (c), with the remaining clauses renumbered accordingly.

[345] We agree with Mr Willis' recommendations. The changes provide clarity as to the matters addressed and will improve integration within the Proposed Plan.

5.15.2 Decision

[346] We adopt Mr Willis' analysis and recommendations. The amendments to Policy CE-P9²⁹² are set out in **Appendix 3**.

[347] In terms of s32AA, we adopt Mr Willis' evaluation in support of the changes made.

²⁸⁷ Mr Willis S42A report paragraphs 8.19.11

²⁸⁸ Now renumbered CE-P9 in the Decision Version of the provisions.

²⁸⁹ Mr Willis S42A report paragraphs 8.19.12

²⁹⁰ Silver Fern Farms Statement tabled at Hearing F dated 9 April 2025

²⁹¹ Alliance Group Statement tabled at Hearing F dated 4 April 2025, Para 3

²⁹² Previously CE-P11.

RULE CE-R2 PLANTATION FORESTRY

5.15.3 Assessment

[348] Forest and Bird [156.163] in its submission addressed the activity status for afforestation within the CE. While part of its submission addressed that forestry should not be permitted in an ONC Overlay, the submitter expressed concern about permitting afforestation in the CE, without significant controls. The submitter sought to amend CE-R2.1 to require a discretionary consent for afforestation and replanting and keep CE-R2.2 as non-complying. We did not hear further from the submitter at the hearing.

[349] Mr Willis identified that there are no ONC areas in the CE. He identified that plantation forestry is non-complying in the HNC Overlay but permitted in the CE elsewhere.

[350] Mr Willis identified that Ms Pflüger stated in her evidence (in response to this submission) that large-scale plantation forestry can have adverse effects on natural character, including areas that are located adjacent to the areas of afforestation. This includes the potential spread of wilding trees, as well as adverse effects on the natural patterns and processes during harvest. She considered that while small woodlots and farm-scale forestry would not have significant adverse effects, large-scale plantations may. She considered that a restricted discretionary activity status would be appropriate in the CE with matters of discretion that ensure that the natural elements, patterns, and processes of the CE are protected. This should take into account the values described in the Coastal Study²⁹³, for each coastal character area, and in particular for identified HNC areas (including those that lie adjacent to an application site and may be affected).

[351] Mr Willis, in accepting Ms Pflüger's advice, agreed that plantation forestry should be restricted discretionary in the CE (and remain non-complying within the HNC Overlay). In making this recommendation Mr Willis advised that he has noted that under clause 6 of the NES-CF, District Plans can be more stringent in order to give effect to NZCPS Policy 13, which requires (under 13.1.1) the avoidance of significant adverse effects and to avoid, remedy or mitigate other adverse effects of activities on natural character in all other areas of the coastal environment (i.e. outside of areas of outstanding natural character).

[352] We agree with Mr Willis' recommendations, relying on the advice of Ms Pflüger that forestry is more appropriately addressed through a resource consent process in the CE as a restricted discretionary activity and as a non-complying activity in the HNC Overlay.

5.15.4 Decision

[353] We adopt Mr Willis' analysis and recommendations. The amendments to CE-R2 are set out in **Appendix 3**.

[354] In terms of s32AA, we adopt Mr Willis' evaluation in support of the changes made.

²⁹³ Timaru Landscape and Coastal Study report (Boffa Miskell, 2020)

5.16 RULE CE-R4 BUILDINGS AND STRUCTURES AND EXTENSIONS (EXCLUDING REGIONALLY SIGNIFICANT INFRASTRUCTURE AND FENCES)

5.16.1 Assessment

[355] Several submissions supported the rule and others seeking changes. Some submitters considered that the provisions were unclear and sought greater clarity and justification for the rule. A number of submitters had particular issues with buildings within the Sea Water Inundation overlay, or within the MPZ or within the Coastal Erosion Overlay, which are now addressed in Part 8 of our Decision on Natural Hazards and are not further considered here.

[356] Silver Fern Farms [172.89] considered that minor developments at the submitter's Pareora processing site will be subject to a restricted discretionary consenting pathway under Rule CE-R4.2 for buildings greater than 150m² because the site is not in a defined 'urban area'. This matter is consistent with other submissions made in relation to the Pareora processing site. Mr Willis recommended that a new definition of 'urban zoned area' be developed for the CE Chapter which would make the submitters Pareora site 'urban'.

[357] Fenlea Farms [171.23] opposed CE-R4.3 and related standards for height of buildings and structures, site coverage and building and structure external materials. Their concerns primarily related to natural hazards. This decision addresses only those aspects of the submission that do not pertain to natural hazards.

[358] In addressing submissions related to buildings, rather than hazard matters, Mr Willis²⁹⁴ noted that based on the advice from Ms Pflüger that given the higher sensitivity of areas with HNC she considered it appropriate to limit buildings that are enabled in these areas to small structures with a maximum floor area. Buildings of 10m² would allow for small pump sheds or cabins but would require consent for all larger buildings. Ms Pflüger considered it important to ensure that the effects on natural character are assessed in HNC areas, it is less likely that small to medium-sized buildings would have the potential for significant adverse effects on the natural elements, patterns, and processes. She considered it could be an option to add another tier for buildings of up to 150m² in size as a restricted discretionary activity, with the same matters of discretion as CE-R4.2. Based on Ms Pflüger's advice, Mr Willis recommended changes be made to the rule to provide a consent pathway as a restricted discretionary activity, including the ability to decline consent should it be justified, given the natural character values.

[359] We agree with Mr Willis' recommendations. The changes will provide a consent pathway but ensure that relevant matters are able to be considered within a resource consent process, including declining consent if this is warranted.

5.16.2 Decision

[360] We adopt Mr Willis' analysis and recommendations. The amendments to Rule CE-R4 are set out in **Appendix 3**.

²⁹⁴ Mr Willis S42A paragraph 8.24.18

[361] In terms of s32AA, we are satisfied that the amendments are the most appropriate option for achieving the purpose of the relevant provisions of the Plan and for giving effect to other relevant statutory instruments.

5.17 RULE CE-R5 EARTHWORKS (EXCLUDING EARTHWORKS FOR NATURAL HAZARD MITIGATION WORKS AND ANY LAND DISTURBANCE)

5.17.1 Assessment

[362] Several submissions were received on this provision. Those parts of the rule which apply in the hazard overlays are addressed in Part 8 as they are now incorporated into NH-R1.

[363] Forest and Bird [156.165] considered that earthworks for underground utilities can be quite big depending on the method of installation. They sought to amend CE-R5 by requiring all earthworks to be at least within 2 metres of the PER-1 activities and deleting PER-2. We did not hear from this submitter further at the hearing.

[364] Fenlea Farms [171.24] opposed CE-R5 as it limits the volume of earthworks for permitted activities and does not recognise pre-existing rural activities which may already involve a greater level of earthworks. We did not hear from this submitter further at the hearing.

[365] Mr Willis²⁹⁵ noted that based on the advice from Ms Pflüger, he supported providing further limitations as to the activities that are addressed by this rule. He recommended that PER-2 should be limited to repairs and maintenance, with upgrading and new infrastructure needing to meet the volume and area thresholds under PER-3. Mr Willis recommended including upgrades with new infrastructure as the definition of upgrade has no limitations on scale and the HNC is a sensitive environment. If the upgrading involves only minor earthworks, such as for telecommunications, then PER-3 may provide for it, or CE-R6²⁹⁶ land disturbance. Mr Willis considered that PER-1 and 2 can be merged as these both deal with repairs and maintenance, with new underground network utilities being restricted discretionary.

[366] In response to Forest and Bird's EI-R5 submission seeking to exclude vehicle access tracks from the CE and ONLs, Ms Pflüger noted that parts of Timaru's coastal environment have been substantially modified in the past and in these areas permitted activity status for access tracks is likely to be appropriate, if they comply with the earthworks rules/ standards. She recommended that the width should be limited to 4m to ensure that they have limited impact on landscape and natural character values. Ms Pflüger also considered that the identified HNC areas within the CE and ONLs are more sensitive to change due to their elevated natural character and landscape values, and in these areas, she supported vehicle access tracks being considered through a consent pathway. Based on the advice of Ms Pflüger, Mr Willis recommended a new Rule CE-RY²⁹⁷ to cover vehicle access tracks for network utilities.

²⁹⁵ Mr Willis S42A paragraphs 8.25.6-8.25.8

²⁹⁶ Now renumbered CE-R8 in the Decision Version of the provisions.

²⁹⁷ Now renumbered CE-R6 in the Decision Version of the provisions.

[367] Regarding the Silver Fern Farms [172.90] submission, Mr Willis²⁹⁸ noted that in Ms Pflüger's evidence she stated that given the sensitivity of HNC areas, the cumulative effects of ongoing expansion of earthworks each calendar year could lead to significant adverse effects. She acknowledges that earthworks may be appropriate in some areas, but this would require assessment of natural character effects through a consenting process. Mr Willis agreed that cumulative effects could be significant, however considered that the standard should be applied on a per calendar year basis as this is easier to apply and monitor and is appropriate given the small scale works that are permitted.

[368] We agree with Mr Willis' recommendations. The changes will provide either a permitted pathway for appropriate activities and scale of activities and a consent pathway for other activities. The consent pathway includes the ability to decline consent if this is warranted.

5.17.2 Decision

[369] We adopt Mr Willis' analysis and recommendations. The amendments to Rule CE-R5 and new CE-R6²⁹⁹ are set out in **Appendix 3**.

[370] In terms of s32AA, we are satisfied that the amendments are the most appropriate option for achieving the purpose of the relevant provisions of the Plan and for giving effect to other relevant statutory instruments. The changes better achieve CE-O1 and CE-O2 as they are more precise in their management of activities that adversely affect coastal qualities.

5.18 RULE CE-R7³⁰⁰ LAND DISTURBANCE

5.18.1 Assessment

[371] Forest and Bird [156.166] considered it is difficult to ascertain what sort of activity the rule permits and sought to delete the rule.

[372] South Rangitata Reserve [206.8] considered there is a range of work that could be undertaken at the Rangitata Reserve that would prolong the life of the Huts. The submitter supported the Rule subject to clarification that a range of essential works within the Reserve are facilitated under this rule. Key matters related to this submission are now addressed in the NH Chapter.

[373] Regarding Forest and Bird [156.166], Mr Willis noted that land disturbance is a defined activity and is distinguishable from earthworks as it does not permanently alter the profile, contour, or height of the land. He agreed that land disturbance could involve both large and small volumes / areas, but in the absence of evidence identifying issues from this rule in more detail, he considered this activity is able to be determined and is, on balance, appropriate in the CE and overlays. We did not hear from this submitter at the hearing.

[374] Regarding the South Rangitata Reserve submission, Mr Willis advised that the range of works referred to by the submitter was unclear, and he was therefore unable to provide

²⁹⁸ Mr Willis S42A paragraph 8.25.9

²⁹⁹ Previously CE-RY

³⁰⁰ Previously CE-R6

clarity whether those activities were captured by the rule. He noted the submitter's support for the rule.

[375] We agree with Mr Willis' recommendations and retain the rule unchanged.

5.18.2 Decision

[376] We adopt Mr Willis' analysis and recommendations. No changes to the rule are made.

5.19 RULE CE-R8³⁰¹ REGIONALLY SIGNIFICANT INFRASTRUCTURE - MAINTENANCE AND UPGRADE

5.19.1 Assessment

[377] Several submissions were received on this provision. Many related to matters that are now addressed within Part 8 of the Decision Report in relation to the NH Chapter and as such are not further addressed here. Forest and Bird [156.167] considered this rule should be just for maintenance and operation and not cover increases in the size of infrastructure or upgrades that increase scale and footprint of the activity. They sought to delete the upgrade reference from the rule and create a new rule for upgrades where increases in the size of an activity were a restricted discretionary activity.

[378] Mr Willis³⁰² noted that RSI can be large and, based on the advice from Ms Pflüger, that he supported the Proposed Plan's approach to limit upgrading within HNC areas to 10% within a continuous 10-year period. Mr Willis also recommended including a maximum of 200m² for this. For the coastal environment area within existing urban areas, Mr Willis agreed with Ms Pflüger that no restrictions on maintenance and upgrades are needed, which is the current approach.

[379] For the CE areas outside of existing urban zoned areas (and HNC areas), Mr Willis noted that Ms Pflüger recommended permitting upgrades where this does not increase the building or structure envelope by more than 25% within a continuous 10-year period (up to a maximum area of 1000m²). Mr Willis advised that this is more restrictive than the existing rule which contains no restrictions for these activities in these locations. He has identified that CRPS Policy 8.3.6 seeks to provide for the efficient and effective development, operation, maintenance, and upgrade of RSI whilst still avoiding, remedying, or mitigating adverse effects on that environment. As such, a balance is needed between providing for RSI, whilst still managing its adverse effects in the CE. On balance Mr Willis agrees with Ms Pflüger's advice and recommended changes to the rule. Mr Willis noted that the submitters in support of the rule were the Telcos³⁰³ who are unlikely to exceed the 25% / 1000m² 10-year building or structure upgrade limit and KiwiRail [187.70] who may or may not depending on the nature of the upgrade. At the hearing we did not hear from the Telcos on this matter but did hear from KiwiRail who advised it will not pursue its relief on these matters further.³⁰⁴

³⁰¹ Previously CE-R7

³⁰² Mr Willis S42A paragraphs 8.27.7 and 8.27.8

³⁰³ Connexa [176.84]; Spark [208.84]; Chorus [209.84] and Vodafone [210.84].

³⁰⁴ Ms Heppelthwaite 9 April paragraphs 5g and h

[380] We agree with Mr Willis' recommendations. We find that the permitted activity levels are appropriate and importantly there is a consent pathway available for RSI.

5.19.2 Decision

[381] We adopt Mr Willis' analysis and recommendations. The amendments to Rule CE-R8³⁰⁵ are set out in **Appendix 3**.

[382] In terms of s32AA, we adopt Mr Willis' evaluation in support of the changes made.

5.20 RULE CE-R9³⁰⁶ REGIONALLY SIGNIFICANT INFRASTRUCTURE - NEW

5.20.1 Assessment

[383] Forest and Bird [156.168] considered constructing RSI in the CE as a permitted activity is inappropriate and in relation to CE-R8.2³⁰⁷, considered that the appropriateness of this depends on whether these areas are meant to be ONC or the lesser high natural character. The submitter sought to delete CE-R8.1³⁰⁸ and amend CR-R8.2³⁰⁹ from discretionary to non-complying.

[384] Regarding the Forest and Bird submission, Mr Willis³¹⁰ referenced his analysis of CE-R7³¹¹ and noted that RSI is vital for the community's health safety and wellbeing. He also noted that CRPS Policy 8.3.6 provides for the efficient and effective development (including new RSI) while still requiring adverse effects on the coastal environment to be avoided, remedied or mitigated. He noted that within the HNC new RSI is fully discretionary, which he considers appropriate. However, within the CE outside of HNC areas, new RSI is permitted, irrespective of whether it is located within a modified or unmodified area and its scale (unless it is also within a Hazard Overlay). On reflection Mr Willis considers this may be inappropriate for character reasons in unmodified areas, depending on the type and scale of the new RSI.

[385] Mr Willis noted that in her evidence Ms Pflüger considered it acceptable to permit new RSI in existing urban areas, which are already highly modified, but limit new RSI in unmodified areas to buildings or structures with a floor area of less than 200m². Mr Willis on balance accepts Ms Pflüger's advice and recommended changing this rule. He recognised there were seven submitters in support of the rule, including the Telcos³¹², who are unlikely to exceed the 200m² 10-year building or structure area limit and KiwiRail [187.71], Transpower [159.87] and the Fuel Companies [196.73].

[386] At the hearing we did not hear from the Telcos on this matter, but did hear from KiwiRail who advised that it will not pursue its relief on these matters further.³¹³ We also heard from

³⁰⁵ Previously CE-R7

³⁰⁶ Previously CE-R8

³⁰⁷ Now renumbered CE-R9.2 in the Decision Version of the provisions.

³⁰⁸ Now renumbered CE-R9.1 in the Decision Version of the provisions.

³⁰⁹ Now renumbered CE-R9.2 in the Decision Version of the provisions.

³¹⁰ Mr Willis S42A paragraph 8.28.6

³¹¹ Now renumbered CE-R8 in the Decision Version of the provisions.

³¹² Connexa [176.85]; Spark [208.85]; Chorus [209.85] and Vodafone [210.85].

³¹³ Ms Heppelthwaite 9 April paragraphs 5g and h

Transpower who supported the s42A recommendation for the reasons given in the Report³¹⁴ and in Transpower's submission.³¹⁵ We received written confirmation from the Fuel Companies³¹⁶ that it supported the amendments set out in the s42A report.

[387] We agree with Mr Willis' recommendations. We find that the permitted activity levels are appropriate and there is a consent pathway available for RSI.

5.20.2 Decision

[388] We adopt Mr Willis' analysis and recommendations. The amendments to Rule CE-R9³¹⁷ are set out in **Appendix 3**.

[389] In terms of s32AA, we adopt Mr Willis' evaluation in support of the changes made.

5.21 RULE CE-R12³¹⁸ PRIMARY PRODUCTION NOT OTHERWISE SPECIFIED

5.21.1 Assessment

[390] Fenlea Farms [171.26] opposed this rule on the basis that the rules relating to farming, nutrients and water application are for the Canterbury Regional Council and are contained in the Canterbury Land and Water Regional Plan and that primary production, including irrigation and intensive primary production can be managed under the regional rules. The submitter considered the provisions contained in CE-P11³¹⁹ can be achieved by proper management of intensively farmed stock. The submitter sought changes to provide for activities as either permitted or controlled.

[391] Federated Farmers [182.172] submitted that existing lawfully established farming activities located in these overlays within the CE must be permitted to continue by the Proposed Plan. The submitter considered it is important to ensure that existing farmland is preserved and allowed to continue for future generations with a balance needing to be achieved with the maintenance of the existing values formed by the coastal area. The submitter sought to provide for existing farming activities (including farm quarries) and farmland as permitted activities within the CE.

[392] Peter Bonifacio [36.10] considered that although the Milford Lagoon has already been retired from farming, the effect of this rule is significant in potentially reducing the value of the land. The submitter requested the Council consider the impact of the rule on the value of the land and subsequent impact on the landowner. Matters related to rules affecting the value of land have been addressed in Part 1 of our Decision Report.

³¹⁴ Transpower letter dated 9 April 2025 – Attachment A

³¹⁵ The Panel notes that the submission of Transpower and reasons related to the provision as notified not the amendment provision.

³¹⁶ Letter from SLR Consulting New Zealand for Fuel Companies, 10 April Attachment A

³¹⁷ Previously CE-R8

³¹⁸ Previously CE-R13

³¹⁹ Now renumbered CE-P9 in the Decision Version of the provisions.

[393] Mr Willis³²⁰ in addressing the submission of Fenlea Farms and Federated Farmers relies on the evidence of Ms Pflüger who stated that the rule applies to the Coastal HNC Area Overlay and that land within this Overlay has been identified for its high natural character. She considered that most of these areas are either immediately adjacent to the coastal interface or to river mouths and lagoons and that these areas are more sensitive to intensive farming practices, including irrigation. Existing activities in Ms Pflüger's view have modified the natural character in the past and it is appropriate to allow for existing activities to continue, even if they are within an HNC, however, expansion should require assessment of the natural character effects within the HNC Overlay given the sensitivity of these areas. In addition, intensive farming and irrigation can be problematic in terms of effects on natural character in these environments near the coastal and freshwater interface. Ms Pflüger considered that the notified activity status (discretionary) is appropriate. Mr Willis expressed concern about requiring a discretionary activity consent for new pastoral and agricultural farming, however he noted that the HNC areas are limited in extent and existing use rights will apply to farming already occurring in them. He also noted that within the wider CE, there are no restrictions proposed on primary production. On balance, he recommended that the submissions be rejected and changes not be made to the rule.

[394] We agree with Mr Willis' that this is a matter of balancing values, particularly given existing use rights. We did not receive anything further from the submitters at the hearing. On balance we agreed with Mr Willis' recommendations and made no changes to the rule.

5.21.2 Decision

[395] We adopt Mr Willis' analysis and recommendations. No changes are made to the rule.

5.22 RULE CE-R10³²¹ QUARRYING / MINING ACTIVITY (EXCLUDING FOR NATURAL HAZARD MITIGATION WORKS OR RECLAMATION WITHIN OR ADJACENT THE PORT ZONE)

5.22.1 Assessment

[396] Forest and Bird [156.171] considered mining is unacceptable within the CE and should be a prohibited activity while quarrying should remain non-complying. We did not hear from this submitter further at the hearing.

[397] Road Metals [169.32] and Fulton Hogan [170.32] opposed the rule and considered the non-complying status of this activity does not suitably recognise the importance of aggregate resources and the way they are spatially located. The submitters also note that the term 'quarrying' is not defined but 'quarrying activity' is. They seek amendments to the rule. We did not hear from these submitters further at the hearing.

[398] ECan [183.131] considered that to add clarity regarding when these works require resource consent from the Regional Council rather than the District Council, an advisory note

³²⁰ Mr Willis S42A report paragraphs 8.32.6 and 8.32.7

³²¹ Previously CE-14

would be useful. This relates to natural hazard matters and has been addressed in Part 8 of the Decision Report.

[399] Mr Willis³²² in addressing the submissions of Road Metals and Fulton Hogan relies on the evidence of Ms Pflüger, who notes that the rule applies to both the CE and HNC overlays and that there are areas in the CE that have low or moderate natural character. She considered that these areas have a higher ability to absorb change than HNC areas which provide higher values and recommends differentiating between these two Overlays. While she considered it appropriate to maintain the stricter non-complying activity status for any quarrying (commercial and farm quarries) in HNC areas, Ms Pflüger considered restricted discretionary may be sufficient to protect the natural character in the CE outside the HNC Overlay, if it was to occur in areas that are already substantially modified and effects are localised.

[400] Ms Pflüger considered that larger commercial quarries, as opposed to small-scale farm quarries, would have greater environmental impacts. She recommends that farm quarries restricted to a size of under 500m² should be permitted activities. She considered that larger farm quarries and commercial quarries are appropriately assessed as restricted discretionary activities in the CE. However, Ms Pflüger considered that the matters of discretion need to ensure that adverse effects on coastal natural character in general are avoided, remedied, or mitigated (rather than just effects on adjacent HNC). The potential for enhancement of natural character should also be encouraged through the matters of discretion. Mr Willis accepted Ms Pflüger's advice and recommended changes to the rule.

[401] Regarding the Forest and Bird submission, Mr Willis considered that the definition of mining could include very small-scale activities and therefore does not support a prohibited activity status. He also notes that the rule applies to all the CE, not just to areas of HNC. As noted above, Mr Willis recommended providing for small farm quarries as permitted outside of HNC areas in relation to the submissions of Road Metals and Fulton Hogan.

[402] We agree with Mr Willis' recommendations. We find that the permitted activity and consenting pathways are appropriate to respond to the effects of activities. Prohibited activity status is not necessary to manage the effects of activities and provide for the values within the CE.

5.22.2 Decision

[403] We adopt Mr Willis' analysis and recommendations. The amendments to Rule CE-R10³²³ are set out in **Appendix 3**.

[404] In terms of s32AA, we adopt Mr Willis' evaluation in support of the changes made.

³²² Mr Willis S42A report paragraphs 8.33.6 and 8.33.7

³²³ Previously CE-14

5.23 STANDARD CE-S1 HEIGHT OF BUILDINGS AND STRUCTURES

5.23.1 Assessment

[405] This general submission from ECan [183.4] has been addressed in Part 2 of our decision.

5.24 STANDARD CE-S2 SITE COVERAGE

5.24.1 Assessment

[406] Silver Fern Farms [172.94] submitted that the GIZ applies to land outside of 'the urban area' and it would be inappropriate to constrain significant industrial enterprises with existing highly modified sites, due to their location. Mr Willis recognised that his recommendation in relation to other submissions in this Chapter was to amend what are considered 'urban areas' to 'urban zoned areas' which would address the concern of the submitter.

[407] ECan [183.132] submitted that it is not clear how this standard relates to the requirement for all buildings to be not more than 150m² under Rule CE-R4. ECan recommended that the lower limit apply.

[408] Regarding the ECan submission, Mr Willis noted that CE-S2 refers to total building and structure coverage on a site, whereas CE-R4 refers to each individual building. As such, there was no conflict between the provisions. However, to avoid confusion he recommended that CE-S2 be amended to clarify that it applies to the combined coverage of buildings and structures rather than overall site coverage which includes impervious surfaces.

[409] We agree with Mr Willis' recommendations and consider the changes and clarification provided would improve the ability of the provisions to be more effectively implemented.

5.24.2 Decision

[410] We adopt Mr Willis' analysis and recommendations. The amendments to CE-S2 are set out in **Appendix 3**.

[411] In terms of s32AA, we are satisfied that the original s32 evaluation continues to apply.

5.25 STANDARD CE-S3 BUILDING AND STRUCTURE EXTERNAL MATERIALS

5.25.1 Assessment

[412] Silver Fern Farms [172.95] and Alliance Group [173.96] supported a permitted status for new buildings and structures, although they also sought an amendment to clarify that the standard does not apply to interior surfaces.

[413] Mr Willis considered that this Standard was intended to only apply to external cladding and roofing and that the amendment sought provides greater clarity.

[414] We agree with Mr Willis' analysis and recommendations.

5.25.2 Decision

[415] We adopt Mr Willis' analysis and recommendations. The amendments to CE-S3 are set out in **Appendix 3**.

[416] In terms of s32AA, we are satisfied that the original s32 evaluation continues to apply.

5.26 PLANNING MAPS

5.26.1 Assessment

[417] Forest and Bird [156.4] submitted that the mapping of the CE is inadequate and should be reassessed to appropriately apply Policy 1 of the NZCPS. The submitter considered the CE should extend 1km or more landward.

[418] Paul Smith [204.1] supported the intention of the CE Overlay, but sought this Overlay be removed from the submitter's property at 86 Sheffield Street as the restrictions within the Overlay are not consistent with the underlying General Industrial Zone.

[419] Mr Willis³²⁴ noted that the RMA does not define the 'coastal environment'. He relies on the evidence of Ms Pflüger, who stated that the extent of the CE needs to be considered to respond to Policy 1 of the NZCPS. This recognises that the extent and characteristics of the CE will vary from location to location. Ms Pflüger also noted that there is no minimum measurement for the extent of the CE and that a rigorous methodology, which was applied in a number of other coastal environment assessments throughout the country, and was applied in the 2020 Timaru Landscape and Coastal Study³²⁵. The development of the methodology to determine the extent of the CE was guided by all the identified characteristics, with particular consideration to item (c) of Policy 1(2) of the NZCPS 2010, 'where coastal processes, influences or qualities are significant'. The full methodology for the CE delineation is outlined on pages 78 of the Study.

[420] We received no further evidence from the submitter on this matter and accept the evaluation of Mr Willis based on Ms Pflüger's evaluation on the appropriate extent of the CE for the Timaru District.

[421] Regarding the Paul Smith [204.1] submission, Mr Willis relied on Ms Pflüger's evidence that only a very small area in the southern corner of 86 Sheffield Street falls within the CE Overlay and that it is appropriate to remove this area as it is a mapping refinement, rather than an area intended to be captured.

[422] We agree with Mr Willis' analysis and recommendations and find a change to the mapping in relation to 86 Sheffield Street to remove the CE Overlay is appropriate. No other changes to the extent of the CE Overlay are necessary.

³²⁴ Mr Willis S42A paragraphs 8.37 and 8.38

³²⁵ Timaru Landscape and Coastal Study report (Boffa Miskell, 2020)

5.26.2 Decision

[423] We adopt Mr Willis' analysis and recommendations in relation to 86 Sheffield Street. The amendments to the mapping are illustrated in **Appendix 2**.

[424] In terms of s32AA, we are satisfied that the original s32A evaluation continues to apply.

5.27 COASTAL HIGH NATURAL CHARACTER AREAS OVERLAY

5.27.1 Assessment

[425] Federated Farmers [182.170] submitted it is important that the Proposed Plan provides for everyday agricultural activities to occur in the CE and therefore considered it is appropriate to delete areas of HNC and references to this area. The submitter considered that without the HNC layer, the District Plan still meets the Council's obligations under the NZCPS.

[426] Mr Willis, relying on Ms Pflüger, identified that under NZCPS Policy 1 the Council has an obligation to identify the extent of the CE and to "assess the natural character of the coastal environment by mapping or otherwise identifying at least areas of high natural character" (NZCPS 13(1)(c)). He also noted that councils have an obligation to identify ONC areas to satisfy Policy 13(1)(a). The Council had undertaken this work as set out in the 2020 Landscape and Coastal Study³²⁶. Given this is a requirement under the NZCPS, Ms Pflüger does not think it is open to the Council to delete these areas from the Proposed Plan, unless they do not qualify as HNC based on evidence. Mr Willis recommended the submission be rejected.

[427] We received no further evidence from the submitter on this matter that would justify the removal of the overlay. We accept the evaluation and recommendation of Mr Willis, relying upon the evidence of Ms Pflüger, and we retain the overlay.

[428] Fenlea Farms [171.17] sought to delete the Coastal HNC Area Overlay off their site at 158 Prattley Road.

[429] Mr Willis³²⁷ noted that Ms Pflüger identified that the HNC area is mostly limited to waterbodies and their margins. She considered that the waterbodies on the submitter's property appear to surround some grazed land (approx. 500m x 150m) which is currently included in the HNC Overlay and that since the natural character of this land may be lower than on the margins of the waterbodies, it could be considered appropriate to remove this area from the HNC Overlay if evidence is provided to support this. In the absence of any evidence / photos, the only change Ms Pflüger recommends to the HNC area is the exclusion of the bridge near the boundary of the northern arm which represents a man-made modification that has likely changed the natural processes in this area. Mr Willis recommended that the area north of the man-made modification be excluded from the Overlay. We did not receive any further information from the submitter at the hearing.

³²⁶ Timaru Landscape and Coastal Study report (Boffa Miskell, 2020)

³²⁷ Mr Willis S42A paragraph 8.39.6

[430] We agree with Mr Willis' analysis and recommendations and find a change to the mapping in relation to 158 Prattley Road to remove a portion of the HNC Overlay is appropriate. We make no other changes to the extent of the HNC Overlay.

5.27.2 Decision

[431] We adopt Mr Willis' analysis and recommendations in relation to 158 Prattley Road. The amendments to the mapping are illustrated in **Appendix 2**. In terms of s32AA, we are satisfied that the original s32A evaluation continues to apply.

5.28 SCHED14 SCHEDULE OF ATTRIBUTES - QUALITIES OF COASTAL HIGH NATURAL CHARACTER AREAS

5.28.1 Assessment

[432] Forest and Bird [156.186] supported the inclusion of all Coastal HNC Areas and sought to add more to SCHED14 as they become known.

[433] Te Rūnanga o Ngāi Tahu [185.41] supported the Schedule, however requested minor changes to improve clarity and ensure that all cultural values are given the appropriate weight. They sought to amend SCHED14 so the attributes / values of these areas cross reference the SASM provisions to ensure that the cultural values are fully recognised and protected as required by case law for landscape assessments.

[434] Regarding the Forest and Bird [156.186] submission we did not receive any further information from the submitter as to any additional areas to be included. Mr Willis relies on the evidence of Ms Pflüger who notes that a Landscape and Coastal Study³²⁸ has undertaken a comprehensive assessment of the natural character values within the CE. Based on this assessment all areas that would currently qualify as HNC have been identified and included in SCHED14.

[435] Regarding the submission from Te Rūnanga o Ngāi Tahu, Mr Willis accepts that the CE is important for Kāti Huirapa, and he notes that the Schedule already refers to cultural matters (e.g. the reference to the Rangitata River having special importance for Ngāi Tahu and the Ōrakipaoa wetland has been identified as a Ngāi Tahu Statutory Acknowledgement Area). He considered that as the SASM provisions (and other provisions such as the ECO Chapter) apply in addition to the CE provisions, he did not consider it necessary to cross reference to these and considers it clearer that this schedule remains focussed on the matters identified, as these link back to the technical evidence. He recommended no change in response to the submission.

[436] We agree with Mr Willis' analysis and recommendations.

5.28.2 Decision

[437] We adopt Mr Willis' analysis and recommendations. No changes to SCHED14 are made.

³²⁸ Timaru Landscape and Coastal Study report (Boffa Miskell, 2020)

5.29 INFRASTRUCTURE WITHIN THE COASTAL ENVIRONMENT NOT ALREADY COVERED

5.29.1 Assessment

[438] Forest and Bird made a number of submissions on the EI and TRAN Chapters that sought to include restrictions on infrastructure in the CE [156.63, 156.64, 156.65, 156.66, 156.67, 156.69, 156.70, 156.71, 156.72, 156.73, 156.74].

[439] Mr Willis identified that in his EI, TRAN and DWP s42A report (Hearing Stream E), he recommended that these submissions be rejected as the CE Chapter (and all other District Wide Chapters) also applied to activities covered in the EI and TRAN provisions and there were infrastructure-specific provisions within the CE Chapter (CE-R7³²⁹ and CE-R8³³⁰ for RSI and CE-R4 for buildings and structures which would cover other infrastructure, as well as CE-R5 for earthworks). As such, there was no need to add in infrastructure restrictions into the EI and TRAN provisions.

[440] Mr Willis³³¹ has stated that:

I have assessed these EI / TRAN Chapter submissions in my assessment of CE-R4, CE-R5, CE-R7 and CE-R8 with reference to advice from Ms Pflüger. However, I consider that the following submissions need additional assessment in the CE Chapter as while RSI is covered by CE-R7 and CE-R8, I consider these particular activities would benefit from tailored rules:

- EI-R32 the installation, operation, maintenance, upgrading and removal of a solar cell or any array of solar cells for a small-scale renewable electricity generation Forest and Bird [156.73]; and
- EI-R33 the installation, operation, maintenance, upgrading and removal of a small-scale wind turbine/s for small-scale renewable electricity generation Forest and Bird [156.74].

[441] Mr Willis sought specific advice from Ms Pflüger on these matters he recorded her advice in paragraph 8.42.4 as being:

- EI-R32 (the installation, operation, maintenance, upgrading and removal of a solar cells) - maintenance and removal, as well as minor upgrades, are likely to have no adverse effects on the natural character of the coastal environment due to the existing level of modification associated with existing solar cells / arrays. Permitted activity status is appropriate for these activities. In addition, Ms Pflüger considers that installation of solar cells on and immediately adjacent to existing buildings would cluster new modifications in areas that already contain structures which would lead to minimal additional effects. For the installation of new solar arrays in the coastal environment, the landscape and natural character effects would depend on the exact location, design and scale of the proposal. This would, in her view, be appropriately assessed through a resource consent process with RDIS activity status, taking these effects into account. In the more

³²⁹ Now renumbered CE-R8 in the Decision Version of the provisions.

³³⁰ Now renumbered CE-R9 in the Decision Version of the provisions.

³³¹ Mr Willis S42A report paragraph 8.4.3

natural HNCs that are more sensitive to change, electricity generation (solar and wind of any scale) should be avoided, unless it is associated with existing buildings/ structures;

- EI-R33 (the installation, operation, maintenance, upgrading and removal of a small-scale wind turbine/s) - HNC areas are mostly confined to a narrow strip of coastal land and river mouths/ lagoons where natural processes predominate which makes them unsuitable for energy generation infrastructure. However, other parts of the coastal environment that are more modified, such as those within and near settled areas, may be able to absorb this change. Given the low or moderate natural character of these parts of the coastal environment, Ms Pflüger considers there may be potential to locate small-scale energy generation infrastructure if effects on natural character, including those that may impact adjacent HNC areas, are managed adequately. The identified HNC areas are unlikely to be suitable for installation of wind turbines as this would detract from their natural character values. However, parts of Timaru township and adjacent commercial/ industrial areas also fall within the coastal environment. These areas have not been identified as HNC areas and these areas may provide opportunities for small-scale electricity generation. It is, however, acknowledged that the height of wind turbines means that their landscape/ visual/ natural character effects are often perceived well beyond the site they are located in. This should be taken into account through a consenting process.

[442] Mr Willis generally accepted Ms Pflüger's advice. He considered in paragraph 8.42.5 that:

I consider that solar and wind renewable electricity generation activities can be appropriately managed, and therefore provided for, in existing urban areas, but can have adverse effects on other parts of the coastal environment and HNC areas. Solar arrays are more acceptable on existing buildings than as standalone arrays, while for wind turbines their scale and visibility from high natural character areas needs to be managed. I consider that these activities are not adequately addressed by the existing CE chapter rules for RSI (CE-R7 and CE-R8) nor the earthworks rule (CE-R5). On the basis of Ms Pflüger's advice I recommend that these Forest and Bird [156.73], [156.74] submissions are accepted in part, and additions are made to the CE chapter to expressly cover solar and wind electricity generation as set out below. I note that these proposed rules may benefit from further refinement through the hearing process in response to provided evidence.

[443] We received no further evidence on these rules at the hearing. Mr Willis also did not further refine the rules in his Final Reply.³³²

[444] Having considered Mr Willis' recommendation to introduce two new CE rules in response to Forest and Bird's submissions on small-scale- renewable electricity generation (EI-R32 and EI-R33³³³), we conclude that, irrespective of the merits or otherwise of the

³³² Mr Willis Final Reply dated 10 October 2025

³³³ Renumbered CE-RZ11 and CE-RA12 and shown as deleted in the Decision Version of the provisions.

suggested provisions, it is not appropriate to introduce new rules at this time or in response to these submissions. The relief sought did not include specific new rules nor did it provide draft wording, and we received no direct evidence on these matters at the hearing. Accordingly, we do not introduce new rules through this decision.

5.29.2 Decision

[445] We do not adopt Mr Willis' analysis and recommendations. We have not introduced new rules addressing small scale renewable electricity generation into the CE Chapter, or the related amendments to CE-R8 and CE-R9³³⁴. As there are no changes to the Plan, a s32AA assessment is not required.

³³⁴ Previously CE-R7 and CE-R8

IN THE MATTER OF Resource Management Act 1991

AND

IN THE MATTER OF Proposed Timaru District Plan

Decision Report – Part 7

**Activities on the Surface of Water, Earthworks, Light, Noise, Signs, Temporary
Activities, Relocated Buildings and Shipping Containers, Highly Productive Land, and
Public Access**

19 March 2026

Part 7: Activities on the Surface of Water, Earthworks, Light, Noise, Signs, Temporary Activities, Relocated Buildings and Shipping Containers, Highly Productive Land, and Public Access

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1 MATTERS CONSIDERED IN THIS PART

[1] This section of the Decision Report sets out the Hearing Panel's decisions on the submissions and further submissions relating to Activities on the Surface of Water (ASW), Earthworks (EW), Light, Noise, Signs, Temporary Activities (TEMP), Relocated Buildings and Shipping Containers (RELO), Highly Productive Land (HPL), and Public Access (PA).

2 ACTIVITIES ON THE SURFACE OF WATER

2.1 GENERAL SUBMISSIONS

2.1.1 Assessment

[2] Te Rūnanga o Ngāi Tahu [185.74] sought to extend the Chapter to all waterbodies, not just rivers. However, Mr MacLennan¹ pointed out that there are no lakes in the District. Lake Opuha (which sits partly in the Timaru District and partly in Mackenzie District) is man-made and considered to be a part of the Ōpihi River. Features such as the Ōpihi River Lagoon are considered to be coastal water (seaward of mean highwater springs). Therefore, Mr MacLennan recommended that in the context of the Timaru District it is appropriate to only refer to rivers. In his Interim Reply, Mr MacLennan also referred to RMA, s31(1) which sets out the functions of territorial authorities under this Act states that:²

“(1) Every territorial authority shall have the following functions for the purpose of giving effect to this Act in its district:

(e) the control of any actual or potential effects of activities in relation to the surface of water in rivers and lakes:”

[3] Therefore, the Council's functions are limited to controlling activities on the surface of water in rivers and lakes. Given there are no lakes within the District, Mr MacLennan considered the content of the Chapter should be limited to controls on the surface of the District's rivers. He recommended a number of drafting changes to reflect that, including the reference to 'rivers' in the objectives and policies. We agree with his recommendations.

[4] Forest and Bird [156.132] requested amendments to the Introduction to the chapter to recognise the value of the Water Conservation (Rangitata River) Order 2006 (Rangitata WCO), and motorised craft activities on the surface of waterbodies should be discouraged during river bird breeding season. Mr MacLennan explained that the notified ASW Chapter has been drafted in accordance with the Rangitata WCO. He considered that the policy framework directs that the use of motorised craft shall be avoided during particular times of the year and within identified fish spawning areas. This is supported by the rule framework for permitted activities, which includes conditions requiring the use of motorised craft to be undertaken outside of specified periods to protect vulnerable waterbodies and ecosystem values at appropriate times of the year. However, he disagreed that the Introduction needs to

¹ Andrew MacLennan, s42A Report Hearing F, 24 March 2025, paragraph 8.2.5.

² Andrew MacLennan, Interim Reply, 6 June 2025, paragraphs 9 -10

specifically refer to the Rangitata WCO, as it does not include any specific direction required to be implemented by District Councils.³ We accept his opinion.

[5] Mr Maclellan alerted the Panel to an error in the application of the ASW Chapter. Within the Proposed Plan, the rivers include underlying zones (which are almost exclusively GRUZ). The drafting of the rules within the ASW Chapter does not include an explanation that the rules of the ASW Chapter take precedence over the rules within the zones chapter. He noted that GRUZ-R28 within the GRUZ is a catch-all rule that sets a discretionary activity status for “Activities not listed in the rules section of this chapter”. When applied, this would mean that all activities within the ASW Chapter would require resource consent as discretionary activity as they are not listed in the GRUZ Chapter. To resolve this, he recommended that an additional note be added within the rules section of the ASW Chapter that states that the rules within the ASW Chapter ‘take precedence’ over the rules in Part 3 – Area Specific Matters - Zone Chapters. He considered this amendment can be made as a cl16(2) minor amendment.

[6] We have accepted Mr Maclellan’s recommended correction to add a note in the ASW rules clarifying how the ASW Chapter applies relative to the underlying zone rules. This is necessary to avoid GRUZ-R28 unintentionally capturing ASW activities as “activities not listed” in the GRUZ Chapter. However, because the ASW rules displace the underlying GRUZ rule in this context, the note should state that the ASW rules apply ‘instead of’ the GRUZ rules. We address the distinction between “take precedence/prevail” and “instead of” in Part 1 of this Report.

2.1.2 Decision

[7] Subject to the minor drafting changes to include reference in the Introduction to the ASW rules applying ‘instead of’ the Zone Chapters rules, we adopt Mr Maclellan’s recommendations to make minor changes to the Introduction section and to replace references in the objectives, policies and rules from ‘water’ to ‘rivers’ for the reasons set out above.

[8] The amended provisions are set out in **Appendix 3**.

[9] No additional s32AA evaluation is required. The recommended changes are required for consistency and minor corrections in accordance with the RMA, Schedule 1, cl10(2)(b) and 16(2).

2.2 OBJECTIVE ASW-O1 PROTECTING THE VALUES OF THE DISTRICT’S RIVERS

2.2.1 Assessment

[10] Jet Boating [48.1] sought recognition that minor or less than minor effects are acceptable. Mr Maclellan agreed in part to the issue raised by Jet Boating because in his opinion not all adverse effects are required to be avoided in order to protect the values of the district’s rivers. However, he disagreed that the qualifier ‘more than minor’ needed to be

³ Ibid, paragraph 8.2.6

included in an objective, because he believed it set up a threshold test that potentially ignored cumulative minor effects that may compromise the values of the rivers over time.

[11] Mr MacLennan recommended a more balanced approach by ensuring that the values of the District's rivers are protected from the adverse effects of "inappropriate" activities on the surface of water. This would, in his view, allow for flexibility in managing activities while ensuring the protection of the District's rivers. It would also provide a framework that supports context-specific provisions without predetermining outcomes through specific effects tests embedded within the objective itself. He considered the drafting change more appropriate in terms of s32AA of the Act.

[12] Mr Malcolm Smith, the consultant advisor to Jet Boating, indicated in his statement of evidence that Mr MacLennan's recommendation was acceptable.⁴

2.2.2 Decision

[13] We adopt the drafting change recommended by Mr MacLennan for the reasons he explained. The amended objective is set out in **Appendix 3**.

[14] In terms of s32AA, we adopt Mr MacLennan's evaluation in support of the change made.

2.3 POLICY ASW-P2 USE OF MOTORISED CRAFT FOR SPECIFIED ACTIVITIES

[15] As we discuss below, Mr MacLennan recommended a consequential change to ASW-P2 arising from his recommendation that the permitted activity rule ASW-R2 include the duration limits that apply to temporary military activities within TEMP-R2 (PER-2). He recommended that an addition be made to ASW-P2, which is the parent policy to this rule, to include temporary military training activities.

[16] The Panel accepts the recommendation as an appropriate consequential change to the policy.

2.4 POLICY ASW-P3 RECREATIONAL USE OF MOTORISED CRAFT WITHIN SPECIFIED AREAS OF IDENTIFIED RIVERS

2.4.1 Assessment

[17] Jet Boating [48.2] expressed general support of ASW-P3, but sought that the associated objective be refined so that avoidance is only required for adverse effects which are more than minor. The submitter initially requested an amendment to the method of avoidance, from the proposed limitation on the "time of year" to a minimum water flow threshold.

[18] Jet Boating sought advice from Mr James (Jim) Jolly, an ecologist who was supportive of a precautionary approach to the use of motorised craft within specified identified rivers. Mr Jolly was accepting of a temporal restriction of activity. Mr Jolly's advice was appended to the

⁴ Malcolm Smith, Statement of Evidence, 28 April 2025, paragraph 16.

statement of Mr Smith.⁵ Jet Boating accepted that advice. Mr Jolly recommended that temporal restrictions should be for the months of September – November being the typical period when ‘nestlings and fledglings’ occupy the river beds, but could be extended to December out of precaution.⁶ Jet Boating also accepted Mr MacLennan’s drafting changes in his s42A Report but noted there was an error in the amendment, in that it should refer to non-commercial use of recreational craft.

[19] DOC were generally supportive of the s42A recommended changes to the policy, but the issue of the extent of the temporal restriction was a matter of contention, with the DOC ecology expert, Dr Clement Lagrue, seeking to limit recreational use to the period February to July. This would result in the restricted period being from August to January. We discuss this difference in opinion below in relation to the rules.

[20] Te Rūnanga o Ngāi Tahu [185.76] submitted that structures are also used for non-commercial activities and that their management should be guided by an appropriate policy framework. They recommended that the policy be reconsidered to ensure it appropriately addresses structures used for recreational activities. Mr MacLennan noted that this submission point is identified as applying to both ASW-P3 and ASW-P6, and the merits of the requested amendments in relation to ASW-P6 are assessed in the relevant section below. His recommended amendment to the title of ASW-P4 will clarify that “structures” are managed by ASW-P4, without compromising the intent of ASW-P3 to prevent adverse effects from motorised craft.

2.4.2 Decision

[21] We adopt Mr MacLennan’s recommended drafting changes to ASW-P3, and the consequential amendment to the title of ASW-P4. The amendments to the policies are set out in **Appendix 3**.

[22] In terms of s32AA, we adopt Mr MacLennan’s evaluation in support of the change made.

2.5 POLICY ASW-P4 COMMERCIAL ACTIVITIES (AND STRUCTURES)

2.5.1 Assessment

[23] Te Rūnanga o Ngāi Tahu [185.77] considered amendments are required to consider any adverse effects on sensitive environments and Kāti Huirapa to allow for a more holistic assessment of effects. Mr MacLennan considered that the requested changes are already provided for in the range of matters addressed in the policy. However, in relation to ‘cultural and spiritual values’ he accepted the submission point to replace the more generic reference with the “spiritual and cultural values and beliefs of Kāti Huirapa” to better reflect the policy intent.

⁵ James (Jim) Jolly, Statement of Evidence, 24 April 2025

⁶ Ibid, paragraph 12 and 13

2.5.2 Decision

[24] We adopt Mr Maclellan's analysis and recommendations on ASW-4. The amended policy is set out in **Appendix 3**.

[25] In terms of s32AA, we adopt Mr Maclellan's evaluation in support of the change made.

2.6 POLICY ASW-P6 OTHER NON-COMMERCIAL ACTIVITIES

2.6.1 Assessment

[26] Jet Boating [48.4] submitted that the policy should refer to avoidance of the use of non-commercial motorised craft only in circumstances where any adverse effects are significant. They consider that the minimum water flow control will negate the need for controls around fish spawning and bird breeding.

[27] Te Rūnanga o Ngāi Tahu [185.78] submitted that structures are also used for non-commercial activities and should be guided by a policy. They recommended reconsidering how the policy will apply to structures for non-commercial activities. Te Rūnanga o Ngāi Tahu [185.79] also sought an amendment to consider any adverse effects on sensitive environments and Kāti Huirapa to allow for a more holistic assessment of any effects.

[28] Mr Maclellan accepted in part the issue raised by Jet Boating and recommended changes that enabled a pathway for an assessment of adverse effects rather than an avoidance directive.⁷ He did not, however, accept that a threshold of "significant" adverse effects on flora and fauna, cumulative effects, and cultural and spiritual values be applied as it was too high and would not achieve ASW-O1 which requires the protection of ecological, recreational, natural character and cultural values of the District's rivers.⁸

[29] In response to the submission points from Te Rūnanga o Ngāi Tahu, Mr Maclellan noted ASW-P4 provides direction on the management of structures, and therefore the suggested amendments to ASW-P6 are not required. As a consequential amendment he recommended that the title of ASW-P4 is amended so it clarifies that it applies to "Commercial activities and structures". Mr Maclellan did not consider a change was required to ASW-P6.4 as this was already addressed in the policy, but he accepted the requested amendment to ASW-P6.5 for the reasons addressed in ASW-P4 above.

[30] We generally accept Mr Maclellan's reasoning, however we found the drafting of the policy to be awkward with its use of double negatives. We have made minor drafting changes to improve the readability of the provision under RMA, Schedule 1, cl10(2).

⁷ Andrew Maclellan, s42A Report, 24 March 2025, paragraph 8.6.5

⁸ Ibid, paragraph 8.6.6

2.6.2 Decision

[31] Subject to our amendment to the drafting of the policy we adopt the recommendations of Mr MacLennan on ASW-P6, for the reasons outlined above. The amended policy is set out in **Appendix 3**.

[32] We adopt Mr MacLennan's s32AA evaluation.

2.7 RULE ASW-R2 THE USE OF MOTORISED CRAFT FOR SPECIFIC ENVIRONMENTAL MANAGEMENT OR SEARCH AND RESCUE PURPOSES

2.7.1 Assessment

[33] NZDF [151.14] sought an amendment to the rule to ensure that NZDF can use motorised craft on the surface of water, as any adverse effects will be temporary and similar in nature to search and rescue activities.

[34] Mr MacLennan agreed with the submitter that the effects of the use of motorised craft on the surface of the water for temporary military training activities will be comparable to that of search and rescue, which is permitted within the notified rule. He noted that policy TEMP-P1 recognises the social, economic, cultural and environmental benefits of temporary military training activities. He therefore agreed with the requested amendment and further recommended that the permitted activity include the duration that limits temporary military activities within TEMP-R2 (PER-2). He also recommended a consequential addition to ASW-P2 (the parent policy to this rule) to include temporary military training activities.

[35] OWL [181.72] partly supported the rule and sought to ensure the use of motorised craft on the surface of water for inspecting infrastructure (such as water intake structures, associated scheme infrastructure and resource consent monitoring) is not precluded by the Proposed Plan, as these activities are not expressly covered by the proposed rules in this chapter.

[36] Mr MacLennan agreed with the suggested amendment because the effects of the inspections provided by the proposed rule are comparable to those permitted by PER-3 and PER-4 related to resource management monitoring and other regulatory responsibilities of ECan and the Council. He noted that EI-P1 recognises the benefits of RSI and enables the operation, maintenance, repair, upgrade, and development of this infrastructure. Given this, he accepted that the inspection of RSI and resource consent monitoring by a network utility operator should be permitted within ASW-R2.

2.7.2 Decision

[37] We adopt Mr MacLennan's analysis and recommendations on ASW-R2. The amended rule is set out in **Appendix 3**.

[38] In terms of s32AA, we adopt Mr MacLennan's evaluation in support of the changes made.

2.8 RULE ASW-R3 THE RECREATIONAL USE OF MOTORISED CRAFT ON THE RANGITATA RIVER

2.8.1 Assessment

[39] Clearwater, R [243.1] noted that the Timaru-Ashburton District boundary is at the centre of the Rangitata River and hence any provisions should match the Ashburton District Plan.

[40] DOC [166.88] supports the rule but sought amendments to reflect the correct number for the Schedule identifying fish spawning areas, SCHED13. Mr MacLennan accepted that reference to SCHED14 in place of SCHED13 is an error.

[41] In evidence Ms Williams identified an apparent anomaly in the rules for the Rangitata River, which is not addressed in the DOC submission. In addition to the issue of the alignment of the exclusion periods for the Ōrāri, Ōpihi and Pureora/Pareora Rivers in rule ASW-R4-6 (which is addressed below), the Upper Rangitata River (ASW-R3.1) had the opposite restriction which required use to be between August and February and in the rules for the Lower Rangitata (ASW-R3.2) there was no temporal restriction.⁹

[42] Ms Williams set out in her evidence the history of the development of the Ashburton District Plan provisions in Plan Change 2 (PC2). PC2 had amended the Ashburton Plan to align with the Operative Timaru District Plan. Under the Ashburton District Plan:¹⁰

- (a) Rule 3.8.7 sets out Prohibited Activities which includes the use of motorised craft on Rangitata River (above Red Rocks) and its tributaries between the months of March to July (inclusive); and the use of motorised craft on Deep Creek at any time.
- (b) There is no temporal restriction for the use of motorised craft on the Rangitata River below Red Rocks.
- (c) The commercial use of motorised craft is not permitted.

[43] Ms Williams considered this was consistent with the provisions of the Operative Timaru District Plan which contains a surface water activity rule (6.20.2.1(4)) to restrict recreational boating activities on the Rangitata River above Red Rocks during the salmon spawning period (March to July). Below Red Rocks, the non-commercial use of motorised craft is a permitted activity at any time.

[44] The Proposed Plan also includes “salmon spawning areas” in SCHED13 which are included in the proposed Planning Maps as FSA Overlays. Only one salmon spawning area is identified in the higher reaches of the Rangitata River catchment - (FSA-4) at Black Mountain Stream. The remaining FSAs (FSA 6, 7 and 9) identified on the Rangitata River above Red Rocks are for upland longjaw galaxias habitat. Proposed Rule ASW-R3.1, PER-3 does not permit any recreational motorised craft within these mapped areas at any time of the year.

⁹ Elizabeth Williams, Statement of Evidence, 9 April 2025, paragraph 23

¹⁰ Ibid, paragraph 44

[45] Mr MacLennan considered that ASW-R3 does largely align with the requirements in the Ashburton District Plan managing activities on the surface of the Rangitata River. He said that both sets of rules include limits on the use of the Rangitata River above Red Rocks between March and July and also limit commercial activities. They also both permit the use of recreational motorised crafts below Red Rocks.

[46] Ms Williams acknowledged, however, that if the rule were amended to include time restrictions in line with Mr Lagrue's recommendations for the Upper Rangitata in addition to the current provisions (in particular proposed amended PER-2 which would require the use to be undertaken between February to July) jet boating would only be provided for as a permitted activity for one month a year (February). Further there would be inconsistencies with the Ashburton District Plan rules which creates enforcement issues (given that the restrictions will only apply to the centre of the Rangitata River).¹¹

[47] Ms Williams acknowledged the tension between endeavouring to ensure consistency with adjoining districts and achieving a plan's own objectives and policies. It appears that without both Councils jointly addressing the issue, then there is a perpetual issue of plans being out of step. Ms Williams suggested that the issue could be addressed in the future, but for the current purposes her opinion was that the need to protect areas of significant habitats of indigenous birds along braided rivers is provided for through the RMA Sections 6(a) and (c), the NPS-IB, the NPS-FM, the CRPS, the Rangitata WCO and through the Proposed Plan ECO Chapter Objectives and ASW-O1. Currently, and in light of the evidence presented by Dr Lagrue, her opinion was that there is a gap in the Proposed Plan for protecting this habitat under the current proposed Rule ASW-R3.

[48] Ms Williams considered this could be addressed by making amendments to ASW-R3 to introduce additional temporal restrictions to apply over the bird breeding season (August to January inclusive). However, she accepted that the considerations identified may require a more comprehensive review with the involvement of key stakeholders and the Ashburton District Council.

[49] Mr MacLennan responded to the issues raised in Ms Williams evidence by noting there is a scope issue because the submissions on ASW-R3 supported the rule as notified and the only amendment sought was to fix a minor error to refer to the correct schedule.

[50] The solicitor for DOC responded to the issue of scope in legal submissions.¹² After traversing relevant case law and the details of the submissions lodged on behalf of DOC, Counsel for DOC submitted that the amendments sought to ASW-R3 as recommended in Ms Williams' evidence were fairly and reasonably raised by, and within the scope of, DOC's submission. Counsel acknowledged that in relation to Rules AWS-R3, R4, R5 and R6, (i.e. including ASW-R3), the relief in DOC's submission sought was for all rules to be retained as notified, and that the only amendment sought was a minor technical amendment to Rule ASW-R3 (updating the schedule reference from SCHED14 to 13). To that extent, the relief now sought in respect of ASW-R3, as recommended in Ms Williams' evidence, differs from the

¹¹ Ibid, paragraph 50

¹² Legal Submissions regarding scope on behalf of the Director General of Conservation, 29 April 2025.

relief specified in the submission; and no other submitters have sought amendments to ASW-R3. However, Counsel relied on the more general proposition in the *Albany* case¹³ that we needed to consider the ‘whole relief package’ detailed in the submission.

[51] Counsel relies on submission points [168.68] and [168.88] where DOC submitted that:

The D-G supports the objective and policies which seek to protect the values of the districts rivers, avoid adverse effects of motorised craft and manage the effects of surface water activities on fish spawning areas, habitat of breeding birds and on flora and fauna within riparian margins. The objective and policies are consistent with the RMA Part 2, Section 6c and Section 31(1)(e).

[52] In relation to the rules, DOC submitted:

...limit the recreational use of motorised craft on specified rivers and ecosystem values at appropriate times of the year.

[53] Counsel submitted that a key focus of the submission therefore, which is clear on the face of the submission, is to protect bird breeding habitat by limiting jet boat use at ‘appropriate times’ – read as a whole it is clear that the intention of the submission is for jet boating to be limited over bird breeding season. The relief specified in the DOC submission in relation to AWS-R3 is therefore predicated on the temporal restriction specified in ASW-R3 being the appropriate period to avoid the bird breeding season.

[54] In those circumstances, DOC submits that there is scope for the Panel's decision to reflect the relief now sought– i.e. for the temporal restrictions in ASW-R3 to apply within the bird breeding season of August – January (inclusive).

[55] Counsel acknowledged potential natural justice issues, however considered that the Panel could consider Jet Boating as representing views on limitations of jet boating stakeholders. Notwithstanding the scope argument, Counsel noted there were other issues for the Panel to consider, including inconsistency with Ashburton District Council, however Counsel emphasised Ms Williams’ planning assessment, as referred to above.

[56] The Panel has considered the scope issue, however, we do not agree with the submissions from Counsel for DOC. The submission from DOC is clear on its face and is supportive of the notified rules.

[57] Even if we are wrong on the issue of scope there is a broader concern that the changes that DOC sought to ASW-R3 will create an inconsistency with the adjoining Ashburton District Plan. If DOC had been clear on the changes they sought and the reasons for those changes in its written submission it may have been possible for the Ashburton District Council to be heard in relation to the issue. Whilst the issues raised by Ms Williams regarding the importance of bird breeding habitat on the Rangitata River, are supported by Dr Lagrue’s evidence, we have not had the benefit of a s32 evaluation to determine the effectiveness or efficiency of the proposed amendment. The obvious enforcement issues that would arise with different regulatory regimes applying to each side of the river highlights that the rule

¹³ *Albany North Landowners v Auckland Council* [2017] NZHC 138, at [115].

framework, if amended as suggested by Ms Williams, would likely suffer in its efficiency and effectiveness.

[58] We consider that for the current plan review purposes that the rule should be retained as notified, and that the adjacent Councils, and DOC should consider a future plan change to resolve the issues in the event of any significant adverse impacts of recreational motorised craft use of the Rangitata River on bird breeding habitat.

2.8.2 Decision

[59] We adopt Mr Maclellan's recommendation and agree it is not appropriate to include the additional temporal restriction given a lack of scope, and likely natural justice, efficiency and effectiveness implications if we were to include such a restriction. We agree with Mr Maclellan's minor referencing correction.

[60] The amended rule is set out in **Appendix 3**.

2.9 RULE ASW-R4 THE RECREATIONAL USE OF MOTORISED CRAFT ON THE ŌRĀRI RIVER

2.9.1 Assessment

[61] 'River Protection Areas' (RPAs) are listed in SCHED17 and are added as an overlay on the planning maps. The RPAs identify sections of the Rangitata, Ōrāri, Ōpihi and Pareora Rivers. Within these areas, the ASW rules (ASW-R3, ASW-R4, ASW-R5 and ASW-R6) set out permitted activity standards for the recreational use of motorised craft.

[62] Gerard, R [40.1], Jet Boating [48.6], and Clearwater, R [243.2] consider that recreational jet boating or other motorised craft use can be undertaken as a permitted activity year-round in RPA-3 where the flow is recorded as being greater than 20 cumecs and sought the removal of the time/date restriction. DOC supported the rule as notified.

[63] As discussed above in relation to ASW-P3, there were differences in opinion between avifauna ecologists¹⁴ on the temporal period within which recreational use of motorised craft on the named rivers in the Proposed Plan should be restricted to protect habitat for avifauna during nesting and breeding seasons.

[64] Dr Lagrue identifies bird species such as the Wrybill (Threatened – Nationally Increasing), Black-billed Gull (At Risk - Declining), Black-fronted Tern (Threatened – Nationally Endangered) and other endemic species such as the Banded Dotterel (At Risk - Declining) and South Island Pied Oystercatcher (At Risk - Declining) as species that use braided rivers as their primary breeding habitats.

[65] We directed that Mr Jolly and Dr Lagrue conference on their differences and produce a JWS. They did so.¹⁵

¹⁴ Mr Jolly, who provided a written statement included with Jet Boating NZ evidence, and Dr Lagrue, for DOC.

¹⁵ Joint Witness Statement, Activities on surface water: Temporal restriction on motorised craft (Avifauna effects), 29 May 2025

[66] Mr Jolly and Dr Lagrue differed in their opinions as to the extent of the breeding season with Dr Lagrue taking a more conservative approach where he did not consider there was sufficient evidence to discount the presence of threatened species.

[67] Mr MacLennan considered the expert opinions as recorded in the JWS. His focus was on the agreed temporal restriction on the core breeding season of September – December. He undertook a s32AA evaluation and considered that:¹⁶

I consider the recommended amendments to ASW-R4, ASW-R5, and ASW-R6, which restrict recreational use of motorised craft on rivers during the core bird breeding period (September to December), are an efficient and effective approach to achieving the direction within ASW-O1. I consider this rule framework strikes an appropriate balance between protecting the core ecological values of the rivers while providing for recreational use of motorised craft at appropriate times of the year. I acknowledge that a longer temporal restriction on recreational use of motorised craft on rivers, as sought by DOC, would provide greater ecological protection but would reduce recreational opportunities. On balance, I consider the recommended amendments appropriately implement ASW-O1 and represent a balanced outcome that recognises both ecological and recreational values.

[68] Ms Williams, the planning witness for DOC recommended minor changes to the temporal restrictions specified in these rules to align with Dr Lagrue's expert evidence as to when the relevant bird breeding occurs. This would require a change to PER-2 in each of these rules, so that the specified period within which motorised craft use could occur would be February to July (inclusive) rather than March – August (inclusive).

[69] In her evidence Ms Williams set out an evaluation of the relevant higher order documents in relation to the habitats of indigenous fauna. She recorded:¹⁷

a. Sections 6(a) & (c) of the RMA requires the preservation of natural character of rivers and their margins and protection of them from inappropriate development and use and the protection of areas of significant habitats of indigenous fauna as matters of national importance. It is important to note that the majority of the RPAs which the specific ASW rules apply, are also within mapped Significant Natural Areas (SNAs) - with the exception of the Paeora River. The significance of these rivers is confirmed by Mike Harding's SNA surveys (2019) and Dr Lagrue's evidence which identifies braided rivers as naturally rare and threatened ecosystems. While the Paeora River is not within an identified SNA, Dr Lagrue has identified this as comparable habitat.

b. The National Policy Statement for Indigenous Biodiversity (NPSIB) requires the protection of SNAs (as noted above SNAs have been identified along Timaru's rivers) by avoiding or managing adverse effects from new subdivision, use and development (Policy 7). Policy 3 requires that a precautionary approach is adopted where the effects on indigenous biodiversity are uncertain but where those effects could cause significant or irreversible damage to indigenous biodiversity. Further, threatened and at risk braided river bird

¹⁶ Andrew MacLennan, Interim Reply Hearing F, 6 June 2025, paragraph 34

¹⁷ Elizabeth Williams, Statement of Evidence, 9 April 2025, paragraph 29

species that are identified as being present on the district's rivers are recognised as highly mobile fauna within the NPSIB (refer to Appendix 2).

c. The National Policy Statement for Freshwater (NPSFM) requires that the loss of river extent and values is avoided to the extent practicable (Policy 7) and that the habitats of indigenous freshwater species are protected (Policy 9). The NPS supports an integrated approach that requires freshwater, and land use and development to be managed in a sustainable way to avoid, remedy or mitigate adverse effects, including cumulative effects, on the freshwater ecosystems and receiving environments (Clause 3.5).

d. Canterbury Regional Policy Statement (CRPS) requires the protection of significant indigenous habitats (Objective 9.2.3, Policy 9.3.1) and identifies habitats of threatened and at-risk indigenous species as a priority for protection (Policy 9.3.2). The RPS also specifies that the natural character of rivers and their margins are preserved, and those areas are protected from inappropriate use (Objective 7.2.1 and 7.2.3).

e. Water Conservation (Rangitata River) Order 2006 Section 4 and Schedule 2 identifies sections of the Rangitata River (including above & below Red Rocks) as having outstanding features and values including habitat for aquatic birds.

[70] Ms Williams further noted that the majority of the District's rivers are proposed as mapped SNAs in the Proposed Plan. Objective ECO-O1 seeks to protect the values of significant habitats of indigenous fauna. However, as the rules only control the clearance of indigenous vegetation and earthworks (outside of the riverbed), she considered that it is appropriate to include rules within the ASW Chapter to manage the effects of motorised craft on the values of the river environment, particularly as these values include significant habitats of threatened and at-risk indigenous species. This would also align with proposed ASW-O1 which seeks to protect the ecological values of the District's rivers from the adverse effects of inappropriate activities. She also considered that the natural character provisions also apply and NATC-O1 seeks to preserve the natural character of the Timaru District's rivers from inappropriate use and development.¹⁸

[71] Although Ms Williams has set out the relevant higher order objective and policy framework her evidence does not include a s32AA analysis. The Panel note that even in the context of the higher order objectives and requirements of s6(a) the protection is from 'inappropriate' subdivision, use and development. It is not suggested that recreational use of motorised craft on rivers is inappropriate, rather that the use at certain sensitive times for breeding of at-risk avifauna may well be.

[72] Mr MacLennan's evidence sought to frame the alternative of limiting use to exclude the core breeding season as striking the appropriate balance, having considered both the ecological values and recreational values of the rivers within the District. We further note that Mr Jolly and Dr Lagrue were agreed on the core breeding season, and their differences related to judgements as to the risk of early or late nesting and breeding.

¹⁸ Ibid, paragraph 30 and 31

[73] Having considered the expert ecological evidence and JWS outcomes in the context of the higher order documents, and provisions in the Proposed Plan we are satisfied that a temporal limit, in addition to minimum flow, is likely to ensure that adverse effects on significant habitat of threatened bird species are appropriately managed, whilst also enabling recreational activity by motorised craft outside during the core breeding season as contemplated by ASW-O1 and ASW-P3.

2.9.2 Decision

[74] We adopt Mr Maclellan's recommended changes to ASW-R4. The amended rule is set out in **Appendix 3**.

[75] In terms of s32AA, we adopt Mr Maclellan's evaluation in support of the changes made.

2.10 RULE ASW-R5 THE RECREATIONAL USE OF MOTORISED CRAFT ON THE ŌPIHI RIVER

2.10.1 Assessment

[76] Gerard, R [40.3] and Jet Boating [48.7] consider the proposed standards are redundant and inappropriate as the rule relates to the historical (1980s) use of the river for jet sprints. They also believe the time restrictions are unnecessary as there has been no indication of adverse effects of jet boating on fishing or nesting birds in the riverbed. Both parties suggest amendments to remove PER-2 except for the flow standard.

[77] Clearwater, R [243.3] also notes the outdated provisions and considers the permitted activity status should apply year-round when flows are greater than 20 cumecs. They also sought amendments to ensure that the river has a permitted activity status from the State Highway 1 bridge to the district boundary, being the confluence with the Opuha river at Raincliff.

[78] DOC supported the rule as notified.

[79] Our discussion of the differences between Jet Boating and DOC in relation to ASW-R4, apply here also. Mr Jolly and Dr Lagrue addressed the temporal restrictions for the Ōpihi river in their JWS.

[80] Mr Jolly and Dr Lagrue agreed that Banded Dotterels, Black-fronted Terns and Black-billed Gulls are nesting. As for the Ōrāri River there was difference in opinion as to whether there was evidence of Wrybill nesting. They agreed that the core nesting period is September to December, with Dr Lagrue of the opinion there was evidence of nesting in August and January. They differed on their recommended exclusion period based on that difference.

[81] Mr Maclellan recommended ASW-R5 PER-2 be amended as for ASW-R4 PER-2 for the same reasons, and he recommended the deletion of the notified conditions in PER-2, except for the measurement of flow.

[82] Ms Williams' evidence for ASW-R5 was the same as for ASW-R4.

[83] Our evaluation of the differences in opinion relative to the statutory framework are the same as for ASW-R4, and we reach the same conclusions.

2.10.2 Decision

[84] We adopt Mr MacLennan's recommendations on ASW-R5. The amended Rule is set out in **Appendix 3**.

[85] In terms of s32AA, we adopt Mr MacLennan's evaluation in support of the changes made.

2.11 RULE ASW-R6 THE RECREATIONAL USE OF MOTORISED CRAFT ON THE PUREORA/PAREORA RIVER

2.11.1 Assessment

[86] Gerard, R [40.4], Jet Boating [48.8], and Clearwater, R [243.4] consider that recreational jet boating can occur within the RPA without a time/date restriction, subject to a minimum water flow of 20 cumecs. They sought the removal of PER-2 for this reason.

[87] Clearwater, R [243.4] also notes that the centre of this river is the boundary with the Waimate District and hence any provisions should align with the Waimate District Plan.

[88] DOC supported the rule as notified.

[89] Mr Jolly and Dr Lagrue agreed that Banded Dotterels, Black Fronted Terns and Black Billed Gulls are present in the river environment but there was no consensus on the frequency of nesting. Mr Jolly considered the nesting was not consistent due to weed infestation. Dr Lagrue considered there was a need for more research and that a precautionary approach was justified. They maintained their differences as to when the exclusion period should be.

[90] Ms Williams evidence for ASW-R6 was the same as for ASW-R4 and ASW-R5, discussed above.

[91] In response to the Clearwater submission which sought alignment with Waimate District Plan, Mr MacLennan's view that Waimate District Plan permits the use of motorised craft on the Pureora / Pareora River. In contrast, ASW-R6 includes a number of restrictions on motorised craft within RPA-5. Mr MacLennan acknowledged that these proposed restrictions within AWS-R6 create a cross-boundary inconsistency which will create enforcement issues, as the restrictions will only apply to the centre of the Pureora / Pareora River. However, in his view, ensuring cross-boundary alignment alone is not sufficient justification for the removal of the proposed restrictions. He said that limitations on the use of motorised craft on the Pureora / Pareora River have been proposed within the Plan to ensure the protection of ecological, recreational, natural character and cultural values of the river as required by AWS-O1 and removing these restrictions will not achieve this objective.

[92] Further he said that the Waimate District Plan was notified in 2011 and became operative in 2014. Given that the Waimate Plan is nearing the end of its 10-year lifetime and will likely be reviewed in the near future, he considered there is merit in retaining the proposed permitted standards, and these can be considered when the Waimate District Council undertake a review of their District Plan.

[93] We have accepted Mr MacLennan's assessment but have reflected on the consistency with our decision in relation to the Rangitata River (ASW-R3) above, and we consider the issue to be finely balanced. Whilst the outcome requested in evidence from DOC in relation to ASW-R3 was rejected in the first instance due to a lack of scope, the Panel was also concerned about the inconsistency between the District Plans on each side of the river. We consider that the distinguishing feature here is that the Waimate District Plan is due for review, therefore the efficiency of the rule and enforcement issues are likely to be temporary, and there is the opportunity to align the rules, through pre-notification engagement with the Waimate District Council and or submissions, including participation by the Timaru District Council. In the case of Ashburton District Plan, PC 2 became operative in August 2019.

2.11.2 Decision

[94] We adopt the analysis and recommendations of Mr MacLennan on ASW-R6. The amended rule is set out in **Appendix 3**.

[95] In terms of s32AA, we adopt Mr MacLennan's evaluation in support of the changes made.

2.12 RULE ASW-R9¹⁹ ALL OTHER ACTIVITIES ON THE SURFACE OF THE DISTRICT'S RIVERS

2.12.1 Assessment

[96] Jet boating [48.9] considers that the activity status for recreational jet boating should be restricted discretionary rather than non-complying. They note that ASW-P6 specifically notes the matters for consideration, and it will be consistent to provide a rule that requires specific assessment and exercise of discretion.

[97] Mr MacLennan's view was that the submission should be rejected because the non-complying activity status within ASW-R9¹⁹ is required to achieve the direction within ASW-P6, which requires that the use of non-commercial motorised craft is not otherwise provided for in ASW-P2 to ASW-P5 is to be avoided unless it is undertaken in accordance with ASW-P6.1 – ASW-P6.5. He considered this to be consistent with the way other 'avoid' policy direction was reflected in the rules. The policy direction within ASW-P6 signals that the rule framework is intended to be restrictive where necessary to prevent adverse environmental effects.

[98] Mr Smith for Jet Boating accepted Mr MacLennan's recommendation in his evidence.²⁰

¹⁹ Now renumbered ASW-R12 in the Decision Version of the provisions.

²⁰ Malcolm Smith, Statement of Evidence, 28 April 2025, paragraph 58.

2.12.2 Decision

[99] We adopt the recommendation of Mr Maclellan. ASW-R9¹⁹ is retained as notified.

2.13 RULE ASW-R10²¹ USE OF MOTORISED CRAFT WITHIN THE FISH SPAWNING AREAS

2.13.1 Assessment

[100] Jet Boating [48.10] considers it appropriate to restrict recreational jet boating in FSAs but sought the activity status is changed to non-complying rather than prohibited.

[101] Mr Maclellan recommended the submission be rejected on the basis that ASW-P9 requires that the use of motorised craft within fish spawning areas identified in SCHED13 - Schedule of Fish Spawning Area is to be avoided except as provided for by ASW-R2. Given the policy direction is to avoid these activities, we consider the prohibited activity status is appropriate.

[102] Mr Maclellan noted that ASW-R10²¹ could be read that the use of motorised craft within the fish spawning areas is prohibited, when this is not what is required by ASW-P5, which provides an exclusion for activities provided for by ASW-R2. To avoid confusion, he recommended a minor amendment is made to ASW-R10²¹ to clarify that the prohibited activity status does not apply to use of motorised craft that is provided for by ASW-R2. He recommended the minor correction in accordance with RMA, schedule 1, cl16(2).

[103] Mr Smith confirmed that he accepted the recommendation.²²

2.13.2 Decision

[104] We adopt the recommendation of Mr Maclellan on ASW-R10.²¹ The rule is retained as notified except for a minor correction recommended by Mr Maclellan as shown in **Appendix 3**.

2.14 NEW RULE – TE NGAWAI, TE MOANA AND WAIHI RIVERS

2.14.1 Assessment

[105] Jet Boating [48.11] considers there are three additional rivers, Te Ngawai, Te Moana and Waihi Rivers in the District that can be used for recreational jetboating, for small jetboats.

[106] Clearwater, R [243.5, 243.6, 243.7] also considers Te Ngawai, Te Moana and Waihi would be of interest to smaller jet boat owners. They recommend the addition of three rules to provide for the recreational use of motorised craft on each of the three rivers, with reference to ensure jet boating is permitted year-round when river flows exceed 10 cumecs.

[107] DOC [166.3FS] lodged a further submission that sought if the Te Ngawai, Te Moana and Waihi Rivers are included within the Plan, then these rivers should be assessed in terms

²¹ Now renumbered ASW-R13 in the Decision Version of the Provisions.

²² Ibid, paragraph 60.

of identifying areas that may be fish spawning areas and sections of those rivers that should be protected and the rules amended to provide for that protection.

[108] Mr MacLennan agreed in principle with the concept that the Plan could permit the recreational use of motorised craft within additional rivers provided the ecological, recreational, natural character and cultural values of the District's rivers are protected from the adverse effects. However, he shared the view of DOC that if the recreational use of motorised crafts is permitted on additional rivers, there needs to be permitted standards included to ensure the values of these rivers are protected as required by ASW-O1.

[109] Mr Smith for Jet Boating considered that the three rivers are appropriate for recreational jet boating activities albeit noting that they best suit a limited range and type of recreational jet boat. In essence he said Jet Boating considers that a reasonable and practical control on motorised craft activities can be achieved by a minimum water flow. He said the considered minimum water flow is 10m³ for each river.²³

[110] As part of the JWS²⁴ Mr Jolly and Dr Lagrue considered the relevant parameters required to protect avifauna on the identified rivers.

Te Ngawai

[111] Mr Jolly and Dr Lagrue agreed it was too small for colony birds to nest (Black-fronted Terns, Black-billed Gulls). Dr Lagrue thought that Banded Dotterels might be nesting but more surveys were needed. Mr Jolly was not aware of any information to suggest this. In terms of the appropriate response to when nesting might occur, they agreed that there was no nesting in January because there were no colony nesters. Dr Lagrue thought that if there were Banded Dotterels then the nesting period was August to December. Mr Jolly did not consider there was a need for an exclusion period due to no birds nesting.

Te Moana

[112] Mr Jolly and Dr Lagrue agreed that there was no appropriate habitat for colony nesters for the Black Fronted Terns and Black Billed Gulls and there is a lack of data to confirm usage by solitary nesting birds such as Wrybill and Banded Dotterels. Dr Lagrue was of the opinion that taking a precautionary approach, it cannot be said that Wrybill and Banded Dotterels are not using the river but Mr Jolly did not consider there to be any appropriate habitat for Wrybills or Banded Dotterels. Dr Lagrue thought that if there were Banded Dotterels then the nesting period was August to December. Mr Jolly did not consider there was a need for an exclusion period due to no birds nesting.

Waihi

[113] Mr Jolly and Dr Lagrue's opinions on the Waihi River habitat were the same as for Te Moana.

²³ Malcolm Smith, Statement of Evidence, 28 April 2025, paragraph 62-66

²⁴ Joint Witness Statement, Activities on surface water: Temporal restriction on motorised craft (Avifauna effects), 29 May 2025

[114] In relation to the three rivers Mr MacLennan acknowledged the evidence of Mr Jolly and Mr Smith in his Final Reply and provided an evaluation of a rule framework to provide for recreational use by motorised craft on these rivers.²⁵

[115] Mr MacLennan reviewed whether there are any sites on these rivers that warrant protection. He explained that there are no “critical habitats” or “salmon spawning sites” on any of these rivers mapped with the LWRP. Therefore, if an additional rule is included within the Proposed Plan, he considered there is no additional need to make additions to SCHED13 – Schedule of Fish Spawning Areas.

[116] Further he noted that Te Ngawai River is identified as SNA-854 under the Proposed Plan.²⁶ The Timaru District SNA survey for the “Te Ana a Wai River” SNA13 highlights that:²⁷

The riverbed provides habitat for threatened river bird species. The contiguous riparian/berm vegetation buffers the river from adjoining land use activities and provides habitat to the threatened long-tailed bat and may facilitate the dispersal and persistence of other indigenous fauna including lizards and forest birds.

[117] Te Ngawai River is identified as SASM-14 under the Proposed Plan.

Te Ana a Wai (Tengawai) River and tributaries: The awa and its tributaries are important as kohanga (nursery) for kai species. Values include wai puna, taoka species, mahika kai, wai māori, Kā tuhituhi o neherā, ara tawhito, wāhi paripari and nohoaka. The Ngāi Tahu Claims Settlement Act 1998 recognises a nohoaka on land next to the river.

[118] Te Moana and Waihi Rivers are identified as SASM20 under the Proposed Plan.

Te Umu Kaha (Temuka), Haehae Te Moana and Waihi Rivers These awa and the network of streams and wetlands between the Haehae Te Moana and Ōpihi rivers was an important mahika kai source for Waiateruati pā, with day excursions to collect food. Other values include wāhi paripari and ara tawhito.

[119] He noted that the Rangitata, Ōrāri, Ōpihi, Pareora / Pureora Rivers identified as RPAs within SCHED17 are also identified as SASM sites within the Proposed Plan.

[120] Mr MacLennan sought advice from representatives of Arowhenua.²⁸ Ms Hall from AEC provided a memorandum providing a cultural assessment of the three rivers, which sets out the cultural significance of these rivers' sites and also the implications of enabling jet boats on these rivers.²⁹ Concerns were raised regarding bird breeding season, Kanakana spawning season, Whitebait season, Inanga spawning season and Tuna / Eel elver return season and spawn migration.

²⁵ Andrew MacLennan, Final Reply, 4 August 2025, paragraph 41-58

²⁶ “Te Ana a Wai River - (Tengawai River) Maze Road, Pleasant Point”

²⁷ https://www.timaru.govt.nz/__data/assets/pdf_file/0009/675459/Significant-Natural-Area-Survey-Report-for-Te-Ana-a-Wai-River-Tengawai-River-SNA-854.pdf

²⁸ Kylie Hall, Principal Planner at Aoraki Environmental Consultancy Limited.

²⁹ Andrew MacLennan, Final Reply, 4 August 2025, Appendix A.

[121] Mr MacLennan consulted with Jet Boating and confirmed with them the extent of the amendments to the SCHED17 – Schedule of RPAs and the appropriate location of the flow measurement location. Mr MacLennan advised that the drafting proposed has been agreed to by representatives of Jet Boating. Mr MacLennan recommended the addition of three new rules and the inclusion of the three rivers in the RPAs. The rules provide for only a limited time period for recreational use by motorised craft to the months of June and July to account for the diverse habitat of indigenous fauna, as recommended by AEC. Flow limits of 10 cumecs or above apply as requested by Jet Boating.

[122] In Minute 48 the Panel requested that Mr MacLennan provide confirmation from Jet Boating that the amendments recommended by him resolved their concerns. Mr MacLennan provided a copy of email correspondence with Mr Smith from Jet Boating.³⁰

[123] In relation to the three additional rules (ASW-R6A, ASW-R6B, ASW-R6C³¹) Jet Boating expressed support for the recommended introduction of the three new rules and accepts the proposed minimum flow threshold of 10 m³/s as both practical and safe. They also acknowledged that seasonal restrictions are an appropriate tool for protecting riverbed birds. However, Jet Boating did not accept the stricter cultural assessment recommendation, which would confine jet boating to only July and August. They recognised the unique role of iwi in providing cultural assessments and accepts AEC as the appropriate spokesperson, while noting the lack of direct engagement between Jet Boating and AEC. They also acknowledged that a consenting pathway is available within the recommended provisions should greater access to the three rivers be sought in future.

[124] We have considered the evidential basis for the three new rules. We consider that the outcomes of the JWS regarding effects on avifauna, and the further research undertaken by Mr MacLennan outlined in his Final Reply³² to support his recommendation to include the additional rivers is an appropriate basis to recommend the new rules.

[125] We have concluded that the Mr MacLennan's recommendations implement ASW-O1 and ASW-P3 and ASW-P6. We note that the s32 Report for the Proposed Plan ASW Chapter records the consultation and engagement with Jet Boating, DOC, and Kāti Huirapa representatives during the development of the Plan. Despite Mr Smith's reservations about the cultural value assessment, we consider Mr MacLennan's recommendation to be appropriately cautious given the risks to cultural and ecological values as outlined in the response from AEC. We have considered the alternative that in the absence of the proposed new rules then access to the three rivers would be a non-complying activity all year in accordance with ASW-R9³³. There are benefits to recreational jet boaters as a consequence of the change, even if not to the extent they would like.

[126] Although the outcome of the rules is to restrict access to the three additional rivers to two months of the year, this is more enabling than the status quo and retains a resource

³⁰ Memorandum from Jet Boating NZ to Mr MacLennan, 25 September 2025, appended to Mr MacLennan's response to Minute 48, 8 October 2025.

³¹ Now renumbered ASW-R7, R8 and R9 in the Decision Version of the provisions.

³² Andrew MacLennan, Final Reply, 4 August 2025, Appendix A.

³³ Now renumbered ASW-R12 in the Decision Version of the provisions.

consent pathway to use the rivers outside of that period, albeit a non-complying activity. It enables a further assessment of the effects of such activities as against the identified ecological, cultural and recreational values identified in ASW-P6 on a case-by-case basis.

2.14.2 Decision

[127] We adopt Mr Maclellan's analysis and recommendations and have included three new rules ASW-R7, ASW-R8 and ASW-R9 in the Decision Version of the provisions in **Appendix 3**.

[128] We adopt Mr Maclellan's s32AA evaluation as set out in his Final Reply.³⁴

2.15 SCHED13 SCHEDULE OF FISH SPAWNING AREAS

2.15.1 Assessment

[129] ECan [183.172] support the inclusion of SCHED13 and sought it be retained as notified and updated to include any other spawning areas identified through the submission process.

[130] DOC [166.96] sought amendments to SCHED13 to include an extended Fish Spawning Area including the Upper Rangitata River as Upland Longjaw galaxias habitat and requested that the Council consider other native fish, such as Inanga and Stokells smelt, within the Timaru District, where the associated rules for surface water activities should also apply.

[131] Mr Maclellan identified in his Interim Reply that he had initially made an error in interpreting the LWRP 'Critical Habitat Mapping' and recommended mapping changes to align the approach.³⁵

2.15.2 Decision

[132] We adopt Mr Maclellan's recommendation and make the changes to FSA-5, FSA-6 and FSA-7 as shown in **Appendix 2** No change is required to the wording of SCHED13.

[133] We adopt Mr Maclellan's s32AA evaluation in support of the amendments.

2.16 SCHED17 SCHEDULE OF RIVER PROTECTION AREAS

2.16.1 Assessment

[134] Forest and Bird [156.17] supported SCHED17 and sought it to be retained, with the addition of more stretches and preferably entire rivers, to be consistent with Te Mana o te Wai. They noted that rivers are dynamic and protecting particular stretches is reliant on the protection of the river as a whole.

[135] Jet Boating [48.12] requested adding Te Ngawai, Te Moana and Waihi Rivers to SCHED17 to align with their potential for recreational use (we have accepted the submission point as part of our decision on these rivers above). Jet Boating [48.13] also noted that

³⁴ Ibid, paragraphs 55-58

³⁵ Andrew Maclellan, Interim Reply, Hearing F, 6 June 2025, paragraphs 11-20

SCHED17 refers to the RPA-3 river section and incorrectly references the “Ōpihi River” instead of correctly referencing the “Ōrāri River.” Gerard, R [40.1] sought amendments to the map for the RPA-3 so the upstream limit is at the top of the gorge.

[136] Mr MacLennan notes the confusion by Forest and Bird regarding the naming of SCHED17. The Schedule identifies rivers where recreational use is appropriate in some form, whereas all other rivers are non-complying activities. As such no change is required in response to this submission point.

[137] Mr MacLennan has recommended corrections to SCHED17 as pointed out by Jet Boating. He does not recommend acceptance of the submission from Gerard, R [40.1] because the stretch of the Ōrāri river upstream of the Ōrāri Gorge is identified as a High Naturalness Area within the Proposed Plan. His view is that extending the RPA Overlay into this stretch of river will not achieve ASW-O1 which requires that the natural character values of the District’s rivers are protected from the adverse effects of inappropriate activities.

[138] We accept Mr MacLennan’s recommendations for the reasons he provides.

2.16.2 Decision

[139] We adopt Mr MacLennan’s recommendations on SCHED17. The corrections to SCHED17 are included in **Appendix 3**. Consequential mapping changes are included in **Appendix 2**.

3 EARTHWORKS

3.1 GENERAL SUBMISSIONS

3.1.1 Assessment

[140] Submissions from ECan [183.1,183.4] raised concerns regarding how height is determined and the use of terminology to define floor areas of buildings. These submissions are addressed in Part 2 of our decision relating to definitions.

[141] Hort NZ [245.76] sought an approach in the Proposed Plan that provides for ‘day to day’ ancillary rural earthworks.

[142] Ms Williams³⁶ did not recommend any changes in response to these submission points. We agree with her recommendation. Related matters are addressed in our decisions on Standards EW-S3 and EW-S5.

3.1.2 Decision

³⁶ The s42A report author’s name changed between the time the s42A report was prepared and the hearing. In this decision we refer only to Ms Williams, noting that it was formerly Ms Wilcox.

[143] We adopt Ms Williams' analysis and recommendations. No changes are made to the provisions arising from general submissions, but changes are made in response to specific provision submissions.

3.2 EW-O1 EARTHWORKS ACTIVITY

3.2.1 Assessment

[144] Most submissions supported EW-O1. Waka Kotahi [143.103] supported EW-O1 but sought earthworks to facilitate RSI be explicitly provided for within this objective.

[145] Ms Williams did not recommend any changes in response to the submission of Waka Kotahi as she considered that the objective already captured earthworks for RSI by facilitating earthworks for subdivision, and the use and development of land. Waka Kotahi presented evidence³⁷ at the hearing which focussed on signs and noise and did not address matters relating to earthworks.

[146] At the hearing we heard from Ms Crossman for OWL [181.5FS] who was a further submitter on the Waka Kotahi submission. Her evidence related to RSI and questioned the s42A authors' approach to which EW provisions apply. Ms Crossman³⁸ stated:

I am somewhat confused by Ms Willox's response to this submission, as on the one hand she indicates that EW-O1 already captures regionally significant infrastructure, but on the other, suggests that the EW Chapter does not apply to such infrastructure. It would be helpful for this to be clarified at the hearing.

If it is that the EW Chapter does not apply to regionally significant infrastructure, then I agree with Ms Willox that the amendment sought by Waka Kotahi is not required. However, if this is not the case, then I consider it would be appropriate for EW-O1 to expressly refer to regionally significant infrastructure as sought by Waka Kotahi. In my view, this would give appropriate recognition to the importance and benefits of regionally significant infrastructure, as addressed earlier in my evidence.

[147] The relationship between the EI Chapter and other chapters in the Proposed Plan was a matter raised by a number of submitters in relation to many chapters. In particular the language used to either 'turn on' or 'turn off' various provisions was not used consistently, and this created confusion as to what provisions were intended to apply in different circumstances. The Panel has addressed the interrelationship between the Energy and Infrastructure and other Chapters in Part 1 of the Report.

[148] As the EW Chapter is a District-Wide Chapter, the provisions in the EW Chapter do apply to activities in the EI Chapter. Any exemptions from rules in the EW Chapter applying to activities in the EI Chapter are described within the EW Chapter itself.

[149] Having addressed this clarification between what provisions apply, we have accepted the analysis and recommendations of Ms Williams. We consider that the objective in this

³⁷ Statement of Evidence of Stuart Pearson 16 April 2025

³⁸ Ms Crossman Statement of Evidence 15 April 2025 Paras 4.30 and 4.31

chapter is focussed on being enabling for earthworks in general and it is not necessary to provide specific reference to RSI within this objective, as the benefits derived from RSI is addressed within the EI Chapter and does not require duplication.

3.2.2 Decision

[150] We adopt Ms Williams' analysis and recommendations on EW-O1. The amendments to the objective are set out in **Appendix 3**.

[151] In terms of s32AA, we are satisfied that the original s32 evaluation continues to apply.

3.3 EW-P1 BENEFITS AND NECESSITY

3.3.1 Assessment

[152] While most submissions to EW-P1 were in support, ECan [183.134], while generally supportive of EW-P1 (particularly the recognition of natural hazard mitigation works) sought amendments to the definitions of 'natural hazard mitigation works' so that flood and erosion protection works and drainage works were included.

[153] Matters relating to the definitions of 'natural hazard mitigation works' are addressed in Part 8 of the Decision Report relating to Natural Hazards.

[154] Ms Williams did not recommend any changes to Policy EW-P1 in response to submissions, however she recommended minor amendments to ensure that consistent terminology is used in this policy and other provisions in the Proposed Plan. Ms Heppelthwaite³⁹ [187.72] for KiwiRail supported the recommended changes. We received a written statement from the Fuel Companies⁴⁰ [196.78] supporting Ms Williams recommendations.

3.3.2 Decision

[155] We adopt Ms Williams' analysis and recommendations on EW-P1. The minor amendments are included in **Appendix 3**.

[156] We are satisfied that the original s32 evaluation continues to apply.

3.4 EW-P5 LAND STABILITY⁴¹

3.4.1 Assessment

[157] Silver Fern Farms [172.96] and Alliance Group [173.99] consider EW-P5 to be overly restrictive. Ms Williams agreed with the submitters that the policy as notified was unnecessarily restrictive and recommended changes be made to the policy. We received written statements

³⁹ Statement of Evidence, Ms Heppelthwaite, on Hearing F, 9 April 2025

⁴⁰ Statement for Fuel Companies from SLR Consultants 10 April 2025

⁴¹ The Fuel Companies lodged a submission in support of EW-P4, as no changes were sought to the provision it has not been specifically addressed in the decision.

from both Silver Fern Farms⁴² and Alliance Group⁴³ and no further changes were identified by either submitter.

[158] We accept Ms Williams' analysis and recommendations addressing this policy.

3.4.2 Decision

[159] We adopt Ms Williams' analysis and recommendations on EW-P5. The amendments to the policy are set out in **Appendix 3**.

[160] In terms of s32AA, we adopt Ms Williams' evaluation in support of the changes made.

3.5 EW-R1 EARTHWORKS AND APP4 FORM CONFIRMING COMMITMENT TO ADHERING TO AN ACCIDENTAL DISCOVERY PROTOCOL

3.5.1 Assessment

[161] Rule EW-R1 is the key earthworks rule establishing the activity status for earthworks in the Proposed Plan. Appendix 4 addresses the adherence to an Accidental Discovery Protocol. This rule and appendix attracted a number of submissions.

[162] Submissions relating to the Accidental Discovery Protocol and the wording and content of Appendix 4 are addressed in Part 6 of our Decision Report, relating to SASMs. Ms Williams agreed with the recommendations of Ms White (s42A author for the SASM Chapter) in relation to Appendix 4 and recommended consequential changes to EW-R1 to provide consistency. We agree with the changes recommended to EW-R1. Ms Williams also recommended that the related advice note in the EW Chapter be amended to refer plan users to APP4 and that it be shifted to the EW Introduction. We have addressed advice notes in Part 1 of our Decision Report. In this circumstance we do not consider that the advice note is necessary as relevant matters are included within rule EW-R1 and have not included the advice note in the introduction to the chapter.

[163] Ms Williams raised a matter relating to this rule and submissions to the NH Chapter, particularly relevant to the submission of OWL [181.74]. Ms Williams described⁴⁴ the recommendations of Mr Willis in that he had not recommended allowing network operators of RSI to carry out earthworks for natural hazard mitigation as a permitted activity. We address this matter in Part 8 of the Decision in relation to the NH Chapter.

[164] Ms Williams had discussed provisions related to natural hazard mitigation works with Mr Willis due to the linkages with natural hazard provisions. She noted that Mr Willis, has recommended that the definition of 'natural hazard mitigation works' be amended to include retaining walls, stop banks and flood protection works. Given this, Ms Williams considered amendments to EW-R1 to capture flood protection works are therefore not required, nor did she support including drainage works as she considered it unclear what the submitter classifies as 'drainage works' and what amendments (if any) are needed.

⁴² Silver Fern Farms tabled statement to Hearing F 9 April 2025

⁴³ Alliance Group – Tabled Statement Hearing F, 4 April 2025

⁴⁴ Ms Williams s42A Report paragraphs 9.5.10 and 9.5.11

[165] At the hearing we received evidence from Ms Crossman for OWL.⁴⁵ In her evidence she did not support the recommendation of Ms Williams and sought that the earthworks rule be amended. Ms Crossman had addressed the matter relating to natural hazards in detail in her evidence and considered that changes did need to be made to the earthworks rule to remove unnecessarily duplication between Proposed Plan rules and provisions in the CLWRP.

[166] In her Final Reply⁴⁶ Ms Williams had given this matter further consideration and has recommended providing an exclusion for natural hazard mitigation works that are permitted by the relevant Proposed Plan chapter or are within the bed of a lake or river and are within the jurisdiction of ECan. This is consistent with the approach taken in the NH Chapter.

[167] The wording recommended by Ms Williams differs from the specific wording sought by Ms Crossman. We preferred the wording attached to the Final Reply⁴⁷ of Ms Williams as that provides the greatest alignment with the Natural Hazard provisions in the Proposed Plan. We consider that this amendment addresses the main concern of Ms Crossman.

[168] We also heard from Ms Heppelthwaite⁴⁸ for KiwiRail on the wording of Rule EW-R1. She supported Ms Williams' recommended changes. We also received a written statement from the Fuel Companies⁴⁹ [196.78] supporting the recommendations of Ms Williams.

[169] In relation to all other submissions, we accept Ms Williams' analysis and recommendations addressing this rule.

3.5.2 Decision

[170] We adopt Ms Williams' analysis and recommendations, other than in relation to the advice note. The amendments to the rule are set out in **Appendix 3**.

[171] In terms of s32AA, we are satisfied that amendments are the most appropriate option for achieving the purpose of the RMA, the relevant provisions of the Plan and for giving effect to other relevant statutory instruments.

3.6 EW-S1 AREAS

3.6.1 Assessment

[172] Standard EW-S1 is related to the area of earthworks that can be undertaken. This standard attracted a number of submissions.

[173] A key matter addressed in the submissions was the appropriateness of the area limitation standard for earthworks. Some submissions sought a larger area of earthworks as a permitted activity and others sought to remove duplication between the earthworks and other provisions (such as subdivision) by amending the standard to exclude earthworks that will be

⁴⁵ Statement of Evidence of Julia Crossman on behalf of OWL, 15 April 2025

⁴⁶ Ms Williams Final Reply 4 August 2025

⁴⁷ Ms Williams Final Reply 4 August 2025

⁴⁸ Statement of Evidence, Ms Heppelthwaite, on Hearing F, 9 April 2025

⁴⁹ Statement for Fuel Companies from SLR Consultants 10 April 2025

subject to a subdivision or building consent. Ms Williams' evaluation addressed linkages between these provisions and other provisions in the Plan, including Subdivision, EI and SASM Chapters.

[174] At the hearing we received a written statement from the Fuel Companies⁵⁰ [196.78] supporting the recommendations of Ms Williams.

[175] Other than in relation to the matter addressed below we accept Ms Williams' analysis and recommendations on this standard.

[176] We heard from Ms Tait for Fonterra [165.95] relating to earthworks that may be undertaken at Clandeboyne. In its submission, Fonterra sought to remove the Clandeboyne site from EW-S1 (and consequently remove any maximum earthworks limits for the site). Ms Tait in her evidence stated:⁵¹

Having considered the comments of the reporting officer, I am satisfied that there is ample flexibility to enable the scale of earthworks at the Clandeboyne site that could reasonably be expected. However, I have my reservations about the workability of EW-R1 Exclusion h., which excludes '[earthworks] within the building footprint, or within 2m of the outer edge of, a building that has building consent and that complies with EW-S3....

In reality, most developments will seek resource consent (if they need it) ahead of building consent to avoid unnecessary expense (design changes, declined applications etc). However, EW-R1 does not account for this reality, meaning that earthworks within a building footprint but are yet to secure building consent (and which are over the minimum area standard) will need resource consent (before also going through the building consent process).

[177] Ms Tait identified that the issue could be rectified by the following amendment, not to the standard, but rather EW-R1.h:

...[earthworks] within the building footprint, or within 2m of the outer edge of, a building that has building consent, or will be addressed as part of a building consent application process, and that complies with EW-S3.

[178] In her Final Reply⁵² Ms Williams did not support Ms Tait's changes.

[179] The Panel accepts the evidence of Ms Tait that requiring a separate resource consent for earthworks that will be addressed as part of a building consent is unnecessary and is not the most efficient approach. The key matter for the Panel is ensuring that the wording of the provision, which relies on a future building consent, is certain and capable of effective implementation by both the applicant and the Council. We agree with Ms Tait that amending EW-S1 will not be effective as it addresses a limited number of zones. Therefore, we have made the change sought to EW-R1. We have refined the wording to be clear and deliberate by excluding earthworks for a building that has building consent (existing within the rule) or "in relation to any area standard will be subject to a building consent" (new wording) to address

⁵⁰ Statement for Fuel Companies from SLR Consultants 10 April 2025

⁵¹ Ms Tait, Statement of Evidence 9 April 2025, Paras 9.2 and 9.3

⁵² Ms Williams Final Reply 4 August 2025

the matter raised by Ms Tait). We have limited any exclusion related to a future building consent relates to area standards which was the concern addressed by Ms Tait.

3.6.2 Decision

[180] We adopt Ms Williams' analysis and recommendations, other than in relation to the matter addressed by Ms Tait. We make an amendment to EW-R1 as outlined above. The amendments to the provisions are set out in **Appendix 3**.

[181] In terms of s32AA, we are satisfied that amendments are the most appropriate option for achieving the purpose of the RMA, the relevant provisions of the Plan and for giving effect to other relevant statutory instruments.

3.7 EW-S2 EXCAVATION AND FILLING AND EW-S3 SETBACKS

3.7.1 Assessment

[182] Standard EW-S2 addresses the maximum depth or height of earthworks either above or below ground level, addresses the slope of land where the earthworks occur and requires that fill consists of cleanfill material. Standard EW-S3 addresses depth and height of earthworks within a setback from any site boundary. We did not receive any further information or evidence from the submitters on these provisions.

[183] We accept Ms Williams' analysis and recommendations addressing these standards. We agree with Ms Williams that the standards are necessary in order to manage adverse effects.

3.7.2 Decision

[184] We adopt Ms Williams' analysis and recommendations on EW-S2 and EW-S3. There is no amendment to these standards.

3.8 EW-S4 REHABILITATION AND REINSTATEMENT

3.8.1 Assessment

[185] Standard EW-S4 requires rehabilitation and reinstatement of land disturbed by earthworks within 12 months after earthworks have commenced. We did not receive any further information or evidence from the submitters on this provision.

[186] We accept Ms Williams' analysis and recommendations addressing this standard. We agree with Ms Williams' that the timeframe specified in the standard as a permitted activity is appropriate and that there is a consent pathway available should a longer time period be needed.

3.8.2 Decision

[187] We adopt Ms Williams' analysis and recommendations on EW-S4. There is no amendment to this standard.

3.9 EW-S5 EARTHWORKS IN PROXIMITY OF THE NATIONAL GRID

3.9.1 Assessment

[188] At the hearing we received a written statement from Transpower [159.89] supporting Ms Williams' recommendation on this standard. We received no other evidence or additional information from other submitters.

[189] We accept Ms Williams' analysis and recommendations addressing this standard. We agree with Ms Williams that the amendments recommended to ensure the standard applies to earthworks in proximity to the 66kV electricity distribution lines and does not capture earthworks in proximity of the National Grid ensures that the provision is clear and addresses the resource management issue appropriately.

3.9.2 Decision

[190] We adopt Ms Williams' analysis and recommendations on EW-S5. The amendments to the standard are set out in **Appendix 3**.

[191] In terms of s32AA, we adopt Ms Williams' evaluation in support of the changes made.

4 LIGHT

4.1 GENERAL SUBMISSIONS

4.1.1 Assessment

[192] A number of submissions made general points seeking clarification of provisions, and the deletion and replacement with alternatives, similar to the Mackenzie District Plan, Plan Change 22 (MDP PC22).⁵³ Ms White did not recommend any changes in response to those submissions, rather the themes are picked up elsewhere on specific provisions. Nor did Ms White consider it appropriate to adopt the approach for MDP PC22 due to the different circumstances within each District. In particular, the Aoraki Mackenzie International Dark Sky Reserve, and the 'dark sky' provisions contained in MDP PC22 were based on provisions already existing in the Operative MDP. We agree with Ms White's conclusions and make no changes to the provisions arising out of the 'general' submission points.

4.1.2 Decision

[193] No changes are made to the provisions arising from general submissions, but various changes are made elsewhere in response to specific provision submissions.

⁵³ Liz White, s42A Report Light and Noise, 24 March 2025, paragraph 7.1

4.2 OBJECTIVES

[194] Two objectives were notified addressing the effects of artificial outdoor lighting on the environment. LIGHT-O1 addressed the use of outdoor lighting generally and LIGHT-O2 addressed the benefits of outdoor lighting.

4.2.1 Assessment

[195] Some submissions supported the approach, however Synlait [163.5] considered the objectives were confusing and overlapping, and that LIGHT-O2 did not capture the importance of health and safety considerations. DOC [166.120] sought changes to reference the BPA (Bat Protection Area) Overlay as part of the proposed LSA (Light Sensitive Area) Overlays in the Plan to recognise the impacts of outdoor lighting on bat habitat. Waka Kotahi [143.110] sought an amendment to LIGHT-O2 to replace “road safety” with “the transport network and public areas”.

[196] Ms White agreed with Synlait regarding the drafting of LIGHT-O1 and LIGHT-O2 but recommended that rather than having two objectives, the two could be merged to adequately address the issue and better align with LIGHT-P1.1. Her recommended drafting change did not incorporate the change requested by Waka Kotahi because in her view it would not work to replace ‘road safety’ with ‘the transport network and public areas’ as road safety is a subset of the ‘health and safety of people and communities’, whereas ‘the transport network and public areas’ are not a subset of the ‘health and safety of people and communities’. We agree with Ms White’s response.

[197] In terms of DOC’s concerns about the BPA, we have addressed this further below when considering the proposed LSAs.

4.2.2 Decision

[198] We adopt Ms White’s analysis and recommendations on the objectives. The amendments to the objectives are outlined in **Appendix 3**.

[199] In terms of s32AA, we adopt Ms White’s evaluation in support of the changes made.⁵⁴

4.3 LIGHT SENSITIVE AREA OVERLAY (AND RELATED OBJECTIVES, POLICIES AND RULES)

[200] The Proposed Plan as notified incorporates the use of a LSA Overlay on the Planning Maps. The LSA Overlay acts as a trigger for a number of policies and rules within the identified areas. The LSA is defined in the Proposed Plan with reference to other overlays and zones, in particular the:

- (a) Wāhi tapu, Wāhi taoka and Wai taoka Overlays;
- (b) Significant Natural Area Overlay;
- (c) Outstanding Natural Landscape Overlay;

⁵⁴ Ibid, paragraphs 7.2.10-7.2.12

- (d) Visual Amenity Landscape Overlay;
- (e) Rural Lifestyle Zone; and
- (f) Natural Open Space Zone.

4.3.1 Assessment

[201] The use of the LSA Overlay was subject to extensive opposition from the rural community, for example, Fenlea Farms [171.2] and Rooney, A J [177.6]. Both submitters opposed the definition of LSAs being based on overlays, rather than on ecological assessment. Fenlea Farms was also concerned that the provisions do not take into account health and safety associated with ancillary activities, which in its view is contrary to LIGHT-P1 and LIGHT-P3. The submitters were concerned that the SASM Overlays are expansive and may cover areas where the control of light is unnecessary.

[202] Rangitata Dairies [44.1] was concerned that wai taoka sites are included in the definition of LSAs. As an example, they noted that dairy sheds within these areas, which operate with artificial lights prior to 7am, would require a resource consent as a non-complying activity. The submitter further noted that the AEC Report⁵⁵ referred to disturbance of birds by night lighting, but only within wāhi tapu and wāhi taoka sites, not wai taoka sites. The submitter sought removal of the wai taoka overlay from the definition.

[203] Dairy Holdings [89.4] considered it unnecessary to restrict lighting where sensitive receivers are unlikely to be present. They noted that lights are essential in rural areas for health and safety and they also oppose the inclusion of wāhi tapu, wāhi taoka and wai taoka overlays.

[204] Fonterra [165.15] and Hort NZ [245.12] considered it is inappropriate that the RLZ is included given it is a rural zone and does not warrant additional protection.

[205] Federated Farmers [182.16] considered it appropriate to exclude farms from light sensitivity for the purpose of primary production, stating that farms need light to operate safely and conduct their business (e.g. harvesting). The submitter opposed the inclusion of SNAs in this definition.

[206] There were also submissions seeking technical changes to the location of the LSAs along with the DOC submission [166.8] which sought to include reference to the BPA Overlay in the definition.

[207] Ms White undertook a thorough review of how the LSA intersected with the Proposed Plan provisions and noted that there was a lack of information to support how lighting impacted the overlays and zones included in the definition of LSA. She also considered that the overlay approach was primarily influenced by the MDP provisions, which as she pointed out, related to the internationally recognised 'dark sky' which is distinct from the Timaru context. Overall, she considered that the provisions applying within the LSA appeared to relate to protection of

⁵⁵ Aoraki Environmental Consultancy Ltd (2020). Timaru District Plan Review: Report on Sites and Areas of Significance to Māori.

the darkness of the night sky and observed that there was an insufficient evidential basis for the inclusion of the provisions for that purpose. On this basis, she recommended that LSAs are removed from the Proposed Plan.

[208] Ms White considered the Xyst Lighting Report⁵⁶ (which discussed the possibility of Geraldine becoming a dark sky reserve) and whether Geraldine may be an appropriate area for controls on lighting to protect the darkness of the night sky and views of it. However, given the report states that there would be difficulty achieving a dark sky reserve for the Geraldine township in the foreseeable future (because street lighting across the District is being replaced with 4000K LED lights, and to achieve dark sky status, these would need to be replaced with 3000K lights) she did not consider that applying dark sky-focussed controls on lighting in Geraldine would make a practical difference in terms of protecting or improving views of the night sky.

[209] Overall, there was a lack of justification for the LSA Overlay, and she recommended that it be removed. We accept her opinion and agree with her recommendations.

[210] On the issue of the BPA Overlay, Ms White noted the DOC comments that lighting can negatively affect long-tailed bat activity and behaviour. The Proposed Plan includes a BPA Overlay, which identifies areas which contain long-tailed bat roosts. As these are areas which bats rest in during the day, Ms White considered (based on the evidence provided by DOC as part of its submission) that some level of lighting control was appropriate as this would assist with protection of areas of significant habitats of indigenous fauna in accordance with SD-O2.v and ECO-O1. Ms White reminded us that through Hearing D, it has been recommended that the BPA Overlay is increased in area and therefore any controls would apply to the wider area now recommended. In terms of the specific controls to be applied, it is her view that the LSA Overlay provisions should essentially be amended to apply specifically to the BPA Overlay.

[211] As a consequence of her recommendations, she further recommended that LIGHT-P3 (which directs that all artificial outdoor lighting that does not meet the intensity, type, and direction requirements for LSAs is to be avoided, unless it is critical for health and safety reasons) is deleted (and not amended to refer instead to the BPA). This is because in her view adequate direction is provided in the drafting recommended in relation to LIGHT-P2 (refer below) to control the intensity, location and direction of any outdoor lighting to minimise adverse effects on long-tailed bats. LIGHT-P3 essentially results in unnecessary duplication.

[212] DOC provided evidence from Mr Simon Waugh, who is employed by DOC as a Biodiversity Ranger in the Geraldine Office. He has particular experience in monitoring long-tailed bats, including catching, handling, radio tracking and roost tree finding.⁵⁷ His evidence addressed effects on long-tailed bats from artificial light and best practice for reducing effects on long-tailed bats when using artificial light in bat habitat areas.

⁵⁶ Timaru District Plan Review: Lighting Standards (Draft Report), 22 April 2020

⁵⁷ Simon Waugh Statement of Evidence Hearing D, 29 October 2024.

[213] Mr Waugh's evidence was unchallenged, and we accept his expertise on the issue. The matter the Panel is concerned with is, considering the negative effects of artificial lighting on long-tail bat populations, what is the appropriate regulatory response.

[214] In Minute 34, we directed Ms White and Ms Williams conference to provide an appropriate rule framework. Ms White also sought expert advice from a lighting technician. A JWS was later supplied.⁵⁸

[215] We have reviewed the JWS, and the detailed reasoning for the recommended changes to the provisions. Ms White and Ms Williams provided a s32AA evaluation. We note there were no further submitters who opposed the relief requested by DOC which sought the inclusion of the BPA within the originally notified LSA and rules and standards to address the impacts of artificial lighting on long-tailed bats. The relief that has now been agreed as between Ms White and Ms Williams is within the scope of the original submission; it is more specific and targeted to address the impacts on the long-tail bat population.

[216] One matter recorded as agreed between Ms Williams and Ms White was a change to LIGHT-R1.4 PER-2. Based on the advice received from Mr Wilson, they considered it would be impractical to extend the rule to pivot irrigators, and that any effects from this type of lighting could be mitigated by restricting it to amber or red-coloured lighting. The Panel questioned Ms White about the reference to pivot irrigators which are moveable light sources.⁵⁹ Ms White reviewed the effect of the provision and agreed and amended her recommendation to remove LIGHT-R1.4 PER-2.2.

4.3.2 Decision

[217] We accept Ms White's recommendations that the definition and mapping of LSA is to be deleted, and consequential changes are made to the policies and rules to accommodate the deletion. LIGHT-P3 is deleted in its entirety. We accept the changes recommended by Ms White (as updated in the Final Reply) to address the effects of artificial outdoor lighting on the long-tailed bat. Changes to the provisions are set out in **Appendix 3**. Amendments to the Planning Maps are set out in **Appendix 2**.

[218] We adopt Ms Whites s32AA evaluation to support the deletion of the LSA, LIGHT-P3 and the s32AA evaluation of Ms White and Ms Williams to address the application of rules and standards to the BPA.

4.4 POLICIES

4.4.1 Assessment

[219] The submissions on LIGHT-P1-P3 followed a similar theme to those on the objectives. The drafting of the notified policies suffered from the same errors identified by Ms White and discussed above in relation to the objectives, including being based on the MDP 'night sky'

⁵⁸ Joint Witness Statement of Liz White and Liz Williams, 17 June 2025. The advice of lighting technician Paul Wilson was provided as Appendix 1 to the JWS.

⁵⁹ Minute 48, paragraph 11(a).

provisions. Ms White recommended drafting changes to address those matters and to align with the objectives.

[220] Ms Tait for Fonterra [165.15] was generally supportive of the changes recommended by Ms White but remained of the view that greater emphasis was required on the important role of lighting in protecting the health and safety of people in the workplace. She recommended that a new policy (taken from the Selwyn District Plan) be added.⁶⁰

Recognise that artificial lighting may be required to support the operational needs of activities, including their health and safety requirements, and those needing to operate on a 24-hour basis.

[221] We have considered Ms Tait's suggested addition. We find that the LIGHT-O1 and LIGHT-P1 are sufficiently broad in their acknowledgement of the role and benefits of outdoor lighting for a range of activities, including operational health and safety needs. We are not persuaded the additional policy is necessary to achieve the objective or the purpose of the Act. We prefer Ms White's recommendations as set out in the Final Reply.

4.4.2 Decision

[222] We adopt Ms White's analysis and recommendations on LIGHT-P1, LIGHT-P2 and LIGHT-P3. The amended provisions are set out in **Appendix 3**.

[223] We adopt Ms Whites s32AA evaluation and that of Ms White and Ms Williams.⁶¹

4.5 RULES - LIGHT-R1

4.5.1 Assessment

[224] A number of the submission points are already addressed given our previous decisions to remove the definition, mapping, and function of the LSA, so we have not discussed those submissions further.

[225] Fonterra [165.101] (as a consequence of their wider request that a Special Purpose Zoning be applied to the Fonterra Clandeboye site) requested that LIGHT-R1.1 is amended to exempt the Strategic Rural Industry Zone (now the Clandeboye Dairy Manufacturing Precinct) from the rule in the same way as the Port Zone is excluded, with a new rule added requiring:

- (a) Exterior lighting to be orientated away from any adjoining or adjacent zone;
- (b) LIGHT-S2 to be complied with; and
- (c) A limit of 5 lux for illuminance levels at the notional boundary with the GRUZ and at window level of adjoining properties in the GRUZ.

[226] PrimePort [175.60] and TDHL [186.36] support the exclusion of the Port Zone from LIGHT-R1.1, as they consider Port lighting is more appropriately managed under LIGHT-R1.2,

⁶⁰ Susannah Tait, Statement of Evidence, Hearing F, 9 April 2025, paragraph 11.2.

⁶¹ Liz White, s42A Report, paragraphs 7.4.17 and 7.4.18, and JWS White and Williams, 17 June 2025.

which they, in turn, support as providing appropriate flexibility for nighttime Port operations whilst ensuring that exterior lighting does not unduly adversely affect adjoining residential zones.

[227] Barkers [179.20] requested that the LIGHT-R1.1 is amended to exclude the GIZ site at 72 Shaw Road, Geraldine. The Rooney Group⁶² sought that PER-3 of LIGHT-R1.1 be deleted.

[228] Ms White generally agreed with the submitters who raised concerns regarding the drafting and clarity of the provisions. She recommended a number of drafting improvements taking into account the deletion of the LSA and the inclusion of the BPA standards. We accept the drafting as provided in the Final Reply is appropriate.

4.5.2 Decision

[229] We adopt analysis and recommendations of Ms White to amend LIGHT-R1 and delete LIGHT-R2 and LIGHT-R3. The amended provisions are set out in **Appendix 3**.

[230] In terms of s32AA, we are satisfied that the amendments are the most appropriate option for achieving the purpose of the RMA, the relevant provisions of the Plan and for giving effect to other relevant statutory instruments.

4.6 STANDARDS

4.6.1 Assessment

[231] Fenlea Farms [171.9] and Rooney, A J [177.8] opposed Table 22 and 23 and Figure 18, along with any other rules and standards relating to lighting standards, illuminance levels, increment and acceptable/unacceptable lighting. The submitter/s considered that the limitations in these tables and figures are not practical. The submitter/s sought removal of illuminance time restrictions from Table 22, or removal of these insofar as they relate to matters of health and safety (including ancillary activities to permanent activities that occur on site). Fenlea similarly requested that limits on acceptable illuminance levels, increment, and acceptable/unacceptable lighting are removed for matters of health and safety for an ancillary activity of a permanent activity that occurs on site.

[232] Te Rūnanga o Ngāi Tahu [185.52] requested that LIGHT-S1 is amended to include two further matters of discretion, in order to give effect to the objectives and policies:

5. the actual and potential effects on values and attributes of light sensitive areas.
6. 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.

⁶² Rooney Holdings [174.69], Rooney, GJH [191.69], Rooney Group [249.69], Rooney Farms [250.69], Rooney Earthmoving [251.69], TDL [252.69].

[233] Ms White did not agree to adding consideration of the potential of any adverse effects on the spiritual and cultural values and beliefs of Kāti Huirapa because those matters do not relate to the effects addressed by the rule, which relate to the effects of lighting on adjoining properties. In Ms Pull's Memorandum in response to Minute 24 she reviewed the necessity for the additions and accepted they were not required in this instance because she considered the values to be able to be addressed under the broader concept of amenity if relevant.⁶³

[234] Fonterra [165.103] requested that LIGHT-S1 is amended to exempt the Strategic Rural Industry Zone (now the Clandeboye Dairy Manufacturing Precinct) from the standard in the same way as the Port Zone is excluded. Fonterra [165.104] also consider it appropriate to add their proposed Special Purpose Zone (now the Clandeboye Dairy Manufacturing Precinct) to Table 23 to apply the same standards as apply to the GIZ and Port Zones (amongst others).

[235] Ms Tait, the planning witness for Fonterra explained further that there is a resource consent for the Clandeboye site that includes a condition for lighting, and she considered it to be appropriate to include this in the rule. Ms White accepted that change was appropriate in this context and provided drafting changes in her summary statement.⁶⁴

[236] Barkers [179.22] sought that the LIGHT-S1 is amended to exclude the GIZ-zoned site at 72 Shaw Road. Ms White noted the deletion of the LSA generally addressed the concerns of the submitter.

[237] DOC [166.125] requested that LIGHT-S1 is amended to include appropriate controls to avoid adverse effects on long-tailed bats and their habitat. We have addressed this above.

[238] Hort NZ [245.89] sought that Table 22 be amended so that the RLZ is included in the same column as the GRUZ. The submitter further states that the lux values are lower than the current provisions and do not consider the need for light for health and safety for primary production activities, including in the RLZ. It requested that the limits in GRUZ and RLZ are increased to 10 lux between 7am – 10pm and 5 lux between 10pm and 7am.

[239] Ms White recommends that for the RLZ it would be more appropriate to apply the limits that apply to the SETZ and MPZ, where residential living in a rural setting is also anticipated. Hort NZ did not pursue the issue further at the hearing. In terms of the changes requested to the GRUZ, Ms White acknowledged the lack of specificity in the Councils s32 analysis. She undertook further research into provisions in other districts and critically reviewed the objectives and outcomes for each of the Timaru zones.⁶⁵ Ms White recommended that the Hort NZ submission in relation to the GRUZ be accepted and the illuminance level limits in Table 22 increased.

[240] Aside from the evidence from DOC and Fonterra we did not receive any detailed evidence that supported the concerns expressed by submitters that the standards were impractical.

⁶³ Memorandum on behalf of Te Rūnanga o Ngāi Tahu, 31 March 2025, page 62

⁶⁴ Liz White, Summary Statement, 23 April 2025, paragraph 8(c).

⁶⁵ Liz White, s42A Report Hearing F, paragraph 7.6.21

[241] We have accepted Ms Whites recommendations and consider these to be appropriate.

4.6.2 Decision

[242] We adopt Ms White's analysis and recommendations. LIGHT-S1 and LIGHT-S2 are retained as notified. Table 23 is retained as notified, except for the removal of reference to LSAs, which is a consequence arising from the changes decided earlier. Table 22 is amended as set out **Appendix 3**.

[243] We adopt Ms Whites s32AA analysis in support of the changes as set out in her Report.⁶⁶

4.7 DEFINITIONS

4.7.1 Assessment

Outdoor lighting

[244] Fenlea Farms [171.5] and Rooney, A J [177.6] oppose the definition of 'outdoor lighting', as they consider the definition to be broad and unclear whether it applies to fixed or unfixed lighting. The Rooney Group⁶⁷ are opposed to the definition of 'outdoor lighting' including the reference to interior lighting that emits directly into the outdoor environment. They seek that the definition is amended to exclude its application to interior lighting, and to exclude artificial light from vehicles.

[245] Ms White agreed that the definition should only refer to fixed sources of lighting. In terms of indoor lighting directed outdoors her view was that this is limited to lighting emitted "directly" into the outdoor environment. She considered this reasonable, as if the purpose of the lighting is to light outdoor areas (as opposed to lighting indoor areas), the lighting emitted from within a building and purposely directed outside can have the same effects as that of lighting which is external to a building, for example in terms of light spilling onto adjoining properties and disturbing sleep. We agree with Ms White's opinion.

4.7.2 Decision

[246] We adopt Ms White's analysis and recommendations on the definition of 'outdoor lighting'. The amended provisions are set out in **Appendix 3**.

[247] In terms of s32AA, we adopt Ms White's evaluation in support of the changes made.

⁶⁶ Ibid, paragraph 7.6.26

⁶⁷ Rooney Holdings [174.9], Rooney, GJH [191.9], Rooney Group [249.9], Rooney Farms [250.9], Rooney Earthmoving [251.9], TDL [252.9]

5 NOISE

5.1 GENERAL SUBMISSIONS

5.1.1 Assessment

[248] Hort NZ [245.90] and NZ Frost Fans [255.4] made general submissions which broadly requested greater recognition of the noise generated from rural activities in the rural environment and the need to provide setbacks for noise sensitive activities from rural activities, or specific exemptions from noise standards for rural activities on highly productive land. Ms White disagreed there was any need for broad-brush provisions but focused her responses to the provision specific elements of these submissions. We agree that there is no need to make changes to the Plan based on these general submission points, rather we have considered the provisions further below, along with the provisions in the GRUZ Chapter.

5.1.2 Decision

[249] We do not make any global changes to the provisions arising from these broad submission points, rather we address the provision specific submission points and issues below. The submission points are rejected accordingly.

5.2 FROST FANS

5.2.1 Assessment

[250] NZ Frost Fans [255.8, 255.9, 255.10, 255.11, 255.12, 255.27, 255.28] sought changes across the Noise and GRUZ Chapters to manage the noise associated with frost fans, alongside controls on the establishment of new noise sensitive activities in proximity to existing or consented fans. The submitter supported priority being given to agricultural noise in NOISE-R1 PER-2 but is concerned about differing interpretations regarding what 'normal' seasonal horticultural practice entails. To provide greater certainty, clarity, and to align with best practice, the submitter considered that a frost fan specific suite of provisions –recognising that noise is seasonal, short term and intermittent in character - should be included in the Noise Chapter.

[251] Hort NZ [245.98] noted there is no rule for frost fans in the Proposed Plan. The submitter considered that there is increasing potential for frost fans to be used on orchards and considers that a specific rule will ensure that the effects are appropriately managed. In combination with a rule relating to the operation of frost fans, Hort NZ [245.97] sought the inclusion of a rule applying to residential activity within 300m of a frost fan, to address reverse sensitivity effects. The submitter requested a rule so that any new residential activity locating adjacent to a frost fan requires acoustic insulation to avoid adverse effects, including reverse sensitivity effects. In the alternate, Hort NZ sought inclusion of "Residential activity within 300m of a frost fan" within NOISE-R9 and NOISE-S3.

[252] At Hearing B, the s42A Report author (Mr MacLennan) considered rules requiring setbacks for noise sensitive activities from frost fans. He recommended that the provisions in GRUZ-S4 be revisited following the hearing on the Noise Chapter. In his Final Reply Mr

MacLennan recorded that he had discussed GRUZ with Ms White and they had agreed to recommend that new noise sensitive activities within 100m of a frost fan require a resource consent (under GRUZ-S4) and that between 100m – 300m of a frost fan, new noise sensitive activities be required to meet the insulation standards in NOISE-S3.1 to manage potential reverse sensitivity effects.⁶⁸ They had also identified a slight misalignment between the proposed amendment to GRUZ-S4 and Ms White's suggested additions to NOISE-R9 in her Interim Reply. Ms White clarified her position in her Final Reply noting that the level of insulation required under NOISE-S3.1 is not considered sufficient by Mr Hunt to mitigate the level of noise anticipated from a frost fan which is within 100m.⁶⁹ Ms White corrected the drafting in the Final Reply version of the provisions. We adopt the corrected drafting.

[253] Mr Hunt provided acoustic evidence for the Council. Mr Hunt noted that it is difficult for noise from frost fans to comply with the nighttime noise limits applying in rural zones, and that some District Plans do provide rules that provide a conditional exemption for frost fans from those rules. He stated that if the Panel concluded that frost fan usage was likely to be an issue for the Timaru District, that the noise limit be applied to the notional boundary of noise sensitive activities (or zone boundary), or at a distance of 300m (whichever is the lesser distance). If such a rule is included, he also advised that a corresponding rule should apply to the establishment of noise sensitive activities within 100-300m of an existing frost fan, requiring the level of acoustic insulation set out in NOISE-S3.1. For new noise sensitive activities within 100m of a frost fan, a resource consent requirement should apply. Mr Hunt noted that where acoustic insulation for noise sensitive activities is required due to the proximity of frost fans, the ventilation requirements in NOISE-S4 need not be applied.

[254] Hort NZ supported the inclusion of a rule for the use of frost fans, as it provided certainty for growers. However, representatives of the industry appearing for Hort NZ considered that there needed to be greater flexibility in the recommended rule package. Mr Annand who is the National Sales Manager, New Zealand, for FrostBoss Limited (formerly NZ Frost Fans) explained the requirements for the planning and installation of frost fans and the differences in climate conditions across a particular farm. He questioned the practicality of the 2 degree or less standard (PER-3) and requested that fans be run as appropriate, noting that they are costly to run and would not be operated unnecessarily.⁷⁰ His view was supported by the planning evidence of Mr Hodgson.⁷¹

[255] Ms White advised that six resource consents and one certificate of compliance have been issued for frost fans within the District. Under the notified Proposed Plan, the frost fans would likely require resource consent under the standard noise rules. Ms White was of the view that there is a risk of reverse sensitivity effects, and that it would be more efficient to provide for these activities with standards rather than leave the issue to a standard resource consent track. She generally supported the package of rules requested by Hort NZ as follows:

- (a) Inclusion of a new rule for the operation of frost fans in the GRUZ, applying a permitted status with similar matters of discretion applying as included in

⁶⁸ Liz white, s42A Report, paragraph 8.2.15 and Andrew MacLennan, Final Reply, 4 August 2025, paragraph 14

⁶⁹ Appendix 3 of the s42A Report: Light and Noise, 24 March 2025, page 14

⁷⁰ Mike Annand, Statement of Evidence, 16 April 2025.

⁷¹ Vance Hodgson, Statement of Evidence, 8 April 2025, paragraph 48-55.

NOISE-R1, where a consent requirement is triggered (noting that Ms White did not support the rule applying in the RLZ or SETZ, given the higher focus in these particular rural zones on residential activities); and

- (b) a requirement for new noise sensitive activities within:
 - 1. 100-300m of an existing or consented frost fan to meet NOISE-S3.1; and
 - 2. 100m of an existing or consented frost fan to obtain a resource consent.

[256] Ms White did not consider it necessary to include the 300m setback requirement in GRUZ-S4, as requested by NZ Frost Fans, on the basis that it may result in a resource consent being required even where insulation requirements are met.

[257] We note that Ms Whites updated drafting recommendation in the Final Reply⁷² on NOISE-R9 and NOISE-S3 was not included in the Final Reply Version of the provisions (in error), so we have included these changes in the Decision Version of the provisions to clarify that new noise sensitive activities within 100m be subject to a requirement to obtain resource consent (under GRUZ-S4) and that between 100m – 300m of a frost fan, new noise sensitive activities be required to meet the insulation standards in NOISE-S3.1.

[258] In answer to questions from the Panel, Mr Hunt acknowledged he was not an expert in the operational needs of the horticultural industry, however, he justified the 2 degree or less standard in PER-3 as it had been arrived at through a consent order for a Plan Change to the Wairau Awatere Resource Management Plan, which was promoted in response to complaints from the use of fans in the Marlborough District which had been found to be operating longer than necessary. Mr Hunt was not ‘wedded’ to 2 degrees, but he considered the submitter’s request for a standard which enabled operation of 2 degrees above critical temperature for the crop being protected, was unenforceable. Mr Hunt gave further consideration to this method in the Interim Reply but remained of the view it was inappropriate. Ms White noted that the standard she recommended was initially sought by Hort NZ in their written submission, so she had some difficulty with their revised position to delete the standard because it was unreasonable. But overall, she considered the issue to be finely balanced.⁷³ We record that just because a standard was arrived at in a consent order in Environment Court proceedings does not mean it is appropriate in other contexts. There are clearly differences in the scale of usage of frost fans in Marlborough and the 6 or 7 approved fans in the Timaru District. Although this could change, our role is to ensure that the rule is fit for purpose in the Timaru context. Ms White researched whether any complaints have been received in the District in relation to frost fans. Only one has been reported, and that was in 2023.⁷⁴

[259] We accept Mr Annand’s evidence that there is careful planning, and data collection required to operate frost fans efficiently, and that given the cost of fuel currently it is unlikely

⁷² Liz White, Final Reply, paragraph 19.

⁷³ Liz White, Interim Reply, Appendix A

⁷⁴ Liz White, Interim Reply, Appendix C.

they would be overused. Accordingly, we agree with the submitters that on the evidence, the temperature standard is unnecessary and inefficient. We consider that the recommended new rule NOISE-RX⁷⁵ PER-1, PER-2, PER-4, and PER-5 along with setbacks and acoustic insulation for noise sensitive activities in proximity to frost fans will be effective to minimise reverse sensitivity effects and avoids an unnecessary consenting burden on horticultural activities in the GRUZ Zone. We find that PER 3 can be deleted for those reasons.

5.2.2 Decision

[260] We adopt the analysis and recommendations of Ms White on the amendments to NOISE-R9, NOISE-S3, NOISE-S4, and the inclusion of new rule, NOISE-RX⁷⁵ with the exception of NOISE-RX PER-3, which we have deleted. We also accept the related change to GRUZ-S4. The new rule and amendments to provisions are set out in **Appendix 3**.

[261] We adopt Ms White's s32AA analysis, with the exception of the standard NOISE-RX PER-3, which we have deleted. We are satisfied that the deletion of PER-3 does not diminish the efficacy of the rule and is more efficient given the low risk of excessive or unnecessary usage of frost fans in the Timaru District.

[262] We note that Ms White suggested that it may be useful to include an alert layer for frost fans as Non-District Plan Layer' in the E-plan. We express no conclusion on that matter and leave this for Council to resolve in the implementation of its plan.

5.3 NOISE CONTROL BOUNDARY (NCB) OVERLAY

5.3.1 Assessment

[263] One of the noise management tools utilised in the Proposed Plan is a Noise Control Boundary (NCB), which identifies acoustic contours shown on the Planning Maps where activities are likely to be exposed to noise levels from particular sources, and may therefore result in adverse health and wellbeing effects on recipients, and in some cases reverse sensitivity effects on the noise generating activity.

[264] The Proposed Plan included an NCB for Port Timaru, which extends to areas zoned for commercial and residential activities. PrimePort [175.8] and TDHL [186.4] supported the Port Inner NCB and the Port Outer NCB as notified. Two submitters G.D.M [38.2] and 22 The Terrace [202.3] requested the removal of the NCB from properties at 12, 14 and 22 The Terrace, on the basis that it resulted in inappropriate consent burden and was contrary to the Central City Zone objectives. They challenged the mapping of the modelled noise levels.

[265] Fonterra [165.5] requested a new NCB Overlay be included in the Plan for the Fonterra Clandeboye site. The extent of the overlay sought is set out in the submission. The intent of the NCB is to allow effective management of noise sensitive activities in close proximity to the Clandeboye site, including expectations around the noise associated with the site. In addition to the application of a new NCB, the submitter requested amendments to the Noise Chapter

⁷⁵ Now renumbered NOISE-R6 in the Decision Version of the provisions.

to reference the Clandeboye NCB [165.109, 165.110, 165.111 and 165.113]. There were no further submissions opposed to the relief.

[266] We undertook site visits to the Port, The Terrace and 22 The Terrace where we observed the property at 22 The Terrace and surrounding land uses, and we also visited the Fonterra Clandeboye site.

Port of Timaru NCB

[267] We received acoustic evidence from Mr Hunt for the Council and Mr Trevathan for PrimePort, which supported the approach to modelling and mapping of the Inner and Outer NCB contours in the Proposed Plan. We received no expert acoustic evidence to the contrary.

[268] In relation to the Port NCB, Mr Trevathan explained that:⁷⁶

18. NZS 6809 stipulates that areas of land which are deemed exposed to port noise should be demarked by two 'Control Boundaries'. An Inner Control Boundary (ICB) is drawn at the 65 dB Ldn (5 day) contour line and an Outer Control Boundary (OCB) at the 55 dB Ldn (5 day) contour line. Placement of the Port NCBs is required to take into account the full range of port activity types, frequency and intensity of noise generating activities, proposed seasonal variation, foreseeable future expansion and any proposed new operations. My colleagues and I worked closely with PrimePort to develop a realistic scenario for future noise emissions from PrimePort operations.

19. The 57 dB Ldn line was selected for the OCB rather than the 55 dB Ldn line which is the default option in NZS 6809:1999. This decision was made in conjunction with the Council and is appropriate from an acoustic point of view because where noise levels of up to 57 dB Ldn are incident on the external facades of dwellings, appropriate noise levels inside the dwelling are very likely to be achieved, even if the occupants of the dwelling have windows open for ventilation. This ensures that a rule requiring review and possible upgrades of new dwellings is appropriately targeted and does not include sites where an appropriate internal noise level is very likely to be achieved with standard New Zealand residential constructions.

[269] We are satisfied with the accuracy of the noise modelling that underpins the contour, and as to the appropriateness of 'snapping' the contour to property boundaries, which is a technique specifically provided for in NZS6809:1999.

[270] Dr Trevathan also addressed the concern by the submitters that more recent development or topographical features were not taken into account in the modelling. Dr Trevathan explained how they were taken into account in the modelling and the features of the topography of the Terrace which is elevated above the Port. He also addressed the impact of gaps between buildings, resulting in partial mitigation but which did not undermine the accuracy of the modelled contours.⁷⁷ We accept his evidence.

⁷⁶ Jeremy Trevathan, Statement of Evidence, 9 April 2025

⁷⁷ Jeremy Trevathan, Statement of Evidence, paragraphs 24 and 25

[271] We received a brief of evidence from Mr Gresson, on behalf of 22 The Terrace⁷⁸, and a letter from Mr McLachlan on behalf of G.D.M elaborating on their written submissions. 22 The Terrace holds a resource consent for an apartment building at 22 The Terrace. Mr Gresson was concerned that the Outer NCB would add cost to the development in the event of changes to the plans or if the consent lapsed and a new resource consent was required. Mr Gresson and Mr McLachlan also questioned whether the contours were up to date and accounted for more recent development in the area. Mr Gresson also outlined the 'lived experience' of the location. Having worked in 24 The Terrace for 3 years he had not experienced any adverse consequences of noise from the Port during business and late evening hours.

[272] We do not accept the criticisms directed at the modelling of the Outer NCB from Mr Gresson or Mr McLachlan and have satisfied ourselves that the issues raised have been addressed in the expert evidence which we rely upon.⁷⁹

[273] The submitters also argued that the Outer NCB appeared to be contrary to the objectives in the plan for the Central City Zone which had the goal of revitalising the Central City and the submitters were concerned about the unnecessary cost burden and over-regulation. As identified by Mr Carranceja, Counsel for PrimePort and TDHL, the submitter appears to have overlooked the fact that properties located in the Central City Zone will also be subject to insulation requirements to address potential conflicts between commercial, entertainment and residential activities. The provisions in the Central City Zone were supported by 22 The Terrace. The existence of the Outer NCB for the Port does not add to the consent burden for Central City Zone sites, because those sites are already subject to acoustic insulation requirements under the Central City Zone provisions. In fact, the Central City acoustic requirements set out in rule NOISE-S3.1 are more stringent and will ensure compliance with rule 5dBA extra insulation (30dBA) through a façade reduction requirement. The Port Zone requires 35dBA.

[274] There was an issue as to the appropriateness of the method of acoustic insulation that arose in relation to submissions from KiwiRail and Waka Kōtahi. Dr Chiles, the acoustic expert called by KiwiRail and Waka Kotahi promoted the use of an internal noise standard for bedrooms and habitable spaces, rather than an external to internal façade reduction noise standard, irrespective of the internal noise level. We accept the evidence of Dr Chiles that there is a difference between mitigation from fixed noise sources, from roads and rail, from general non-directional noise in areas within the Central City. Mr Hunt favoured the external façade standard regardless of source, and Dr Trevathan had also supported the external façade standard for Port Noise.

[275] The Panel questioned the efficiency and effectiveness of noise insulation requirements from overlapping noise sources. We have accepted Dr Chiles' evidence that an internal noise standard is likely the most appropriate for rail and state highway noise sources as it enables greater design flexibility and targets the insulation requirements to those areas needing it most, depending on their distance from the railway and state highway. The more general

⁷⁸ Timothy Gresson, Statement of Evidence, 9 April 2025

⁷⁹ Jeremy Trevathan, Statement of Evidence, 9 April 2025.

external façade standard appears to be more appropriate in the context of noise in Industrial and Central City Zones where noise is coming from multiple sources and locations. We heard evidence from Dr Chiles that other districts have provided the option of one or the other as the standard, and in the case of Christchurch City Council's PC 5E, amended the previous optionality to the internal standard for bedrooms and habitable spaces as this was the preference of most developers for traffic and rail noise mitigation.⁸⁰

[276] We acknowledge that there are pros and cons for either insulation method.⁸¹ The acoustic experts did not agree on the preferred method. Ultimately, we were concerned that different standards added to the complexity of the Plan but accept that different noise sources and locations may dictate preferred outcomes. The blanket 'façade reduction' method could be more efficient where a site is exposed to multiple noise sources. Ultimately, we consider that, either option would be effective, but may differ in efficiency based on the source of noise to be mitigated. Therefore, both options should be provided for in the Proposed Plan, enabling applicants to determine which method best suits their circumstances while still achieving the required internal noise outcomes.

[277] In terms of the Port NCB, we have accepted the expert evidence of Dr Trevathan and Mr Hunt as supporting the external façade standards. However, Dr Trevathan noted that either option would in his opinion be suitable for the Port NCB. We note in the case of The Terrace properties located in the Central City Zone, there is already a requirement, unchallenged by any submitter for an external façade standard based on achieving an internal noise level of 30dBA, and as such those properties will already meet the Port NCB standards.

[278] As a final issue, we note that the Port NCB was not supported by an extensive s32 evaluation and appeared to us to be rather 'high level'. We invited Mr Walsh for PrimePort to review the report and confirm whether he adopted its conclusion. Mr Walsh did so and filed a supplementary statement and confirmed his view that the Council's s32 analysis, whilst high level, was proportionate to the scale of effects of the proposed Port NCB.⁸² He drew our attention to the s32 Report which states the following in respect of the economic costs (see page 26):

The proposed acoustic insulation requirements will add additional costs to new buildings and alterations to existing buildings used for noise sensitive activities. Achievement of the proposed 35 dB requirement is estimated to represent about 10- 15% of the build cost for a standard habitable room.

[279] Additionally, Mr Walsh emphasised that for the Central City Zone properties that fall within the NCB it does not practically introduce any additional cost for these properties. For the properties that are in the Medium Density Residential Zone and the Mixed Use Zone all but seven sites in those two zones are within 40m of the railway line and therefore subject to acoustic insulation requirements proposed in respect of that infrastructure.⁸³ For the General Residential Zone to the north/northwest of the Port Zone that is affected by the Port NCB, the very large majority of those sites are similarly affected either by state highway acoustic

⁸⁰ Stephen Chiles, Statement of Evidence for Kiwi Rail, 9 April 2025, paragraph 5.7

⁸¹ See Mr Trevathan's evidence, paragraph 34, Dr Chiles, paragraph 7.10

⁸² Timothy Walsh, Supplementary Statement, 6 June 2025.

⁸³ NOISE-R9 and NOISE-S3 as notified.

insulation requirements and/or railway line insulation requirements. He noted a couple of properties that may only be affected by the Port NCB, however he was confident that very few sites within the District are subject to acoustic insulation requirements resulting from the Port NCB alone. We accept Mr Walsh's evidence on these matters, and although we consider the s32 evaluation could have provided a more detailed evaluation of the overlapping regulatory framework, it is adequate for our purposes.

[280] Another issue to resolve for the Port NCB related to the appropriate trigger for acoustic insulation for 'alterations for existing buildings'. We address this below in our decisions on Noise R9.

Fonterra Clandeboye NCB

[281] Fonterra Clandeboye currently operates under a resource consent that permits stipulated noise levels at the notional boundary of existing dwellings. These noise levels are essentially 5dB greater than the Proposed Plan limits, therefore if new or altered dwellings were established near the site, Fonterra would be unable to meet the Proposed Plan noise limits, or its current consented noise limits at the dwelling notional boundary. We accept on the evidence that it is not possible to further internalise all noise generated within the site.

[282] Fonterra is concerned about possible reverse sensitivity effects, whereby new residents or existing residents may complain about the otherwise lawful noise from the Fonterra plant leading to calls for restrictions on the operation of the factory.

[283] To address the potential for reverse sensitivity effects, Fonterra proposed a new NCB around the site, which would trigger the requirement for insulation for new or altered dwellings.

[284] We accept that there is the potential for reverse sensitivity effects from new dwellings near the Fonterra plant, however we consider the risk is low due to the rural zoning and limited potential for new dwellings near the site. Mr Hay, the acoustic witness for Fonterra advised that currently there are two properties exposed to noise from Fonterra's operations which experience noise that is consistently close to or on the night-time noise limit under its current resource consents.⁸⁴ We also heard evidence that the Fonterra operation is 24 hours and there is therefore the potential for sleep disturbance.

[285] We were advised that of Fonterra's 23 manufacturing and distribution sites around New Zealand, 16 of these utilise NCBs in their respective District Plans and another site had an NCB created by resource consent (since lapsed). The majority of these NCB have associated rule packages for both noise limits and reverse sensitivity that are very similar to those proposed for Clandeboye.⁸⁵

[286] Although we find that the risk of reverse sensitivity effects is low, we consider that if new dwellings were to be established, there is the potential for complaints and the inability of Fonterra to meet its current consented noise limits at notional boundaries due to the 24-hour operation of the plant. As a significant contributor to the regional economy, we find that it is

⁸⁴ Rob Hay, Statement of Evidence, 9 April 2025, paragraph 25

⁸⁵ Ibid paragraph 20.

appropriate that the Planning Maps incorporate an NCB around the plant to indicate the higher noise environment. We also find that it would be appropriate to incorporate a requirement for new dwellings to include insulation and ventilation so that it does not create non-compliances for Fonterra's operations. Given the limited number of existing dwellings in the area we do not consider it is necessary to require insulation for alterations of existing dwellings as at the date of notification of the Proposed Plan, however for any new dwellings which must incorporate noise insulation, subsequent alterations of these dwellings should also be required to insulate to the appropriate standard. In the event of the low risk of complaints from occupants of existing dwellings (at the time the Proposed Plan was notified), then we consider that Fonterra has alternative remedies available to it, including offering to provide acoustic insulation to those properties.

[287] Ms Tait (appearing for Fonterra) and Ms White disagreed on whether dwellings not meeting the noise standards should be non-complying or discretionary activities. We asked Ms Tait whether there are any other impacts that need to be considered other than impacts of noise. There were none. Ms White further considered the issue in her Interim Reply and undertook a thorough s32AA evaluation of the NCB and policies and rules. Ms White highlighted the different approaches to NOISE-P7 (where the listed noise sensitive activities are not permitted at all and are expressed as non-complying activities) and NOISE-P5 (where activities are permitted subject to compliance with certain standards of acoustic insulation). We accept Ms White's reasoning and adopt her recommended changes to NOISE-O2, NOISE-P5, NOISE-R9⁸⁶ and new rule NOISE-RXX⁸⁷ along with consequential changes to NOISE-S3 and S4.⁸⁸

5.3.2 Decision

[288] We accept Ms White's recommendations to retain the NCB for Port of Timaru, and incorporate a new NCB for Fonterra's Clandeboye site and a new rule NOISE-RXX.⁸⁹ We accept the recommended amendments to NOISE-O2, NOISE-P5, NOISE-S3, NOISE-S4 and NOISE-R9⁸⁶, but with the exception that NOISE-R9⁸⁶ does not apply to alterations of existing dwellings within the Clandeboye NCB as at the date of notification of the Proposed Plan. We also make further amendments to NOISE-S3 to allow for optionality as to the method of acoustic insulation, to provide a standard for internal design sound.

[289] We have included the amendments in **Appendix 2 and Appendix 3**.

[290] For the purposes of s32AA we are satisfied that the changes better meet the objectives of the Plan and are an efficient and effective method of addressing the risk of reverse sensitivity effects on the significant regional activity of the Clandeboye Manufacturing Plant.

[291] We are satisfied that the amendments are the most appropriate option for achieving the purpose of the RMA, the relevant provisions of the Plan and for giving effect to other relevant statutory instruments.

⁸⁶ Now renumbered NOISE-R11 in the Decision Version of the provisions.

⁸⁷ Now renumbered NOISE-R10 in the Decision Version of the provisions.

⁸⁸ Liz White, Interim Reply, 6 June 2025 Appendix A, Attachment 1.

⁸⁹ Now renumbered NOISE-R10 in the Decision Version of the provisions.

5.4 OBJECTIVES

5.4.1 Assessment

[292] A number of submissions were received on NOISE-O1 and NOISE-O2, as summarised in the s42A Report.⁹⁰ The submissions broadly raised whether the objectives appropriately recognise, and in some cases prioritise, noise generating activities within rural, mixed use, industrial and Port zones, and protect those activities from the encroachment of noise sensitive activities and adequately protect lawfully established land uses from reverse sensitivity effects. Various amendments to the drafting of NOISE-O1 and NOISE-O2 were proposed.

[293] Ms White clarified that NOISE-O1 intends that it is the purpose, character and qualities of the zone receiving the noise that noise generating activities are intended to be compatible with. This is reflected in the wording of NOISE-P1 and the way the rule framework is set out to apply limits relative to the environment receiving, rather than generating, the noise.

[294] On that basis she recommended a drafting change for clarity, to include the word 'receiving' before the word 'zone'. We agree with Ms White and note the Noise Chapter is to be read in conjunction with the specific zone chapters.

[295] NZ Frost Fans [255.5] requested that noise effects should be anticipated to compromise the health and well-being of people and communities simply because an area may not "prioritise" sensitive activities. Ms White noted that while the NPS-HPL directs that reverse sensitivity effects are to be managed so as not to constrain land-based primary production activities on highly productive land (Policy 9), she did not read the NPS-HPL to say that in order to prioritise land based primary production on highly productive soils, that noise should not be managed in relation to its effect on the health and well-being of people.

[296] We agree with Ms White's interpretation, but the issue in our view is how the effects of primary production are managed. We have already addressed appropriate measures to manage reverse sensitivity effects from the operation of frost fans, through setbacks and insulation requirements. The changes requested to the objective are not appropriate nor necessary to support the management methods we have accepted.

[297] NOISE-O2 sets out those activities and areas where the noise provisions are intended to manage reverse sensitivity effects so as not to constrain those activities or areas. In effect, the objective refers to existing activities or areas where there is already a high level of noise, or within which high levels of noise are anticipated, and where the establishment of noise sensitive activities requires management to ensure these activities can continue to operate. The objective is implemented through policies and rules that either require acoustic insulation for noise sensitive activities or restrict the establishment of such activities. They are therefore focused on known noise-producing activities and areas where intervention is considered necessary to ensure that noise does not result in reverse sensitivity effects.

[298] NZ Frost Fans [255.6] requested the inclusion of 'land based primary production activities on the rural land resource'. Ms White considered this to be unnecessary and

⁹⁰ Liz White, s42A Report, 24 March 2025, paragraph 8.4

inappropriate given that GRUZ-O3 already seeks, more broadly, that primary production is protected from sensitive activities (although in the Final Reply this is replaced with reference to protection from ‘reverse sensitivity effects’). Similarly, Ms White considered that adding to the listed activities by the inclusive ‘other lawfully established activities’ as requested by Road Metals [169.34] and Fulton Hogan [170.34] to be too broad to serve the intent of the objective. Ms White accepted that if we included the Clandeboye NCB this should also be added to NOISE-O2. We do not consider that it is necessary to add more specificity to NOISE-O2 beyond the changes recommended by Ms White.

[299] Synlait [163.6] requested that NOISE-O2 be extended to encompass the potential future development capacity of land within industrial zones, not just existing industrial activities. Ms White agreed with the submitter that the objective could be read as implying that it is only activities already existing within the listed zones that are encompassed by the objective. However, her preference, rather than referring to “development potential” is to refer to activities that are “existing or anticipated” within these zones, as she considered this more accurately aligns with the drafting of the Proposed Plan which describes the purpose of each zone in each zone chapter.

[300] The Panel is not comfortable with the use of the term ‘anticipated’. We have discussed this in the context of the definition of ‘reverse sensitivity’ in Part 2 of our Decision. We think this opens the argument as to when an activity is ‘anticipated’, especially in the context of restricted discretionary activities, which may be open to conjecture. We prefer that the objective, which is addressing reverse sensitivity, align with our decision on the definition of ‘reverse sensitivity’ and therefore use the words ‘existing, permitted and authorised’.

[301] We asked Ms White to give further consideration to the drafting of the objective and the evidence from Ms Seaton on the definition of ‘reverse sensitivity’ in her Final Reply. She did so and reconsidered her interim position and recommended that the words ‘existing and anticipated’ are removed.⁹¹ This was on the basis that the “activities within” the specified zones are those which fall within the definition of reverse sensitivity; however it is to be defined. We consider her proposal to be appropriate and relying on the definition of reverse sensitivity (which already refers to existing lawfully established, permitted or authorised activities), improves the clarity of the objective.

5.4.2 Decision

[302] In relation to NOISE-O1 and NOISE-O2 we adopt Ms White’s analysis and recommendations. The amendments to the objectives are included in **Appendix 3**.

[303] We adopt Ms White’s s32AA evaluation to support the changes to NOISE-O1.

[304] In terms of NOISE-O2, for the purposes of s32AA, we find that the amendments will ensure that the objectives across the Proposed Plan align and in doing so better achieve the purpose of the RMA.

⁹¹ Liz white, Final Reply, 4 August 2025, paragraph 28 and 29.

5.5 NEW POLICY

5.5.1 Assessment

[305] Forest and Bird [156.173] submitted that the impacts of noise on native fauna should be considered and seek inclusion of a policy that ensures that the impact of noise on native species is avoided or minimised. We do not consider that the changes requested are necessary or appropriate in the context of the objectives of the Noise Chapter for the reasons set out in the s42A Report.⁹²

[306] Hort NZ [245.94] requested the inclusion of a policy that provides for noise from primary production activities, to ensure that there is recognition and awareness of the noise environment of the rural area.

[307] Ms White did not consider the additional policy to be necessary. She referenced that NOISE-P1 already seeks to enable the generation of noise which is of a type, character and level that is appropriate, having regard to the purpose, character and qualities of the zone that the activity is located in. The purpose, character and qualities of each of the respective rural zones is set out in each zone chapter and therefore already provides direction in relation to noise, when the noise and zone chapter provisions are read together. We agree with Ms White for those reasons.

5.5.2 Decision

[308] We adopt the analysis and recommendations of Ms White. No additional policies are necessary or appropriate.

5.6 POLICY NOISE-P1 MAINTENANCE OF ZONE CHARACTER AND QUALITIES

5.6.1 Assessment

[309] Helicopters Sth Cant. [53.16] and NZAAA [132.20] continued with the theme of seeking express recognition that rural zones are not quiet areas. NZ Frost Fans [255.7] also requested changes to give priority to land based primary production. We have addressed rural zones and noise effects of specific activities in Part 3 of our Decision. We agree with Ms White that no changes are necessary as the relationship of rural activities and other land uses are addressed adequately in the GRUZ Chapter.

[310] Radio NZ [152.50] considers the policy should also recognise circumstances where lifeline utilities are required to undertake activities that generate noise. The submitter sought that NOISE-P1 is amended to enable noise generation at appropriate levels. We note that Clause 2 of the policy already allows for the nature of the noise generating activity to be taken into account, with consideration of the frequency and duration of the noise also being relevant in an emergency situation. We do not find that any additional changes are required to the policy to specifically refer to lifeline utilities.

⁹² Liz White, s42A Report, 24 March 2025, paragraph 8.5.4.

[311] Hort NZ [245.95] requested some changes to the wording of the policy in their written submission, however these were not pursued in evidence at the hearing.

[312] We find the policy as notified to be appropriate and implement the objectives of the Noise Chapter.

5.6.2 Decision

[313] We adopt Ms White's analysis and recommendations on NOISE-P1. We retain the policy as notified.

5.7 POLICY NOISE-P5 REVERSE SENSITIVITY

5.7.1 Assessment

[314] There are two issues raised in submissions with the drafting of this policy.

[315] The first relates to its scope and whether other zones and activities should be referenced. For example, several submitters seek that rural zones and land based primary production should be included in the list of 'higher noise environments'.⁹³ Fulton Hogan [170.35] sought that an additional clause is added to the policy to address lawfully established activities. KiwiRail [187.76] sought deletion of the clauses set out in the policy, as it considers that they are not necessary and weaken the intent of the policy to meet NOISE-O2 and protect railway lines from reverse sensitivity effects. Further, while supportive of recognising higher noise environments within close proximity to a railway line, amendments were sought to specify that noise and vibration effects are felt "within 100m of", rather than "in close proximity to" a railway line to align with its submission points as to the distance from the railway line that it says requires acoustic and vibration mitigation measures. Foodstuffs [193.7] considered that the policy does not fully implement NOISE-O2 because it does not provide for the protection of existing noisy activities from noise sensitive activities, located in a different zone immediately adjacent to the zone containing the existing higher noise environment.

[316] The second issue relates to whether it is in fact a policy about 'reverse sensitivity'. Fonterra [165.109] submitted that the policy does not relate to reverse sensitivity, but rather that it relates to effects on incompatible activities. As such, it sought that the policy title is amended to "Effects on incompatible activities".

[317] Dealing with the second issue first, we agree that there is some confusion between the title of the policy "Reverse Sensitivity", and the content which focuses on 'effects on the amenity values and health and safety of occupants, and minimising sleep disturbances'.

[318] During the hearing we questioned Ms White on whether 'health effects' (and as she noted 'amenity effects') were prerequisite to a finding of the likelihood of 'reverse sensitivity effects'. As we understood her answer, they can be related, but not always, and reverse sensitivity refers to the likelihood of constraints on lawfully established activities. We think it is important the objectives and the policies that implement them are clear in that regard. We

⁹³ Ballance [86.8], Helicopters Sth Cant. [53.17], NZAAA [132.21], Hort NZ [245.96] and NZ Frost Fans [255.8]

think it would be clearer if the policy were to include reference to reverse sensitivity effects, not just health, safety and amenity issues.

[319] Returning to the first issue about submissions seeking the inclusion of rural zones, primary productive uses, and other extensions to the list of 'higher noise environments', we have considered the request, and reject including all 'lawfully established activities' as we agree with Ms White that this invites other issues as to whether other changes are required to rules to address a whole myriad of activities. We are of the view however that the submissions do illustrate the problem with the list approach and have questioned in our own minds whether the list is needed at all or if it is incomplete. Some of the listed items are general, and others refer to specific methods to address the effects. For example, Ms White recommends referring to 300m setback from frost fans – this is specific in a rural environment, yet the submissions from Hort NZ et al⁹³, and Kiwi Rail are recommended by her to be rejected for seeking incorporation of rural land uses and specific setback distances pursued in other submissions on the rules.

[320] We understand from Ms White that NOISE-P5 is intended to signal that the plan seeks to ensure that noise sensitive activities located in higher noise environments are located and designed to minimise adverse impacts on occupants, both for their own health, safety and amenity but also to avoid or minimise potential 'reverse sensitivity effects'. We understand NOISE-P5 is only intended to apply to areas considered 'higher noise environments'.

[321] We are satisfied that the drafting changes recommended by Ms White including deleting the first list 1-4 and adding to the second list of 'higher noise environments' with the addition of the words 'to avoid or minimise the risk of reverse sensitivity effects on other activities in higher noise environments', are the most appropriate, efficient and effective in implementing NOISE-O2, and ensure consistency with the decisions we have made below in relation to the rules and standards.

5.7.2 Decision

[322] We adopt the amendments to the policy recommended by Ms White in her Interim Reply⁹⁴ with the addition of the words 'to avoid or minimise the risk of reverse sensitivity effects on other activities in higher noise environments' and have included these in **Appendix 3**.

[323] In terms of s32AA, we are satisfied that the amendments are the most appropriate option for achieving the purpose of the RMA, the relevant provisions of the Plan and for giving effect to other relevant statutory instruments.

5.8 POLICY NOISE-P7 NOISE SENSITIVE ACTIVITIES WITHIN NOISE CONTROL BOUNDARIES

5.8.1 Assessment

[324] A number of submissions supported the policy as drafted, however Kāinga Ora [229.58] opposed this 'avoid' policy as it sends a very strong policy signal that specific activities

⁹⁴ Liz White, Interim Reply Hearing F, Light and Noise, 6 June 2025.

are not to occur within the noise sensitive overlays. The submitter also considered that the drafting of the policy is confusing given the various exclusions/exceptions and sought that it be redrafted to focus on managing the effects of noise. The submitter sought deletion of the policy and its replacement with the following:

Manage subdivision and the establishment of noise sensitive activities to minimise adverse effects on the amenity values of occupants.

[325] Ms White confirmed that the use of 'avoid' in this policy is intentional and supported by the Council's s32 analysis. It sends a strong policy signal that specific activities are not to occur within the identified noise sensitive overlays. She noted that the policy is supported by a non-complying activity status, reflecting the existing controls in the ODP relating to the airport and raceway. Ms White explained that the key change in the Proposed Plan is the extension of this approach to the Port Inner NCB. This NCB is based on a technical report commissioned by PrimePort to develop noise contours in accordance with NZS 6809:1999 Acoustics – Port Noise Management and Land Use Planning, and which was provided to the Council as part of the development of the Proposed Plan and in turn reviewed by Malcolm Hunt Associates.

[326] We accept that the approach is appropriate for those identified land uses, taking into account the high level of noise associated with these activities, the impact that this would have on people undertaking noise sensitive activities in these areas, and the established higher level of risk that reverse sensitivity effects would arise, resulting in potential constraints on the established activities.

5.8.2 Decision

[327] We adopt the recommendation of Ms White on NOISE-P7 and retain the policy as notified.

5.9 RULE NOISE-R1 – ACTIVITIES GENERATING NOISE NOT OTHERWISE LISTED IN THIS CHAPTER

5.9.1 Assessment

[328] A number of submissions requested changes to the rule to provide exemptions for specific activities. Hort NZ [245.99] supported the rule, subject to relief sought in relation to GRUZ-R14 (relating to use of airstrips and helicopter landing areas) being granted. Jet Boating [48.14] drew comparison of its activities with other temporary, intermittent noise sources (including traffic on roads) as a reason to exempt non-commercial motorised watercraft operating on the surface of waterbodies. Helicopters Sth Cant. [53.18] and NZAAA [132.22] requested exemptions for aircraft using airstrips and helicopter landing sites for activities in the Natural Open Space Zone that complies with NOSZ-XX, a rule proposed by NZAAA. Federated Farmers [182.179] considered further clarity was required as to the scope of the rule and how it was to apply, in particular to a range of temporary and intermittent farming activities to which PER 2.3 applied.

[329] Ms White relied on advice from Mr Hunt in response to those submission points and provided us with drafting changes.⁹⁵ We did not receive any additional evidence from the submitters on this issue. We accept Mr Hunt's advice and the drafting changes put forward by Ms White as appropriate.

5.9.2 Decision

[330] We adopt the analysis and recommendations of Ms White on NOISE-R1. We have included these in **Appendix 3**.

[331] We adopt Ms White's s32AA analysis of the changes.

5.10 TEMPORARY ACTIVITIES: NOISE-R2, NOISE-R3 AND NOISE-R4

5.10.1 Assessment

[332] Submissions on these rules are grouped due to their focus on noise from temporary activities (temporary events, temporary military training activities and construction noise). Jet Boating [48.15] sought exemption from NOISE-R2 for non-commercial temporary event motorised watercraft operating on the surface of water bodies but did not comment further at the hearing. NZDF [151.13] requested noise standards specific to temporary military training activities be included in the District Plan for consistency reasons with other plans, further clarification of the interpretation and operation of PER-1 to PER-5 and an amendment to PER-1 to not require noise from weapons firing and use of explosives to be assessed in accordance with NZS6802:2008, stating that this standard is not designed to assess impulse sound such as gunfire.

[333] Fulton Hogan [170.36] sought that NOISE-R4, pertaining to construction noise, be amended to align with the Auckland Unitary Plan, to allow for construction in the road to exceed the noise limits in NZS6803:1999, provided that the works are for less than three nights at any one receiver and a noise management is in place. The submitter requests this approach be taken to provide for necessary road works without the need for a resource consent so that there is an exemption to comply with PER-1 for unplanned repair or maintenance works; or planned works in the road between the hours of 10pm and 7am where specific matters are met.

[334] Ms White relied on advice from Mr Hunt in response to those submission points and provided us with drafting changes for NOISE-R3 PER-1 in response to the submission from NZDF. NZDF provided a letter to the Panel setting out their position, which we have reflected on.⁹⁶ While the NZDF presented their case for standardising a rule framework across the country for all of its training activities they did not offer any alternative acoustic evaluation or s32AA evaluation to support their proposals. For those reasons we rely on the evidence of Mr Hunt and Ms White.

⁹⁵ Liz White, s42A Report Light and Noise, 24 March 2025, paragraph 8.9.15.

⁹⁶ Letter from NZDF to Hearings Panel, 17 April 2025.

[335] Mr Hunt recommended drafting changes to NOISE-R4, PER-2 in response to the Fulton Hogan submission, however as Ms White pointed out the suggested change would only apply within the road reserve of a state highway, which is designated and is not subject to the rule in any event.

[336] We did not receive any additional evidence from the other submitters seeking changes to the temporary activity noise rules. We accept Mr Hunt's advice and the drafting changes put forward by Ms White as appropriate.

5.10.2 Decision

[337] We accept the analysis and recommendations of Ms White, and we amend NOISE-R3 PER-1 as set out in **Appendix 3**. NOISE-R2 and NOISE-R4 are retained as notified.

[338] We adopt Ms White's s32AA analysis of the changes.

5.11 RULE NOISE-R5 – NOISE FROM BIRD SCARING DEVICES

5.11.1 Assessment

[339] This rule relates to the use of audible bird scaring devices (ABSD). Hort NZ [245.93] supported the proposed permitted activity with a restricted discretionary status if standards are not met but pointed out that the rules as proposed were more restrictive than the Operative District Plan without any analysis in the Council's s32 Report and background acoustic reports. The submitter requested that more enabling provisions be adopted, including noting that the trigger for mitigations at 65dBSEL and that the temporal limitation of 7am-8pm was unrealistic and should be related to just before sunrise and sunset. They requested the deletion of directional requirements in PER-3.

[340] Mr Hunt considered the proposed changes and agreed with the use of a Single Event Level (SEL) unit as defined in NZS6801:2008. Mr Hunt did not agree with deleting PER-3 – relating to the orientation of devices – in its entirety, because of the nature (sharpness) of sound from these devices, when located near to a sensitive noise receiver. However, he did agree that it is not necessary where the device is located at distances exceeding 500m from any noise sensitive activity, where the sound is lesser and does not have a sharp quality to it at that distance. In terms of timing, Mr Hunt did not support permitting devices 30 minutes before sunrise, as in his view, this would lead to potentially adverse sleep impacts. In the Interim Reply he further calculated that there is the potential for the 30 minutes before sunrise to be 4.30am in the late summer and he considered this would have the potential for unacceptable sleep disturbance.⁹⁷ However, he considered that noise 30 minutes after sunset is acceptable, as this is not during the sensitive nighttime period. Mr Hunt did not support increasing the firing rate, as this would in his view potentially cause a far greater degree of adverse noise effects.

[341] The Panel heard from Hort NZ on the issues of the use of ABSD throughout the District and enquired as to the frequency and location of complaints in order to assist our

⁹⁷ Liz White, Interim Reply, Appendix D.

understanding of the risk of adverse effects and the appropriate response, including the efficiency and efficacy of the proposed rule framework.

[342] Mr Hay provided acoustic evidence on behalf of Hort NZ.⁹⁸ Mr Hay commented that it is uncommon to see a requirement for a 500m 'setback' and control on direction of fire for ABSDs. Whilst described as a setback, our reading of the proposed rule (as amended by Ms White), is that ABSD located more than 500m away from the noise sensitive activity building may be orientated in any direction, but within 500m it must be orientated away from the building.

[343] Mr Hay considered that meeting the noise limits outlined in PER-2 will require distance setbacks, controls on the type of device used, or screening, perhaps in combination. All of these will reduce the 'sharpness' of the sound from ABSD. He therefore considered that a stand-alone distance setback and limitation on the direction of fire is not necessary to control the 'sharpness' from this source, as the control on noise level will inherently achieve this goal. Mr Hay noted that other methods could mitigate the 'sharpness' factor, including topography and close physical screening, therefore he was concerned that PER-3 precluded growers from demonstrating that the noise limits in PER-2 can be achieved given the specific nature of their site, or with additional screening. A permitted activity control which requires a standard setback and direction of fire, regardless of the noise output of the device, or how it is screened does not reflect the ability for site specific responses to controlling noise level and the resulting effect.

[344] Mr Hay noted that there are a number of different types of ABSDs and the rule appeared focused on 'gas guns'. He was concerned that there is inherent variability in the noise of ABSD. This means that the selection of a specific device, in combination with allowances for screening as described above could achieve similar outcomes in terms of noise effect, to what is currently proposed by the rule. His evidence is that this can be achieved without a specific distance setback, and orientation control, allowing flexibility for growers.

[345] We also heard from Mr Vance Hodgson who provided a planning evaluation of the proposed rule framework and the changes requested by Hort NZ.⁹⁹ Mr Hodgson referred to GRUZ-O1 he interpreted as supporting a more flexible framework that enabled growers to meet the required acoustics standards accounting for the particular circumstances, rather than prescribing setback and directional requirements.

[346] In terms of the difference of opinion between Hort NZ and Mr Hunt regarding the temporal restrictions, we find that the 7am – 8pm restriction is unrealistic and the more appropriate reference is to sunrise and sunset. In terms of the 30 minutes before and after, we accept the evidence of Mr Hunt and Mr Hodgson that 30 minutes after sunset, will have little impact on sensitive land uses. Mr Hunt remained concerned about the 30 minutes prior to sunrise, potentially impacting on sleep disturbance.

⁹⁸ William Hay, Statement of Evidence, 9 April 2025.

⁹⁹ Vance Hodgson, Statement of Evidence, 9 April 2025

[347] Mr Hunt acknowledged that the potential noise issues related to the 'gas gun' type scarer and therefore the rules should reflect that.

[348] We requested evidence from the Council on the frequency and location of complaints from use of ABSD. The Council reported three instances, one of which was related to use at the wastewater treatment ponds in 2015, and two in the Pleasant Point Highway area in 2017.¹⁰⁰

[349] Mr Hodgson also referenced GRUZ-O2 which sought to achieve higher levels of amenity immediately around sensitive activities. He considered that NOISE-R5 PER-4 is not nuanced to achieve this, but NOISE-R5 PER-2 does, through limiting the noise received within the notional boundary of noise sensitive activities. In his opinion crops form the character and qualities of the area, which necessarily require bird management for many crops to grow. In support of his opinion, he referenced GRUZ-O3 which provides for protecting primary production from reverse sensitivity and GRUZ-O4 which provides protection for sensitive activities and sensitive zones, specifically from the effects of intensive primary production, mining, quarrying and other intensive activities.

[350] We accept the evidence of Hort NZ that bird management in horticulture requires adaptable, integrated, and changeable techniques that respond to matters like crop type, seasonality, bird type, and behaviour, including the ability of birds to acclimatise to any one measure. We agree that the rules ought to enable the flexibility required by the horticulturalists to ensure the devices are effective while addressing any adverse effects on existing sensitive activities.

[351] In the context of the objectives and policies in the General Rural Zone, and having considered the scale of the effects of bird scarers and the limited number of historical complaints we find that NOISE-R5 PER-2 provides adequate protection for noise sensitive uses, and that the rule framework should provide flexibility for growers to locate and orientate devices, as they see fit whilst meeting the standards in PER-2, along with a temporal restriction that reflects practical use of devices. Accordingly, we accept the amendments to PER-3. Ms White amended her position in her Interim Reply¹⁰¹ and accepted the changes to PER-4, to reflect 30 minutes before sunrise until 30 minutes after sunset, which better achieves the General Rural Zone objectives and policies.

5.11.2 Decision

[352] We adopt the analysis and recommendations of Ms White for the reasons above. We amend NOISE-R5 PER-1, PER-2, PER 3 and PER-4. We have included the changes in **Appendix 3**.

[353] In terms of s32AA we are satisfied that the amendments are the most appropriate option for achieving the purpose of the RMA, the relevant provisions of the Plan and and for giving effect to other relevant statutory instruments.

¹⁰⁰ Liz White, Interim Reply Appendix C.

¹⁰¹ Liz White, Interim Reply Hearing F, Light and Noise, 6 June 2025, Appendix A.

5.12 RULE NOISE-R8¹⁰² - PORT ZONE NOISE

5.12.1 Assessment

[354] Property Income [56.1], Fonterra [165.112], PrimePort [175.66] and TDHL [186.38] identified there is a gap in the rule because part of the Port Zone is not covered by the NCB. Mr Hunt and Ms White agreed a gap existed and Mr Hunt supported the inclusion of the new provision proposed by the submitters. We accept the submission and the additional provisions for the Port Zone outside Precinct 7 as set out in the s42A Report. We are of the view that the activity status for non-compliance with the NOISE-S1 component of the rule should remain non-complying for the reasons outlined by Ms White in her summary statement and as confirmed in the Interim Reply for the reasons she provides.¹⁰³

[355] PrimePort [175.66] and TDHL [186.38] identified other discrepancies with the proposed rule which applied noise limits within Precinct 7, the core operational area of the Port, where it was intended none would apply (as is the case in the ODP). There was agreement between Mr Hunt and Dr Trevathan (appearing for TDHL) as to the amendment required to address the issue which is incorporated in the s42A Report recommended version of the rule. We accept the submission point and the resolution as being appropriate.

[356] ECan [183.143] noted that the Regional Coastal Environment Plan (RCEP) also includes noise provisions for the Port Activity Area and sought to obtain a better understanding of the integration of the proposed rules with the provisions in the RCEP Rule 8.21. It sought that amendments to NOISE-R8 are considered to, where possible, ensure alignment with the RCEP rule. Ms White, Mr Hunt and Dr Trevathan all agreed that it was not possible to reconcile the RCEP rule with the Proposed Plan given the latter is more up to date and aligns with the requirements of the NPS. They recommended no change, and we agree. We reject the submission point from ECan for those reasons.

5.12.2 Decision

[357] We adopt the recommendations of Ms White and make the amendments to NOISE-R8¹⁰² in **Appendix 3**.

[358] We adopt the s32AA evaluation undertaken by Ms White in her s42 Report and as updated in the Interim Reply.

5.13 RULE NOISE-R9¹⁰⁴ –BUILDINGS FOR USE BY NOISE SENSITIVE ACTIVITIES

5.13.1 Assessment

[359] This rule addresses various setback and insulation requirements for new buildings and alterations to existing buildings, for use by a noise sensitive activity not addressed in NOISE-R12.¹⁰⁵ NOISE-R9 includes setbacks and insulation requirements for noise sensitive activity

¹⁰² Now renumbered NOISE-R9 in the Decision Version of the provisions.

¹⁰³ Liz White, Interim Reply, Appendix A, page 2

¹⁰⁴ Now renumbered NOISE-R11 in the Decision Version of the provisions.

¹⁰⁵ Now renumbered NOISE-R14 in the Decision Version of the provisions, which addresses the Port Inner Control Boundary Overlay, Airport Noise Control Boundary Overlay and Raceway Noise Control Boundary Overlay.

buildings proximate (at varying distances) from the state highway, railway line, and the NCZ, LCZ, LFRZ, MUZ, TCZ, CCZ, GRZ, MRZ and the Outer Control Boundary of the Port Noise Control Overlay.

[360] Submitters requested the rule be limited to new buildings and not alterations. There is an issue as to the scale of alterations if they are to be captured. Issues are also raised as to the type of noise sensitive activity in a building and whether it should include staff of industrial and commercial activities. We did not receive any specific evidence that demonstrated that staff occupying buildings used for industrial or commercial activities should be exempt from the general standards proposed.

[361] Waka Kotahi lodged further submissions seeking that alterations to existing buildings are included, and this was elaborated on in the evidence of Mr Pearson and Dr Chiles. Ms White and Mr Hunt also agreed that significant alterations should be captured and proposed a 20% threshold. Mr Pearson considered that 20% is not a practical or equitable measure of an alteration, as larger rooms and/or buildings will be allowed greater increases than that of a smaller habitable room (i.e. small bedroom) and are likely to result more exposure to noise effects. The 20% increase is also not limited by any timeframes and could lead to accumulated growth without any form of noise mitigation. Mr Pearson and Dr Chiles' alternative was to allow for fixed areas of increase over a set time. For example, the Waikato District Plan allows alterations of a habitable room of 5m² every 10 years without requiring noise mitigation.

[362] We accept that alterations should be included as it provides an opportunity for mitigation of noise effects on people occupying those buildings, and we agree that the extent of alterations should be significant, rather than small incremental alterations, where the cost of insulation may be prohibitive of otherwise desirable changes to a building. Whether it is 20% or 5m² every 10 years is somewhat arbitrary as each have their merits. We do not consider there is any real risk of people 'gaming' the system by incrementally replacing a dwelling slightly less than 20% at a time, as the cost and practicality of staged alterations makes this unlikely. In the end we were persuaded that the 20% threshold is simpler and more easily ascertained. Therefore, we prefer the Council's proposed method of a 20% increase in the floor area of a habitable room to be appropriate and sufficiently certain to be enforceable, whilst achieving the desired acoustic mitigation outcome. Mr Hunt recommended a minor refinement of the rule to make it clear the 20% relates to a building or room used for noise sensitive activities. We accept the change is appropriate for the reasons he provides.¹⁰⁶

[363] We have addressed the effect of alterations to existing noise sensitive buildings in the Clandeboye Dairy Manufacturing Precinct NCB separately above, and exempted alterations to buildings existing at the time of notification of the Proposed Plan.

State Highway Noise

[364] Waka Kotahi [143.118] sought amendments to address reverse sensitivity in close proximity to the state highway with prescribed distances in PER-1, and parts of PER-2 to ensure human health is protected from state highway generated noise effects. The submitter

¹⁰⁶ Liz White Interim Reply, Appendix D.

stated that the 40m and 80m distances are not appropriate for State Highway 1, where the speed limit is greater than 50 km/hour, and that a 100m distance would be better. Waka Kotahi proposed an alternative by including variable noise contours which could be implemented as a state highway noise control overlay. With respect to PER-1, Waka Kotahi considered that the proposed approach, which specifies how much noise reduction the building has to provide, could result in a deficiency in sound insulation in some houses (and parts of houses) and some with too much insulation due to the variable external traffic noise. The submitter's preference is to specify the resulting noise inside a habitable space, as it considers that this is a more effects-based approach. In relation to PER-2, the submitter stated that the standard appears to provide alternative pathways for compliance but is concerned that PER-2.b does not provide for an equivalent standard to the other pathways in PER-2.a and in PER-1.

[365] Waka Kotahi did not provide any maps or contours with their submission. We found that the submission was sufficiently clear for prospective submitters to understand the setbacks proposed relative to the speed limits on the state highway to be prescribed in the rule without mapping. However, we agree with Ms White that a 'contour' approach would be problematic as prospective submitters would have been unable to ascertain whether they were impacted absent the contour maps.¹⁰⁷ In any event Mr Pearson accepted there were issues of scope.¹⁰⁸ We have not considered a state highway noise contour for that reason.

[366] Waka Kotahi did not pursue performance standards for road-traffic vibration and noise in outdoor living spaces.

[367] We received expert planning evidence from Mr Pearson and acoustics evidence from Dr Chiles. Dr Chiles and Mr Hunt disagreed as to the setback distance required, and the method of insulation, with Mr Hunt preferring the Proposed Plan's external to internal façade reduction. Dr Chiles preferred the more targeted internal standard, which he also recommended for rail noise discussed below.

[368] On the issue of the distance from the state highway to require insulation requirements, Mr Hunt said that there is no evidence or reasoning provided to offset the additional compliance costs that may be experienced at such locations distant from the highway (where often the highway noise is minimal, being at least partially screened by the built environment). Mr Hunt has further considered this request by using the NZTA road noise calculator tool and considers that this supports the use of an 80m distance, given the future traffic noise levels which are predicted in the Timaru District, (as opposed to other areas in the country). Mr Hunt concluded that noise levels alongside the 100km parts of State Highway 1 appear unlikely to exceed 57 dB LAeq(24 hours) at distances beyond 80m.

[369] Dr Chiles disagreed and in his opinion the evidence of noise exposure from this detailed mapping¹⁰⁹ demonstrates that a distance of 100 m from State Highway 1 is warranted

¹⁰⁷ Although we acknowledge that the contours for nationwide state highways are available on line <https://www.arcgis.com/home/item.html?id=7fd0c57e579b05c27c66e2a4fa> as noted in Dr Chiles evidence at paragraph 7.

¹⁰⁸ Stuart Pearson, Statement of Evidence, 16 April 2025, paragraph 3.4

¹⁰⁹ https://www.timaru.govt.nz/__data/assets/pdf_file/0005/1023278/Submitter-143-NZ-Transport-Agency-Waka-Kotahi-Timaru-District-Modelled-State-Highway-Noise-Contours-response-to-Minute-34.pdf

where the speed limit is above 50 km/h. Dr Chiles had allowed for uncertainty in the projections identified when converting the contours to maps.¹¹⁰ Mr Pearson also noted that Dr Chiles' opinion is consistent with other districts within Canterbury where the modelled noise contours have not been used, such as within the Christchurch District Plan (Rule 6.1.7.2.1) and the Selwyn District Plan (NOISE-R3).

[370] In the Council's Interim Reply, Mr Hunt provided further comment and noted that in real terms the difference between 80m and 100m is quite minor owing to the way sound propagates away from a trafficked road.¹¹¹

Sound propagates as a 'line source' as it moves away from the traffic stream with the rate of reduction over distance (without any allowance for ground absorption) being 3 dB reduction per doubling of distance from the road (10 times the log of 2). This means the difference in received noise at 80m is less than 1 decibel (10 times $\log(100/80)$) greater than the level received at 100m. This minor acoustic difference of <1dB falls well within the 3dB Dr Chiles describes within his approach to noise modelling (page 3 of Appendix A to his evidence) that he states is to allow for 'inherent modelling uncertainty'.

[371] Mr Hunt also notes that within Timaru the areas of the state highway with posted speed limits above 50km/h have variable speeds, and are not set at a constant of 100km/h.

[372] Waka Kotahi provided a s32 evaluation report¹¹² which tested the alternatives of 'do nothing', modelled 'contour' setback, a 'metric' setback of 80-100m which triggered insulation requirements or a building 'yard' setback. Although the preference was a modelled setback, it could not be pursued due to scope issues. The next best alternative was the metric setback. The report concluded a preference for the metric to include an 80-100m band. We did not receive a detailed comparison between the effectiveness or efficiency of 80m v 100m, we were simply left with two acousticians who did not agree with the threshold.

[373] We received differing opinions from acoustic witnesses as to the pros and cons of providing external façade insulation requirements compared with a more targeted internal noise insulation standard. As we have found in Section 5.3 above we have accepted a rule framework that allows optionality as to the method of insulation

[374] Returning to which metric should apply to trigger insulation requirements, we consider the best evidence we have is that within 80m of a state highway with posted speeds of greater than 50km/hr receivers are most likely to experience indoor noise environments exceeding the performance standard. Beyond that distance there is uncertainty in the modelling and small margins of improved noise mitigation in real terms between the two metrics. On balance we consider that a metric of 80m coupled with the requirement for the more targeted internal noise insulation measurement for sleeping and habitable spaces is the most appropriate in the context of the documented health and amenity effects of road traffic noise.

¹¹⁰ Dr Chiles, Appendix A

¹¹¹ Liz White, Interim Reply, Appendix d

¹¹² Assessment of Plan Provisions to Provide for Human Health and Amenity in accordance with s32 of the Resource Management Act, April 2024 (Version9).

Noise sensitive activities in the Māori Purpose Zone (MPZ)

[375] Te Rūnanga o Ngāi Tahu [185.53] considers the potential noise risk could be much lower than indicated in the Background Report¹¹³ and therefore the rules could be excessive. The submitter stated that there is limited land that is suitable for buildings and 'noise sensitive activities' within the Māori Purpose Zone (MPZ), and increased costs with running services to buildings further away from the road, as well as the costs of insulating or bringing an acoustic expert into the District for an assessment. Te Rūnanga o Ngāi Tahu did not attend the noise hearing, however we note that Ms Pull had earlier provided evidence regarding the definition of 'sensitive activities' and recommended that Papakāinga and Marae be deleted from the definitions. We asked Ms White to review that evidence and revisit her recommendations which she did. Ms White noted that the memorandum from Ms Pull¹¹⁴ addressed 'sensitive activities' rather than 'noise sensitive activities'. However, given the issues raised by Ms Pull are relevant to the definition of 'noise sensitive activities', Ms White accepted that it was not necessary to include 'Papakāinga' in the definition of noise sensitive activities, but that 'sleeping areas' within Marae buildings should be included, resulting in a narrowing of the term 'Marae buildings'.

Railway noise

[376] KiwiRail [187.77] also requested that the rule is amended to apply within 100m (rather than 40m) of the railway network, because noise and vibration can create adverse health and amenity effects, and an impact on the amenity of residents of a building. The submitter sought that PER-1 is amended to apply to an alteration to an existing building, PER-1.2 amended to add "excluding acoustic insulation installed to address rail noise"; and PER-2.b amended to require a 50m rather than 20m setback. The submitter also sought the inclusion of a new condition requiring compliance with a new vibration standard (NOISE-S7) within 60m of the 'boundary of a rail network', however this was not pursued at the hearing, and an 'alert layer' was suggested instead.

[377] There were differences in opinion between Mr Hunt and Dr Chiles as to the method to evaluate noise exposure. Mr Hunt was of the view that a 24 hour average was appropriate given the relatively low daily movements of the rail network through Timaru. He also said in the Interim Reply that:

I consider the request to apply reverse sensitivity noise protection out to 100m is based on assessing rail noise over a short, one hour period with KiwiRail assuming there would be two freight trains every one hour period over the whole day which I consider over-estimates daily rail noise typically experienced in the Timaru district., Dr Chile's has avoided dealing with the whole day effects of rail noise which would be much lower if the typical daily rail traffic through the Timaru district is taken into account.

Dr Chiles states at para 7.5 that the use of 24-hour averages in this instance would significantly under-represent adverse noise effects from freight train pass-bys. He confuses the issue at para 7.5 by making reference to the 15

¹¹³ District Plan Review Topic 11: Noise and Vibration, Stage 2 Report 'Recommendations for Managing Reverse Sensitivity Effects, by Malcolm Hunt Associates, 15 October 2018.

¹¹⁴ Memorandum of Ms Pull, 31 May 2024

minute assessment period recommended within NZS6802, however this is irrelevant as NZS6802 states (at clause 1.2.1) that this Standard is not to be used for the assessment of transportation noise.

I consider that the lower level of noise effects indicated when rail noise is averaged over 24 hours is the correct answer when viewed on the basis of the international evidence. The preferred methods assessing transport noise within NZ (and almost universally adopted internationally) is to assess transportation noise on a 24 hour time period. This is the basis for assessing noise from road traffic, ports, airports and heliports in NZ.

Para 2.4 of Dr Chiles 'Appendix A' implies there is some evidence pointing to international noise annoyance response curves being generally applicable for the New Zealand population. If this is the case, then NZ should adopt the 24 hour noise assessment basis for assessing rail noise annoyance found internationally. I have resisted adopting the 1 hour effects assessment promoted by Dr Chiles as I consider this to be inconsistent with methods adopted elsewhere and over-emphasises the short-duration noise effects of rail movements. Apart from some work completed by Marshall Day Acoustics some years ago (referred to at para 5.5 of Dr Chile's evidence) the 1 hour metric does not appear to have found favour among other NZ noise experts. That is not to say I do not support measures to address reverse sensitivity noise and vibration effects of the Main South Line. Rather, I consider NOISE-R9 is correctly worded so that acoustic insulation (and ventilation) be applied to any new or altered building housing a noise sensitive activity located within the most affected areas which is, in my view, located within only the first 40m measured from the rail track.

[378] Dr Chiles on the other hand considered an average noise level over periods of one hour to be more appropriate. KiwiRail disputed the description of use being 'low movements' and pointed out that it was not just the movements on the main trunk line, but the multiple movements associated with the Port that needed to be factored in.

[379] Mr Hunt's opinion was that given the limited number of daily rail movements (including infrequent passenger trains) there is no indication that rail noise levels received beyond 40m from the railway line would be sufficient to require the acoustic protection provided by NOISE-R9.¹¹⁵

[380] Dr Chiles opinion was that the notified distance of 40m is inadequate to protect noise sensitive activities in new and altered buildings from adverse health effects, and 100m is a more appropriate distance. A 100m distance reflects a reasonable compromise to capture the most affected sites without requiring assessment where building treatment is less likely to be required. The 100m distance also aligns with the assumed sound levels for rail volumes and one hour average.

[381] Ms Heppelthwaite, the planning witness for KiwiRail outlined a proposal to include both a Rail Vibration Alert Overlay, which had no regulatory controls, and the use of Rail Noise Control Boundary as being the most effective way to apply the 100m control for NOISE-R9.

¹¹⁵ Appendix 3, s42A Report, page 7.

[382] As was the case with noise from the state highway network Dr Chiles and Mr Hunt differed on the method of insulation. In the case of noise from rail we prefer Dr Chiles' approach for the same reasons as we did for road noise. We adopt the same reasoning and evaluation under s32AA and have provided for optionality in the standard.

[383] On the issue of what distance and from what point should it be measured, we note that the Proposed Plan used the term 'railway line' which was not opposed by KiwiRail in their written submission, however in the written submission other terminology was used, including 'rail corridor', and in evidence 'rail network'. In response to the issues raised, Counsel for KiwiRail considered the rail network equated with the designated area, and incorporated areas that could be used for noise generating uses, therefore the preference was a measurement from the designated boundary. In our view the rule in the Proposed Plan was clear, and railway line equates with the rail tracks that are used by trains, as that is the source of noise that the proposed insulation requirements seek to address, not general rail yard activities. Therefore, we have proceeded on the basis that whatever distance is determined to be most appropriate, it is measured from the railway line, not the boundary of the designation, which in some cases may be some distance from the tracks.

[384] KiwiRail provided a generic s32 evaluation¹¹⁶ that was prepared to support the general nationwide approach to setback and insulation requirements. We accept that the s32 Report generally describes the benefits of the rail network, and the potential effects on noise sensitive activities from rail operations. However, the s32 Report does not provide a sufficient basis to satisfy us that there are any real reverse sensitivity effects on KiwiRail in the Timaru District given the designated land and the intermittent nature of noise.

[385] In answer to questions from the Panel, Ms Grinlinton-Hancock (Manager of the RMA team for KiwiRail) explained a scenario where a North Island operation needed to modify its alert systems to reduce impacts on neighbouring residential activities, however, the risk and effect was not quantified in any real way and it was difficult to translate this to Timaru. We do however accept the evidence of Dr Chiles that train noise can impact on sleep disturbance, and whilst effects are generally less than traffic or aircraft noise, providing insulation for habitable spaces to achieve a desirable internal noise environment will mitigate health and amenity effects. We find that a 100m distance as measured from the railway line to be appropriate to trigger a need for evaluation and where necessary acoustic insulation for parts of a building to achieve the appropriate indoor noise environment. We prefer the internal noise standard to the external façade standard for the same reasons discussed above in relation to noise from the state highway.

[386] We accept the evidence of KiwiRail that there is benefit in adding an alert layer for vibration effects up to 60m from the railway line. We accept Ms White's further clarification that this be added into the EPlan planning maps as a "Non-District Plan Layer" in the same manner as the railway itself is included as a "Non-District Plan Layer", as depicted in her Final Reply.¹¹⁷ We agree with the recommended changes, although the management of "Non District Plan Layers" is a matter for the Council's administration of the Plan once operative.

¹¹⁶ Catherine Heppelthwaite, Statement of Evidence, 9 April 2025, Attachment B.

¹¹⁷ Liz White, Final Reply, paragraph 21

5.13.2 Decision

We adopt the analysis and recommendations of Ms White in relation to NOISE-R9¹¹⁸, as set out above, with the exception of the setback from the railway line, which we increase to 100m. We have made the same change to NOISE-S3 and NOISE-S4.

[387] We make no change to NOISE-R9 as it relates to the state highway. However, we have made associated changes to the insulation standard in NOISE-S3 to incorporate the option of providing an internal noise standard and the inclusion of ventilation requirements for all habitable rooms.

[388] We have included these changes in **Appendix 3**.

[389] In terms of s32AA we are satisfied that the amendments are the most appropriate option for achieving the purpose of the RMA, the relevant provisions of the Plan and for giving effect to other relevant statutory instruments.

5.14 RULE NOISE-R12¹¹⁹ – NEW NOISE SENSITIVE ACTIVITIES

5.14.1 Assessment

[390] Road Metals [169.35] and Fulton Hogan [170.37] submitted that a new rule is necessary to address new sensitive activities in proximity to lawfully established quarries. The submitters did not attend the hearing. Ms White already identified that GRUZ–S4 provides for setbacks. No change was recommended to be made. We accept that recommendation.

5.14.2 Decision

[391] We make no change to NOISE-R12.

5.15 NEW STANDARDS

5.15.1 Assessment

[392] KiwiRail [187.80] sought that a new standard relating to indoor railway vibration is added to the Noise Chapter in the Proposed Plan, however the request was amended to include an alert layer only, which we address above.

5.15.2 Decision

[393] No new standard is required.

¹¹⁸ Now renumbered NOISE-R11 in the Decision Version of the provisions.

¹¹⁹ Now renumbered NOISE-R14 in the Decision Version of the provisions.

5.16 STANDARD NOISE-S3 – ACOUSTIC INSULATION

5.16.1 Assessment

[394] NOISE-S3 sets out the acoustic insulation standards for noise sensitive activities near the state highway, railway line, some commercial zones and has been amended to include the GRUZ between 100 - 300m of a frost fan.

[395] Fonterra [165.114] sought that the matters of discretion are deleted from NOISE-S3. This is a consequential change arising from their request that non-compliance with NOISE-S3 (in NOISE-R9) is made a non-complying activity. We have already determined that non-complying activity status is not appropriate in the context of NOISE-R9.

[396] We have earlier described the issues raised by Waka Kotahi [143.119] and KiwiRail [187.78], who wish to introduce a new 'effects based', or targeted internal noise standard rather than the external façade standard for road traffic and railway noise. We have determined that there is merit in the approach for the reasons outlined by Dr Chiles.

[397] Kāinga Ora [229.60] considers that the standard is broad and may unnecessarily restrict activities where effects can be appropriately managed. It sought deletion of the application of the standard to sites within specified distances from the state highway or railway line.

[398] Waka Kotahi did not pursue its request for an outdoor noise standard or vibration standard for traffic noise.

[399] Ms White did not recommend any changes to NOISE-S3 as a result of these submissions, other than the recommended changes as a consequence of submissions on frost fans and NOISE-R9¹²⁰ as discussed above.

5.16.2 Decision

[400] We adopt the analysis and recommendations of Ms White in response to these submissions and make no further changes to NOISE-S3 beyond those already discussed as a result of submissions on frost fans and NOISE-R9.¹²⁰ We have provided for alternative methods of noise insulation.

5.17 STANDARD NOISE-S4 – VENTILATION REQUIREMENTS

5.17.1 Assessment

[401] NOISE-S4 relates to the ventilation requirements for noise sensitive activities near the state highway, railway line, and commercial, industrial and mixed-use zones and within the outer control boundary of the Port Noise Control Overlay.

[402] Fonterra [165.115] sought that the matters of discretion are deleted from NOISE-S4. This is a consequential change arising from their request that non-compliance with NOISE-S4

¹²⁰ Now renumbered NOISE-R11 in the Decision Version of the provisions.

(in NOISE-R9¹²⁰) is made a non-complying activity. As we have concluded above, we do not accept that non-complying status is appropriate given the defined issues.

[403] Waka Kotahi [143.120] sought amendments to recognise and provide for thermal comfort and cooling requirements for all habitable rooms. The submitter is also concerned that the matters of discretion provide allowance for non-compliance without addressing the adverse effects.

[404] KiwiRail [187.79] wished to ensure ventilation provides controllable cooling and heating to maintain an appropriate room temperature. The submitter also sought to amend the matters of discretion to relate specifically to the required mechanical ventilation and compliance with the standard only. It considers that Matters 1, 3 and 4 are not appropriate and sought that they are deleted. KiwiRail also requested drafting changes so that the standards applied to any habitable room, not just study or bedroom areas.

[405] In terms of the requests for changes to the standard we heard from Mr Pearson from Waka Kotahi, Ms Hepplethwaite and Ms Grinlinton-Hancock from KiwiRail and from Mr Hunt and Ms White for the Council. Mr Hunt noted the focus of the standard was maintaining areas where quiet surrounds were important such as study and sleeping, and in other areas indoor health and amenity were likely adequately addressed through methods compliant with the NZ Building Code. Dr Chiles pointed out that activities requiring focus can occur in other areas not just a study, so there is a level of impracticability with the notified standard. His opinion was that occupants should have a genuine choice as to whether they open windows or not, therefore ventilation and temperature control were important in the Timaru District. Mr Hunt referenced a report prepared by Beca Consultants,¹²¹ which recommended cooling in various regions, including Christchurch, but not others such as Southland. Dr Chiles pointed out that Timaru was in the same temperature zone as Christchurch and also experienced extremely hot summer days.

[406] We agree that ventilation and cooling requirements should apply to sleeping areas, and there is benefit in extending those requirements to areas where quiet environments are required for focused work and study. We are not convinced that the standard should apply to all habitable areas, but accept that in most dwellings at least, those areas for focused work, may differ and not be confined to a 'study or office'. Similarly, an area designated for 'study' or office, may not be used for that purpose or necessary be a separate room. The use of spaces can change over time to meet the needs of occupants of a building. Therefore, we see benefit in providing greater flexibility in the standard to provide that ventilation must be provided within any part of a building used for sleeping and/or focused work or study, such as a bedroom, office, or study.

5.17.2 Decision

[407] We accept the analysis and recommendations of Ms White, however we make an additional change to NOISE-S4 to ensure ventilation is provided to any part of a building used

¹²¹ Beca, Ventilation Systems Installed for Road-traffic Noise Mitigation, 26 June 2014

for sleeping or focused work or study. The amendments to NOISE-S4 are included in **Appendix 3**.

[408] In terms of s32AA we are satisfied that the amendments are the most appropriate option for achieving the purpose of the RMA, the relevant provisions of the Plan and for giving effect to other relevant statutory instruments.

5.18 NOISE LIMITS (TABLE 24)

5.18.1 Assessment

[409] Table 24 sets out the noise performance standards for receiving zones and areas, compliance time periods and noise limits that apply. A number of submissions supported the table as notified and others sought changes to some standards. Fonterra [165.116, 165.116A], Property Income [56.2], TDHL [186.39] and PrimePort [175.69] sought changes to address the extent of the Port Zone and exempt noise generated within the Port Zone, which is addressed separately.

[410] Southern Proteins [140.19], Barkers [179.23], Hilton Haulage [168.9], North Meadows [190.13], and J R Livestock [241.31] sought that the GIZ is removed from the table. These submitters opposed an in-zone limit being applied within the GIZ, on the basis that noise limits are appropriate along the zone boundary with sensitive zones, or at the notional boundary of noise sensitive activities in other zones, but are not appropriate within the zone itself.

[411] Oliver, G. [14.1] sought that the daytime noise limit for those zones included in Row 1 of Table 24 (General Residential, Open Space and Recreation Zones, Rural Zones and the Māori Purpose Zone) is increased from 50 to 55 dB LAeq.

[412] Foodstuffs [193.9] sought application of Row 4 in the Table to the MRZ, at 18A Hobbs Street, where within 40m of the boundary of the adjacent LCZ. It notes that the Plan proposes to change the commercial zoning of 18A Hobbs Street under the ODP, to MRZ, which results in the location of the LCZ/MRZ boundary moving much closer to the supermarket. The submitter is concerned that as a result of the zone change, lower noise limits will now apply closer to the supermarket, representing a significant change in the operating environment for the supermarket which creates a possible compliance issue.

[413] Hort NZ [245.100, 245.101] considered that 55dB LAeq is an appropriate noise limit for the GRUZ, to reflect the nature of the receiving environment, which is different to the Residential Zone. It sought that the GRUZ is deleted from Row 1 of Table 24, and included instead in Row 2, with the limit applied only to the notional boundary of a building used for a noise sensitive activity in the GRUZ. This results in a 5dB increase in the noise limits applying.

[414] In terms of the issues raised by the Port related submitters¹²², Ms White noted that Table 24 does not come into play for activities within the Port Zone, which are subject to

¹²² Fonterra [165.1161 165.116A], Property Income [56.2], TDHL [186.39] and PrimePort [175.69]

NOISE-R8¹²³ not R1. She recommended a minor correction which makes that clearer. We accept that advice.

[415] Mr Hunt recommended that noise limits still apply within the GIZ given the range of potential uses, however he recommended increasing the limit to 75 dB LAeq (15 min), being the maximum recommended in NZS6802:2008; removing the site-to-site L_{Amax} limit, as his view is that compliance with this type of limit is not considered essential for providing site-to-site noise compatibility between sites; and exempting compliance with site-to-site noise limits for boundaries of sites in the same ownership, stating that noise effects in this situation are better managed internally rather than through a District Plan. We accept his recommendation.

[416] Submitter Oliver, G. did not attend the hearing. We note that Row 1 of Table 24 is supported by the Council's s32 Report and pre-report technical information. We agree with Ms White that no change is required for Row 1 for the reasons she has outlined in her s42A Report.

[417] In response to Foodstuffs' submission on Table 24 Ms White recommended that the request is generally accepted. However, as noted by Mr Hunt, she recommended that the boundary between the MRZ and LCZ is amended to extend the current LCZ boundary by 10m, and that the higher noise limit should only be applied to those parts of the MRZ within 30m of the boundary with the adjacent LCZ (i.e. the first 10m of the 40m sought by the submitter is already included through this area being zoned LCZ). We accept Ms White's recommendation for the reasons outlined. In her Interim Reply Ms White noted that as a result of a subdivision the original address has changed, and she therefore recommended the reference be amended to 'the Hobbs Street Noise specific control area'. We accept that recommendation.

[418] In terms of the request by Hort NZ to increase noise limits in the GRUZ, to reflect the working nature of the environment, Mr Hunt noted that certain uses associated with the use of the rural environment are already exempt from the standard.

[419] NOISE-R1 already exempts "activities of a limited duration required for normal seasonal agricultural, horticultural and forestry activities, such as harvesting". He considered that as a range of activities are permitted in the GRUZ, it is necessary for other permitted activities (i.e. those not already exempted) in the GRUZ to comply with the 50 dB limit within the notional boundary, to provide adequate amenity protection for residential uses that are permitted under GRUZ-R4 and GRUZ-R5. Mr Hunt also referred to GRUZ-O1 and GRUZ-O2.3 which on the one hand provides for the working environment of the Rural Zone, but also anticipates higher levels of amenity immediately around sensitive activities¹²⁴. Ms White considered that because the noise limits only applied to the notional boundary around noise sensitive activities then the lower noise limit is appropriate to assist in achieving those outcomes, noting that it is ensuring a level of amenity in the immediate vicinity of noise sensitive activities; not in the wider rural environment. We agree with Ms White's recommendations and make no change to Table 24 in response to the Hort NZ submission.

¹²³ Now renumbered NOISE-R9 in the Decision Version of the provisions.

¹²⁴ As per Part 3 of the Decision, now confined to 'existing' sensitive activities.

5.18.2 Decision

[420] We adopt the changes to Table 24 recommended by Ms White in her s42A Report and have included these in **Appendix 2** and **Appendix 3**.

[421] We adopt her s32AA evaluation for the changes made.

5.19 DEFINITIONS

5.19.1 Assessment

Noise sensitive activity

[422] Fonterra [165.16] seek that 'community facility' is added to the definition of 'noise sensitive activity', on the basis that these facilities, which provide generally for the congregation of people, are also sensitive to noise and in its view, likely to give rise to reverse sensitivity effects. The submitter notes that in the alternate, reference to 'place of assembly' would also be acceptable.

[423] KiwiRail [187.6] sought deletion of the definition and its replacement with the following, which in its view lists all noise sensitive activities and will assist with clear interpretation:

Means any lawfully established:

- a. residential activity, including activity in visitor accommodation or retirement accommodation, including boarding houses, residential visitor accommodation and papakāinga;
- b. educational activity;
- c. health care activity, including hospitals;
- d. congregation within any place of worship; and
- e. activity at a marae.

[424] Ms White did not support the change to the definition of 'noise sensitive activity' to include community facilities as she considered that it would create some inconsistencies throughout the Plan and capture a number of activities where the regulatory framework which required setbacks and insulation requirements were impractical. We agree with her concerns.

[425] In terms of the amendments requested by KiwiRail, Ms White was similarly concerned about inconsistencies throughout the Plan, and she provided examples of this. We accept her recommendation in response.

[426] We did ask Ms White to consider changes requested by Te Rūnanga o Ngāi Tahu to the definition of 'sensitive activities' to remove reference to Papakāinga and Marae, as requested by Ms Pull in her Memorandum.¹²⁵ Ms White responded in her Interim Reply and

¹²⁵ Memorandum of Ms Pull for Te Rūnanga o Ngāi Tahu, 31 May 2024.

noted the different functions of the definitions of 'sensitive activities' and 'noise sensitive activities' in the rule framework. She did not agree that the deletion of Papakāinga was appropriate but accepted a small change to the reference to Marae to confine this to sleeping spaces within a Marae, given the wide range of activities and buildings that are present in a Marae complex. We accept that explanation.

Bird Scaring Device

[427] Hort NZ [245.7] support the definition of 'bird scaring device', subject to a minor amendment to read "...gas guns and avian distress alarms". Ms White accepted the minor grammatical change, as do we.

5.19.2 Decision

[428] We make minor corrections to the definition of 'noise sensitive activity' and 'bird scaring device' but otherwise retain the definitions as notified for the reasons given by Ms White. The minor amendments are set out in **Appendix 3**.

6 SIGNS

6.1 GENERAL SUBMISSIONS

6.1.1 Assessment

[429] Go Media [18.9], Fi Glass [161.9], Griff Simpson Family [199.9], and Red Sky [233.9] consider that the s32 report for the SIGN Chapter fails to provide an adequate planning assessment to support the proposed SIGN Chapter as notified and seek that billboard and off-site signs are better enabled. Fi Glass [161.10] also sought amendments to the SIGN Chapter to address a range of matters including, but not limited to, increases to the maximum area and height of signage and more appropriate illumination/lighting standards.

[430] Submissions from ECan [183.1 and 183.4] raised concerns regarding how height is determined and use of terminology to define floor areas of buildings. These submissions are addressed in Part 2 and Part 3 of our Decision Report relating to definitions.

[431] Fonterra [165.121, 165.122 and 165.123] lodged submissions relating to signage with a particular focus on seeking that the sign provisions appropriately apply to the Clandeboye site which is the subject of a rezoning request.

[432] Ms Williams evaluated these submissions in her s42A report. Ms Williams noted that some of the specific matters raised in general submissions are addressed in relation to specific provisions contained in the SIGN Chapter. In relation to the Fonterra submissions, Ms Williams supported the signs provisions recognising a new Clandeboye Manufacturing Zone if such a zone is created. The rezoning request has been addressed in Part 3 of our decision where the decision is to have a Clandeboye Dairy Manufacturing Precinct within the GIZ. On that basis we agree with Ms Williams that this should be reflected within the SIGN Chapter, if differentiation is needed between this precinct and the provisions applying to the GIZ. At the

hearing we heard from Ms Tait for Fonterra who supported the recognition for Clandeboye. Ms Tait addressed us on some specific matters which we address later in this decision.

[433] We accept Ms Williams' analysis and recommendations addressing general submissions.

6.1.2 Decision

[434] We adopt Ms Williams' analysis and recommendations and make no changes to the provisions in response to these general submissions.

6.2 SIGN-P1 MANAGING THE EFFECTS OF SIGNS

6.2.1 Assessment

[435] Waka Kotahi [143.121] supported the intent of SIGN-P1 but considered it unclear whether 'official signs' are captured by the policy and highlight that 'official signs' may not always be in keeping with the underlying zone purpose or qualities despite their necessity for health and safety reasons.

[436] Out of Home Media [188.4] supported the intent of SIGN-P1 but sought an "unacceptable" qualifier in SIGN-P1.3.

[437] Ms Williams agreed with the submission of Waka Kotahi [143.121] that official signs may not always be compatible with the character and/or amenity values of the underlying zone, but that it is unclear whether official signs are captured by SIGN-P1. She considered that the submission highlighted a gap in the policy direction as SIGN-R1, as notified, which permits official signs in all zones without controls. Ms Williams recommended amendments to the policy direction to make it clear that official signs are to be enabled in all zones. She considered that SIGN-P1, as notified, should be split into two policies. This would enable the importance of official signs to be recognised and provided for, while ensuring effects of other signage to be appropriately managed.

[438] Mr Pearson¹²⁶ giving evidence for Waka Kotahi supported the recommendation of Ms Williams.

[439] Ms Williams agreed with the submission of Out of Home Media that SIGN-P1.3 is overly restrictive as it requires signs to not contribute to (i.e., to avoid) visual clutter or cumulative effects so as to achieve SIGN-O1.2. She recommended revising SIGN-P1 so that signs minimise these impacts. Regarding policy qualifiers, she preferred 'adverse' over 'unacceptable', aligning with terminology in the SIGN Chapter for consistency. Ms Williams acknowledged her recommendations did not fully meet the submitter's requests. No additional evidence was provided by Out of Home Media.

[440] We accept Ms Williams' analysis and recommendations. In particular we agree that the policy should be direct in providing for official signage as sought by Waka Kotahi. We

¹²⁶ Mr Pearson, statement of evidence 16 April 2025 Paragraph 1.8(f)

accept Ms Williams' consideration of the Out of Home Media submission and in particular of the balance that must be achieved between the policy being enabling for signage but also appropriately managing adverse effects that may result.

6.2.2 Decision

[441] We adopt Ms Williams' analysis and recommendations on SIGN-P1, and the inclusion of a new policy SIGN-PX¹²⁷ 'Enable Signs'. The wording is set out in **Appendix 3**.

[442] In terms of s32AA, we are satisfied that the amendments are the most appropriate option for achieving the purpose of the RMA, the relevant provisions of the Plan and for giving effect to other relevant statutory instruments.

6.3 SIGN-P2 MANAGING ROAD SAFETY

6.3.1 Assessment

[443] Waka Kotahi [143.122] and KiwiRail [187.82] supported SIGN-P2 and sought that the policy is retained as notified.

[444] Go Media [18.2], Fi Glass [161.2], Griff Simpson Family [199.2], and Red Sky [233.2] opposed SIGN-P2.3 and sought that the reference to 'digital signs' is removed from the policy. Out of Home Media [188.5] supported the intent of SIGN-P2 but sought an 'unacceptable' qualifier in SIGN-P2.3. The submitter considered that outdoor advertising signs do not lead to unacceptable traffic safety issues and suggested that SIGN-P2 should focus on managing signs to ensure they do not cause an unacceptable effect, as opposed to any potential distraction.

[445] Ms Williams does consider that 'flashing and moving images' are a form of digital signage. However, digital signs, as outlined in the further submission from Waka Kotahi [143.1FS], include several elements not shared with static signs such as changing images, dwell times and illumination levels. If unmanaged, these elements may pose a potential distraction and she considers the explicit inclusion of digital signs in SIGN-P2.3 is therefore appropriate.

[446] In considering the application of the policy, Ms Williams¹²⁸, having considered advice received from Abley Limited, noted that the intent of any sign is to be read/observed. All signs (by their nature) therefore have the 'potential' to cause motorist distraction and/or confusion, where they face a road, and are specifically designed to be read by motorists. Given this she considered SIGN-P2.3, as notified, is restrictive in requiring all signs to 'not cause' (i.e., to avoid) distraction. She also considered that SIGN-P2.2 and SIGN-P2.3 both manage distraction and/or confusion. For simplicity, she recommended that SIGN-P2.2 and SIGN-P2.3 be merged into the same clause.

¹²⁷ Now renumbered SIGN-P3 in the Decision Version of the provisions.

¹²⁸ Ms Williams S42a paragraph 11.3.6

[447] Mr Pearson¹²⁹ giving evidence for Waka Kotahi supported the recommendation of Ms Williams.

[448] Ms Williams considered the changes to be minor as they remove unnecessary overlap and do not alter the drafting intent. We agree and also consider the change to be consistent with the intent of the submission of Out of Home Media. Ms Williams also recommended further minor amendments to the title of the policy and the preface of the policy to provide clarity to plan users. We agree these changes are appropriate.

[449] We accept Ms Williams' analysis and recommendations.

6.3.2 Decision

[450] We adopt Ms Williams' analysis and recommendations on SIGN-P2. The amendments to the policy are set out in **Appendix 3**.

[451] In terms of s32AA, we adopt Ms Williams' evaluation in support of the changes made.

6.4 SIGN-P3¹³⁰ OFF-SITE COMMERCIAL ADVERTISING SIGNS AND SIGN-R4 ANY SIGNS NOT OTHERWISE ADDRESSED

6.4.1 Assessment

[452] Go Media [18.3], Fi Glass [161.3], Griff Simpson Family [199.3] and Red Sky [233.3] consider SIGN-P3¹³⁰ to be too restrictive as it does not provide for off-site signs or third-party signage. Go Media [18.3] also considered that SIGN-P3¹³⁰ is contradictory to SIGN-O1 and argued that the management of off-site signage is better managed via the signage rules and standards. ANSTAR [47.2] opposed SIGN-P3¹³⁰ as they considered there to be no effects-based reason to single out off-site signs, including billboards, provided effects are managed by appropriate rules. The submitter therefore sought for SIGN-P3¹³⁰ to be deleted. Out of Home Media [188.6] opposed SIGN-P3.¹³⁰

[453] Regarding SIGN-R4, Go Media [18.4] considered the rule to be too prohibitive for off-site signage and sought a more balanced approach for off-site signage to be applied to the CMUZ and GIZ. ANSTAR [47.1] opposed SIGN-R4 as the rule does not provide for off-site signs as a permitted activity within CMUZ or GIZ despite the effects of such signs, in the submitter's view, being manageable and comparable to the effects of on-site signs. Fi Glass [161.4], Griff Simpson Family [199.4], and Red Sky [233.4] opposed SIGN-R4. Out of Home Media [188.7] request that off-site signs are a discretionary activity within the CMUZ, GIZ and PORTZ and in all other zones the activity status is retained as non-complying.

[454] Ms Williams considered that the rules as notified were too restrictive, particularly the non-complying activity status in all zones. Relying on advice she received from Abley that in zones where advertising was generally anticipated to occur, that the effects of any off-site sign (including digital billboards) to be comparable to any on-site sign, she recommended that in the CMUZ, GIZ and PORTZ these signs can be appropriately addressed as a discretionary

¹²⁹ Mr Pearson, statement of evidence 16 April 2025 Paragraph 1.8(f)

¹³⁰ Now renumbered SIGN-P4 in the Decision Version of the provisions.

activity. In locations where commercial advertising is not anticipated, Ms Williams considered it appropriate that off-site advertising signs be managed through the consent process as a non-complying activity. In all locations Ms Williams considered it important that off-site advertising is considered on a case-by-case basis through a consent process. Ms Williams also recommended a related amendment to the definition of 'off-site sign' to exclude any temporary off-site sign.

[455] Mr Pearson¹³¹, giving evidence for Waka Kotahi, supported the recommendation of Ms Williams.

[456] We accept Ms Williams' analysis and recommendations.

6.4.2 Decision

[457] We adopt Ms Williams' analysis and recommendations on SIGN-P3¹³⁰, SIGN-R4 and the related definition of 'off-site sign'. The amendments to the provisions are set out in **Appendix 3**.

[458] In terms of s32AA, we adopt Ms Williams' evaluation in support of the changes made.

6.5 SIGN-S1 TRAFFIC SAFETY, TABLE 27 MINIMUM LETTERING SIZE AND TABLE 28 SEPARATION DISTANCES

6.5.1 Assessment

[459] Waka Kotahi [143.125] supported the intent of SIGN-S1 but sought an amendment to SIGN-S1.3 to ensure the standard applies to all signs visible from the road as opposed to signs within 10 horizontal metres. The submitter asked the Council to consider whether additional standards should be included within the standard such as sight distances or maximum numbers of words/elements by referring to the Waka Kotahi Traffic Control Devices Manual (TCD Manual) which provides guidance on industry best practice and direction on the types of standards that can be included in District Plans to reduce potential traffic safety events. Waka Kotahi [143.129 and 143.130] sought amendments to SIGN-Table 27 and SIGN-Table 28 to reflect Table 6.2 and Table 5.3 of the TCD Manual.

[460] Out of Home Media [188.8] supported the intent of SIGN-S1. However, in their view, the minimum setback distances between signs which, are within 10m of a legal road, are onerous and impracticable to comply with – particularly in urban and commercial areas where the density and spacing of commercial activities will invariably result in closely spaced signage. The submitter therefore sought for SIGN-S1.4 to be deleted. Out of Home Media [188.13] also requested that SIGN-Table 28 be deleted for the same reasons.

[461] Go Media [18.8] considered the separation distances in SIGN-Table 28 to be overly restrictive. In their view, SIGN-Table 28 could result in only every second or third property in the township and industrial areas able to have a sign. Fi Glass [161.8], Griff Simson Family [199.8] and Red Sky [233.8] also considered the separation distances between signs to be

¹³¹ Mr Pearson, statement of evidence 16 April 2025 Paragraph 1.8(f)

restrictive, as it assumes a property boundary would be greater than 60m. No specific relief was sought by the submitters.

[462] In her S42A report Ms Williams stated¹³² that:

Abley Limited is not aware of any evidence to suggest that signs setback 10m from a road are not intended to be read by motorists and considers it appropriate for signs setback 10m from a road to be subject to the same traffic safety standards.

[463] Based on this she agreed with Waka Kotahi that the 10m setback in SIGN-S1 should be removed. However, rather than applying SIGN-S1.3 to all signs 'visible from a road' as sought by Waka Kotahi, Ms Williams considered it appropriate for SIGN-S1.3 to only apply to signs 'designed to be read by motorists'. She explained that while some signs may be visible from the road, they are not intended to be read by motorists. Examples include internal signs or welcome and information signs located on doors or building facades. In her opinion, these types of signs should not be subject to the same thresholds as signs designed for drivers.

[464] On this matter of internal signs and wayfinding and information signs, as identified by Ms Williams the drafting of the standards did mean that they inadvertently captured more signs than was intended, or was appropriate to capture. This point related to a number of the standards within the SIGN Chapter. In Minute 34 we asked Ms Williams, in consultation with Ms Tait, Mr Walsh and Mr Pearson to provide recommended amendments that responded to the issues raised in a number of standards so the package of sign rules and related definitions are fit for purpose and do not inadvertently capture 'non-advertising' business site identification and wayfinding related signage. We return to this point at the end of this section of our decision.

[465] Returning to SIGN-S1 Ms Williams acknowledged¹³³ that there is some uncertainty as to whether a sign is 'designed to be read by motorists' but considered this to be a more accurate and flexible approach than requiring all signs visible from a road (regardless of their intended audience) to be subject the thresholds in SIGN-Table 27.

[466] With respect to the Waki Kotahi submissions seeking further consideration whether other additional standards are needed, Ms Williams¹³⁴ based on advice she received from Abley, considered that additional standards are not required.

[467] At the time of the hearing there were differences between the provision recommended by Ms Williams, relying on advice from Abley, and those sought by Mr Pearson and Mr Church who provided evidence for Waka Kotahi. The key differences related to the separation distance required between signs and the speed environments specified distances related to.

[468] The Panel notes that, through the hearing process, the issues between the report author and Waka Kotahi were significantly narrowed. As detailed in the Interim Reply¹³⁵ of Ms

¹³² Ms Williams S42A report paragraph 11.5.8

¹³³ Ms Williams S42A report paragraph 11.5.8

¹³⁴ Ms Williams S42A report paragraph 11.5.9

¹³⁵ Ms Williams Interim Reply 6 June 2025

Williams there is now broad agreement that the separation distance standard should apply only to signs designed to be read by motorists on rural roads with a posted speed limit of 70km/h or more, and that the minimum distances should reflect the TCD Manual. We agree with Ms Williams' recommendations that the standard should not capture locations in a 70km or higher environment that are zoned GIZ. We note that Ms Williams in her Interim Reply¹³⁶ has advised that she has liaised with Mr Pearson and he is supportive of the standard she is now recommending. The Panel supports this outcome as a balanced response to the evidence and submissions, ensuring that traffic safety is prioritised in higher risk environments while removing unnecessary restrictions in urban, industrial, and commercial areas.

[469] Ms Williams has recommended consequential changes be made to SIGN-S6 (Maximum number of signs) to address any potential proliferation of signs. Ms Williams noted¹³⁷:

I recommend, for the reasons given above, that a consequential amendment, pursuant to Clause 10(2)(b) of the RMA, is made to SIGN-S6 to limit the number of freestanding signs in the CMUZ, GIZ and PORTZ to one sign per road frontage, as follows:

SIGN-S6.1

There shall be no limit more than one freestanding sign per road frontage located on a site. A freestanding sign may advertise multiple premises located on the site.

[470] At the hearing we received legal submissions¹³⁸ and evidence from PrimePort and TDHL, related to the consequential amendment to SIGN-S6 recommended by Ms Williams. PrimePort and TDHL had submitted in support of SIGN-S6 which, as notified, did not have any limitation on the number of signs in the Commercial and Mixed Use Zones, General Industrial Zones and Port Zones. The legal submissions considered that there is no scope to make the consequential change recommended by Ms Williams. The legal submissions identified that in the present case, there is an absence of submissions that reasonably and fairly raise an amendment to the maximum number of signs requirements contained in SIGN-S6. The legal submissions identified that the only submissions received on SIGN-S6 were in support of this standard, with the only amendment to the standard sought by any submitter was an additional matter of discretion, if the standard was not met, by Waka Kotahi. The same matter of scope was also raised in the evidence of Ms Tait, planner for Fonterra.¹³⁹

[471] We note that following the hearing in her Interim Reply¹⁴⁰, Ms Williams has made further recommendations refining the application of SIGN-S6 as it applies to the Clandeboye site, of interest to Fonterra, and the operational area within the PORTZ of interest to PrimePort and TDHL. We understand that the revised recommendation of Ms Williams does address the concerns of these parties with respect to the application of SIGN-S6. However, the issue

¹³⁶ Ms Williams Interim Reply 6 June 2025

¹³⁷ Ms Williams S42A report paragraph 11.5.20

¹³⁸ Legal Submissions on behalf of PrimePort and TDHL dated 16 April 2025

¹³⁹ Ms Tait, Statement of Evidence dated 9 April 2025 paragraph 13.2

¹⁴⁰ Ms Williams Interim Reply 6 June 2025

of scope to make any change to SIGN-S6 as a consequence of the submissions on SIGN-S1 remains an issue for the Panel to consider.

[472] The Panel is not persuaded that the amendments recommended by Ms Williams are consequential to the changes to SIGN-S1, as the standards were not the subject of submissions seeking alteration. To make such changes as a consequential amendment would, in the Panel's view, extend beyond the scope of the submissions and introduce issues relating to procedural fairness.

[473] Accordingly, the Panel adopts the recommendations of Ms Williams in relation to SIGN-S1, including the revised approach to separation distances and the application of the standard to signs designed to be read by motorists on roads with a speed limit of 70km/h or more. The Panel does not accept the recommended consequential amendments to SIGN-S6. In the Panel's view, the SIGN-S1 changes can be made and will operate effectively without introducing new limits in SIGN-S6 that were not raised in submissions.

[474] Returning now to the response to Minute 34. Ms Williams, worked with Mr Walsh and Mr Pearson¹⁴¹ to ensure the provisions did not inadvertently capture 'non-advertising' business site identification and wayfinding related signage. In her Interim Reply, Ms Williams¹⁴² recommended a new definition be included in the Plan for 'instructional sign' and then relevant provisions expressly exclude these signs. We accept Ms Williams' recommendation and find that this distinguishes between those signs that need to be managed under this chapter and those that do not.

6.5.2 Decision

[475] We adopt Ms Williams' analysis and recommendations on SIGN-S1, SIGN-Table 27 and SIGN-Table 28 and the inclusion of a new definition of 'instructional sign'. We do not accept the changes recommended to SIGN-S6 introducing provisions limiting the number of signs in the Commercial and Mixed-Use zones, the GIZ, which includes the Clandeboye Dairy Manufacturing Precinct and the PORT Zone, for the reasons set out above. The amendments to the provisions are set out in **Appendix 3**.

[476] In terms of s32AA, we are satisfied that amendments are the most appropriate option for achieving the purpose of the RMA, the relevant provisions of the Plan and for giving effect to other relevant statutory instruments, our reasoning is addressed in our assessment above.

6.6 SIGN-S2 ILLUMINATED, MOVING, FLASHING AND DIGITAL SIGNS

6.6.1 Assessment

[477] Waka Kotahi [143.126] supported SIGN-S2.8 but sought amendments to the matters of discretion to allow the consideration of any adverse effects on traffic safety. Waka Kotahi [143.126] highlighted that traffic safety is a key consideration when assessing digital billboards given their potential to distract road users.

¹⁴¹ Ms Tait had advised that she did not seek to participate.

¹⁴² Ms Williams Interim Reply dated 6 June 2025, page 12

[478] Go Media [18.5], Fi Glass [161.5], Griff Simpson Family [199.5], Red Sky [233.5] and Out of Home Media [188.9] sought changes to the standard including in relation to:

- (a) the 30 second dwell time in SIGN-S2.2 which they considered to be too long and highlighted that most other regions have applied standards of eight to ten seconds based on empirical evidence;
- (b) the level of illumination in SIGN-S2.7 is considered to be too low. The submitters highlight that 5000cd/m² has been applied in other District Plans such as the Auckland Unitary Plan and Christchurch City District Plan. In their view, it is also more appropriate to control daytime illumination through an automated brightness control system than any specified maximum; and
- (c) not allowing digital signs on state highways as a permitted activity is opposed. The submitters highlight that in other regions digital signs are permitted along the highway where the standards are met. Affected party approval from Waka Kotahi is therefore only required when the permitted standards are breached.

[479] Ms Williams¹⁴³, relying on advice prepared by Abley and the approach applied in other District Plans agrees with submitters that the 30 second dwell time is overly restrictive. Ms Williams advised that four digital billboards have been granted resource consent in the Timaru District with the minimum dwell time for these signs ranging from 8 seconds to 30 seconds. She recommended that the minimum dwell time is reduced to 10 seconds.

[480] With respect to brightness Ms Williams¹⁴⁴ advised that the TCD Manual does seek to control the brightness of advertising and sets illuminance levels. She advised that nonetheless Abley Limited, based on research, their experience working on digital billboards throughout New Zealand and the approach applied in other District Plans¹⁴⁵ are comfortable with the maximum illumination level being increased to 5,000 candelas per square metre as sought by submitters. She advised that two resource consents that have been granted allowed brightness up to this level. She also agreed with submitters that it is appropriate to control daytime illumination through an automated brightness control system. She recommended an additional clause be added to SIGN-S2 to require illuminated and digital signs to incorporate lighting control to adjust brightness in line with ambient light levels which she stated is consistent with the approach applied in the Partially Operative Selwyn District Plan, the Proposed Waimakariri District Plan and the New Plymouth District Plan.

[481] With respect to any setback from an intersection, based on the advice of Abley Ms Williams¹⁴⁶ considered the critical matter was to ensure digital signs near an intersection do not obstruct regulatory traffic control devices, form a backdrop to them, replicate them, affect driver visibility or increase the level of distraction, with potential risk being higher the closer a sign is to an intersection. She considered that SIGN-S2.3 should not be deleted, but should

¹⁴³ Ms Williams S42A report paragraph 11.6.7

¹⁴⁴ Ms Williams S42A report paragraphs 11.6.8 and 11.6.9

¹⁴⁵ The Partially Operative Selwyn District Plan allows up to 5,500 cd/m² during daytime hours and the Auckland Unitary Plan allows up to 5,000 cdm².

¹⁴⁶ Ms Williams S42A report paragraph 11.6.11

be reduced to 50m, and the scope of the standard be reserved to signalised intersections to ensure the standard only captures signs with the greatest level of risk.

[482] With respect to limitations adjoining a State Highway, Ms Williams¹⁴⁷ provided the example of Christchurch City District Plan which only restricts signs located adjacent to a state highway or arterial road where the speed limit is 70km or more. She recommended SIGN-S2.8 be amended to apply to state highways with a speed limit of 70km/hr or more. She noted that all off-site signs, including digital billboards, will still require a consent under SIGN-R4.

[483] Mr Pearson in his evidence for Waka Kotahi, relying on the evidence of Mr Church, considered that the combination of changes recommended by Ms Williams with respect to how they apply adjoining a state highway are not appropriate. Mr Pearson considered that¹⁴⁸:

In summary, it is my view that if the amendments to both Clauses 2 and 3 are reverted to what was originally proposed and consistent with the advice of Mr Church, then I would support the amendments to SIGN-S2(9) in relation to the standard only applying to the state highway where the speed is 70km/h or greater. However, if NZTA's amendments to Clauses 2 and 3 are not supported then I do not consider the change to Clause 9 to be appropriate, which is also the position of Mr Church as outlined in Paragraph 9.12 of his evidence.

[484] Ms Williams in her Interim Reply had reflected further on these matters. She stated in relation to SIGN-S2.2 and SS2.3 respectively that¹⁴⁹:

Based on the evidence of Mr. Pearson, I agree that there is a potential risk that the 10 second dwell time (as recommended) could become a de-facto permitted baseline. For the avoidance of doubt, I therefore recommend that the 10 second dwell time (as recommend) only applies to digital signs that comply with SIGN-S2.3 (Intersections) and SIGN-S2.9 (State Highways). Where SIGN-S2.3 and SIGN-S2.9 are not complied with I consider the 30 second permitted dwell as notified to be appropriate.

Abley Limited in considering the evidence of Mr. Church agree that the Timaru District has a variety of complex intersections that are not signalised. In their opinion, there would therefore be safety benefits in ensuring that signs in proximity to unsignalised intersections in Timaru District are assessed through a resource consent application process. Accordingly, I recommend SIGN S2.3 is amended.

[485] The recommendations of Ms Williams in her Interim Reply¹⁵⁰ significantly narrow the differences with Waka Kotahi. We note that the recommendations of Ms Williams now do not provide as much relief as her S42A Report to Go Media, Fi Glass, Griff Simpson Family, Red Sky and Out of Home Media. We did not hear from any of these parties at the hearing and accept the analysis of Ms Williams and Mr Pearson, and the recommendations of Ms Williams.

6.6.2 Decision

¹⁴⁷ Ms Williams S42A report paragraph 11.6.13

¹⁴⁸ Mr Pearson Evidence 16 April 2025 Paragraph 4.31

¹⁴⁹ Ms Williams Interim Reply SIGN-S2.2 and SIGN-S2.3 pages 18 and 19

¹⁵⁰ Ms Williams Interim Reply 6 June 2025

[486] We adopt Ms Williams' and Mr Pearson's analysis and Ms Williams recommendations as set out in her Interim Reply. The amendments to SIGN-S2 are set out in **Appendix 3**.

[487] In terms of s32AA, we are satisfied that the amendments are the most appropriate option for achieving the purpose of the RMA, the relevant provisions of the Plan and for giving effect to other relevant statutory instruments.

6.7 SIGN-S3 MAXIMUM HEIGHT OF SIGNAGE AND SIGN-S4 MAXIMUM AREA OF A SIGN

6.7.1 Assessment

[488] Go Media [18.6, 18.7], Fi Glass [161.6, 161.7], Griff Simpson Family [199.6, 199.7] and Red Sky [233.6, 233.7] opposed SIGN-S3.2 and considered that the 4m height limit for free standing signs to be too low for the CMUZ, GIZ and PORTZ, and the maximum area for freestanding signs in SIGN-S4.2 to be onerous. Out of Home Media [188.10, 188.11] considered the 4m height limit in the CMUZ, GIZ and PORTZ to be restrictive and sought that the maximum height is increased to 8m and sought amendments to SIGN-S4.2 to increase the maximum area for free standing signs in the CMUZ to 20m².

[489] Ms Williams considered that the provisions were too restrictive and recommended amendments to ensure the standards were more flexible while remaining consistent with the relevant objectives and policies. She provided a detailed evaluation of her recommendations and further consideration under s32AA of the RMA.

[490] We accept Ms Williams' analysis and recommendations.

6.7.2 Decision

[491] We adopt Ms Williams' analysis and recommendations on SIGN-S3 and SIGN-S4. The amendments to the standards are set out in **Appendix 3**.

[492] In terms of s32AA, we adopt Ms Williams' evaluation in support of the changes made.

6.8 SIGN-S5 MAXIMUM NUMBER OF TEMPORARY SIGNS AND SIGN-S6 MAXIMUM NUMBER OF SIGNS (NOT INCLUDING OFFICIAL SIGNS AND TEMPORARY SIGNS)

6.8.1 Assessment

[493] Waka Kotahi [143.127 and 143.128] supported SIGN-S5 and SIGN-S6 but sought amendments to the matters of discretion in both standards to ensure effects on traffic safety are assessed.

[494] Ms Williams in her s42A report stated that as a consequential amendment to other submission points that she was now recommending a limit on the number of freestanding signs in the CMUZ, GIZ and PORTZ.

[495] She identified that the TCD Manual states that the proliferation of signs has the potential to cause motorist distraction and/or confusion and can compromise the safety of roads. Given this Ms Williams agreed with Waka Kotahi that effects on traffic safety should be included as a matter of discretion in SIGN-S5 and SIGN-S6, as well as aligning with the direction in SIGN-P2.

[496] As we have addressed in our decision on SIGN-S1, we have not made the changes to SIGN-S6 recommended by Ms Williams as consequential changes to other submissions.

[497] Irrespective of this we agree with Ms Williams that it is appropriate for the matters of discretion sought by Waka Kotahi to be included within these standards.

[498] We accept Ms Williams' analysis and recommendations.

6.8.2 Decision

[499] We adopt Ms Williams' analysis and recommendations on the amendments to SIGN-S5 and SIGN-S6 in regard to the additional matters of discretion. The amendments to the standards are set out in **Appendix 3**.

[500] In terms of s32AA, we are satisfied that the scale of changes are appropriate and address a resource management issue. The amendments are the most appropriate option for achieving the purpose of the RMA, the relevant provisions of the Plan and for giving effect to other relevant statutory matters.

7 TEMPORARY ACTIVITIES

7.1 GENERAL SUBMISSIONS

7.1.1 Assessment

[501] Submissions from ECan [183.1] and [183.4] raised concerns regarding how height is determined and use of terminology to define floor areas of buildings. These submissions are addressed in Part 2 of our decision relating to definitions.

[502] Ms Williams recommended amendments to clarify the relationship between the provisions in this chapter and those in other chapters. She specifically highlighted that TEMP-R1, TEMP-R2, TEMP-R3, and TEMP-R6 each include rule notes requiring compliance with particular provisions in the NOISE and EW chapters. However, she also observed that the overarching Rule Note in the TEMP Chapter states that all provisions in Part 2 – District Wide Matters Chapters apply to temporary activities unless otherwise specified.

[503] We concur with Ms Williams that this situation may cause confusion, and that clarification is needed so plan users can readily identify when the TEMP Chapter is intentionally 'pointing' to specific NOISE/EW requirements. We also note that temporary activities within a SASM overlay may also be subject to the SASM chapter, including SASM-R4 (and any other relevant SASM provisions).

[504] We have addressed the interrelationship between chapters in Part 1 of our decision and recorded that we consider some of the language used to describe how provisions are “turned on” or ‘turned off’ relative to other provisions to be imprecise. This is also the case with the wording recommended by Ms Williams, where she has referred to where rules are more lenient than other rules taking precedence. We prefer the wording “apply instead of”. We have also addressed the use of notes in Part 1 of our decision. We consider that note to the rules recommended has the effect of regulation, rather than explanation. We have therefore removed reference to this being a note. The note to TEMP-R4 also has the effect of regulation not explanation. We accept Ms Williams’ analysis and recommendations, addressing general matters, other than in relation to the note.

7.1.2 Decision

[505] We adopt Ms Williams’ analysis and recommendations, other than in relation to the note to the rules. The amendments are set out in **Appendix 3**.

[506] In terms of s32AA, we are satisfied that the amendments are the most appropriate option for achieving the purpose of the RMA, the relevant provisions of the Plan and for giving effect to other relevant statutory matters.

7.2 FREEDOM CAMPING

7.2.1 Assessment

[507] NZMCA [134.1, 134.2 and 134.6] submissions raised concern that clear and appropriate provision has not been made in the Proposed Plan for opportunities for people to camp responsibly in safe, convenient, and pleasant locations across the District.

[508] Ms Williams assessed this submission and noted the linkages with the s42A Report for the Open Space Zone and Sport and Active Recreation Zone. We did not receive any further information from the submitter at this hearing.

[509] Specific to the Temporary Activities Chapter Ms Williams provided an analysis of the submission points and recommended changes be made to the Introduction of this chapter to clearly identify that Freedom Camping is not managed by the District Plan. She did not recommend introducing a new definition of ‘freedom camping’.

[510] We accept Ms Williams’ analysis and recommendations addressing these submission points.

7.2.2 Decision

[511] We adopt Ms Williams’ analysis and recommendations on freedom camping and the amendments to the TEMP Chapter Introduction. The amendments to the Introduction are set out in **Appendix 3**.

[512] In terms of s32AA, we adopt Ms Williams’ evaluation in support of the changes made.

7.3 EMERGENCY SERVICE TRAINING ACTIVITIES

7.3.1 Assessment

[513] Fire and Emergency New Zealand [131.4 and 131.16] sought a new definition and rule for 'temporary emergency services training activities'. This definition would support the emergency services training activities that are sought to be explicitly provided for within the TEMP Chapter. The submission provided drafting for both a definition and rule.

[514] Ms Williams evaluated the submission and was supportive of explicitly providing for the activity within the Proposed Plan and including a specific definition. However, Ms Williams evaluation sought to ensure that the definition also provide for other emergency services in New Zealand such as the New Zealand Police, St John/Hato Hone and Civil Defence, and recommended several amendments to the submitter's proposed definition. With respect to the rule Ms Williams did not support the rule in the submission which would make the activity permitted without standards. Ms Williams considered it was more appropriate to provide for the activity sought within the existing rule framework of TEMP-R3, which has standards limiting duration of the activity.

[515] We did not receive any further information from the submitter at this hearing. We accept Ms Williams' analysis and recommendations addressing this matter.

7.3.2 Decision

[516] We adopt Ms Williams' analysis and recommendations on inclusion of a definition of 'temporary emergency service training activity', amendments to TEMP-R3 and consequential amendments to TEMP-P1, TEMP-P2 and the definition of 'temporary event'. The amendments to the provisions are set out in **Appendix 3**.

[517] In terms of s32AA, we adopt Ms Williams' evaluation in support of the changes made.

7.4 DEFINITIONS – TEMPORARY ACTIVITY AND TEMPORARY MILITARY TRAINING

7.4.1 Assessment

[518] MFL [60.6] sought a maximum duration be included in the definition of 'temporary activity'. NZDF [151.1] supported the definition of 'temporary military training activity'.

[519] We did not receive any further information or evidence on these definition matters. We accept Ms Williams' analysis and recommendations addressing these definitions.

7.4.2 Decision

[520] We adopt Ms Williams' analysis and recommendations on the definitions of 'temporary military training activity' and 'temporary activity'. No amendments are made to these definitions.

7.5 TEMP-P2 TEMPORARY CONSTRUCTION, TEMPORARY MILITARY TRAINING AND TEMPORARY EVENTS

7.5.1 Assessment

[521] NZDF [151.5] considered that transport matters for temporary activities are more appropriately addressed in the TRAN Chapter and requested that TEMP-P2.3 is deleted and that TEMP-P2.4 is deleted as temporary activities do not necessarily need to be consistent with the character and qualities of the zone in which they are located, as any adverse effects of the activity are temporary.

[522] Ms Williams in her evaluation of the submissions did not recommend making the changes sought by the NZDF. In relation to traffic she considered¹⁵¹:

While I agree with the NZDF [151.5] that transport matters are largely managed by provisions in the TRAN chapter, I do not agree that TEMP-P2.3 should be deleted. In my view, it is appropriate to include policy direction in relation to traffic safety and efficiency in the TEMP-P2 to achieve TEMP-O1.2. I note temporary activities can have adverse effects on the transport network because of increased traffic movements or potential road closures. I therefore recommend that TEMP-P2.3 is retained as notified.

[523] In relation to TEMP-P2.4 she stated¹⁵²:

I agree with the NZDF [151.5] that temporary events and activities may not always be of a scale and location that is consistent (i.e., the same as) the anticipated character and qualities of the zone in which they occur, but are generally acceptable, given they are temporary and do not permanently alter the environment. However, I do not agree that TEMP-P2.4 should be deleted.

[524] Ms Williams recommended that the term 'consistent' is replaced with the term 'compatible' within the policy. She considered the term 'compatible' to be less restrictive as it allows for temporary activities to occur where they do not conflict with the anticipated character and amenity values but does not necessarily require them to be the same as the underlying zone. She also considered the term 'compatible' consistent with the terminology used in the preface to the policy.

[525] We received a written letter from the NZDF.¹⁵³ In relation to TEMP-P2.3 the letter set out the following position.

NZDF's view is that transport matters for temporary activities, including high trip generating activities, are more appropriately addressed in the Transportation chapter. The provision of transport matters in Policy TEMP-P2 results in a duplication of provisions from the Transportation chapter which NZDF considers is unnecessary. To avoid this duplication, NZDF requests that this clause is removed from the policy.

[526] In relation to TEMP-P2.4 the letter stated:

¹⁵¹ Ms Williams S42A report paragraph 12.5.4

¹⁵² Ms Williams S42A report paragraph 12.5.5

¹⁵³ NZDF, Letter from Rebecca Davies, Principal Statutory Planner, 17 April 2025

1.3 Regarding the Reporting Officer's statement that that the temporary activities rules have been purposely drafted to ensure any temporary activity or event will not cause adverse effects on the character and qualities of the environment in which they occur, NZDF considers that the focus should be on any permanent adverse effects of temporary activities and a distinction should be made between permanent and temporary effects, with greater allowance provided for temporary effects, including on character and amenity. The Reporting Officer's reasoning appears inconsistent with Temp-P2 (2), which distinguishes between permanent and temporary adverse effects by requiring that temporary activities do not result in permanent adverse effects.

1.4 Any potential adverse effects from TMTA on the character and quality of the zone they are located in will, by their nature, be temporary, and will be limited to the temporary duration of the activity. Therefore, NZDF does not consider it necessary for TMTA to be consistent (or compatible) with the character and qualities of the zone in which they will occur. NZDF does not agree that 'compatible' is less restrictive than 'consistent'. The policy is too restrictive and unnecessarily onerous for TMTA, and leaves the ability for NZDF to undertake TMTA vulnerable to a subjective assessment.

1.5 NZDF requests either the removal of this requirement from Policy TEMP-P2 or that TMTA are exempt from TEMP-P2 (4).

[527] Ms Williams did not alter her view in her Final Reply.

[528] With respect to transportation matters we accept Ms Williams' evaluation, supported by Waka Kotahi and consider that recognising transport related factors associated with temporary activities in the policy is appropriate.

[529] With respect to TEMP-P2.4 we agree with the view expressed by the NZDF that temporary activities, by their very nature, will not necessarily be of a scale or location that is either consistent with or compatible with the anticipated character and qualities of the zone where they occur. This is in our view the fundamental reason for addressing temporary activities as its own topic rather than as an activity occurring within the zone provisions. We do not consider changing the word "consistent" to "compatible" recommended by Ms Williams makes a material difference to how the policy would apply. The key consideration of effects related to temporary activities is as expressed in Objective TEMP-O1 being that they have a limited duration, do not cause significant adverse effects on the environment and do not permanently alter the environment. The objective does not, appropriately in our view, require compatibility or consistency with the character and qualities of the zone.

[530] We consider that Clauses 1, 2, 3 and 5 of TEMP-P2 provide the necessary policy guidance for temporary activities. On this basis we have determined that Clause 4 is unnecessary, does not implement the objective and should be deleted.

[531] We accept Ms Williams' analysis and recommendations addressing this policy, other than in relation to Clause 4 where we accept the NZDF analysis.

7.5.2 Decision

[532] We adopt Ms Williams' analysis and recommendations on TEMP-P2, other than in relation to Clause 4 where we adopt the analysis of NZDF and delete the Clause. The amendments to the policy are set out in **Appendix 3**.

[533] In terms of s32AA, we are satisfied that amendments are the most appropriate option for achieving the purpose of the RMA, the relevant provisions of the Plan and for giving effect to other relevant statutory instruments.

7.6 NEW POLICY TEMP-PX MANAGING ADVERSE EFFECTS OF TEMPORARY ACTIVITIES

7.6.1 Assessment

[534] Waka Kotahi [143.131] considered that TEMP-P1 (Benefits of temporary activities) does not consider potential adverse effects and sought a new policy that would provide for temporary activities while managing adverse effects on the surrounding environment, including RSI.

[535] Ms Williams did not agree that a new policy is needed in the TEMP Chapter to manage adverse effects on the surrounding environment, including RSI. She considered that TEMP-P1, while recognising the benefits of temporary activities, does not trump the policy direction in TEMP-P2, TEMP-P3 and TEMP-P4 that include requirements for temporary activities to not result in permanent adverse effects on the environment and for 'significant adverse effects' of temporary activities to be avoided/mitigated.

[536] While Waka Kotahi did present evidence at the hearing it did not address temporary activities.

[537] We accept Ms Williams' analysis and recommendations and find that a new policy is not necessary.

7.6.2 Decision

[538] We adopt Ms Williams' analysis and recommendations. No changes are made.

7.7 TEMP-R1 TEMPORARY BUILDINGS AND STRUCTURES ANCILLARY TO CONSTRUCTION WORK

7.7.1 Assessment

[539] KiwiRail [187.84] sought TEMP-R1 be amended to allow the establishment of temporary work sites, to carry out works to the rail corridor, which may be adjacent to transport or other infrastructure.

[540] Ms Williams considered that from a practicality and health and safety perspective, that it may not always be possible for temporary buildings and/or structures associated with construction within a road or rail corridor to be located on the same site as the required works

(i.e., within the road or rail corridor). She agreed with KiwiRail that the discretionary activity status for such buildings and/or structures is onerous and does not facilitate the maintenance or repair of critical infrastructure.

[541] Ms Williams recommended changes to TEMP-R1¹⁵⁴ PER-1 to exclude temporary buildings and/or structures from PER-1 where the building is necessary for construction work within a road or rail corridor where the building and/or structure is located on a site that directly adjoins the road or rail corridor. She noted that compliance with PER-2, PER-3 and PER-4 will still be required as well as permission from the relevant landowner(s).

[542] At the hearing we heard from Ms Heppelthwaite¹⁵⁵ for KiwiRail who supported the recommendation and reasoning of Ms Williams.

[543] We accept Ms Williams' analysis and recommendations, supported by Ms Heppelthwaite.

7.7.2 Decision

[544] We adopt Ms Williams' analysis and recommendations on TEMP-R1. The amendments to the policy are set out in **Appendix 3**.

[545] In terms of s32AA, we are satisfied that amendments are the most appropriate option for achieving the purpose of the RMA, the relevant provisions of the Plan and for giving effect to other relevant statutory instruments.

7.8 TEMP-R2 TEMPORARY MILITARY TRAINING ACTIVITIES

7.8.1 Assessment

[546] NZDF [151.7] support TEMP-R2 as they consider it appropriate to explicitly provide for temporary military training activities as a permitted activity in the TEMP Chapter. However, the submitter sought to make several amendments to the standards.

[547] Ms Williams in her evaluation of the submissions supported some amendment to the provisions but did not support the full extent of changes sought by NZDF. At the hearing we received a written letter from NZDF¹⁵⁶ which explained that in relation to PER-2 NZDF¹⁵⁷ sought the following:

NZDF requests the following amendment to PER-2 as shown against the S42A version: PER-2 The duration of temporary military training activities at any one site does not exceed a total of 31 consecutive calendar days per year, excluding set up and pack out activities.

[548] The reasoning provided was:

¹⁵⁴ Ms Williams S42A Report paragraph 12.7.3

¹⁵⁵ Statement of Evidence, Ms Heppelthwaite, on Hearing F, 9 April 2025 Page 11

¹⁵⁶ NZDF, Letter from Rebecca Davies, Principal Statutory Planner, 17 April 2025

¹⁵⁷ NZDF, Letter from Rebecca Davies, Principal Statutory Planner, 17 April 2025 Para 2.4

2.5 While it is important to enable TMTA sites to be used more than once per year, the total duration of any one TMTA is unlikely to exceed a total of 31 consecutive days. Most TMTA are generally of much smaller-scale and of relatively short duration (some only occurring over a few hours, or a few days). However, NZDF seeks a 31 day duration in order to provide certainty in exercise planning for larger-scale TMTA, as well as flexibility in the event a TMTA needs to be paused or modified once underway.

2.6 Should a site be used more than once per year there will be a period in between when TMTA are not occurring. Accordingly, the effects of any one TMTA are limited to a temporary period. For these reasons, the 31 calendar day restriction per site, per year, is considered overly onerous.

[549] Ms Williams did not alter her view in her Interim Reply.¹⁵⁸ She considered¹⁵⁹ that permitted temporary military training activities on any site where they do not exceed 31 consecutive days would set no limit on the number of training events per year, and in her view would be contrary to TEMP-O1 and TEMP-O2.

[550] While we recognise Ms Williams' concerns about the possibility of multiple temporary military training activities occurring at a single site without an annual cap, we consider this risk to be minimal. The s32 assessment (when considering the rule in the operative plan which provided that activities and buildings not remain on the site for longer than 31 days, not more than once in every two years at one site¹⁶⁰) indicated that no resource consents have been issued under the temporary military training activities rule since 2005, and there have been no complaints regarding temporary military training activities. This indicates that the likelihood of problematic repeat use is very low. On this basis we accept the information provided by NZDF and do not impose an annual limitation within this rule. We do not consider this creates tension with the relevant objectives and policies.

[551] In relation to PER-3 the submitter¹⁶¹ sought a consistent duration temporary military training activities and any associated activities, including temporary buildings. Ms Williams had not supported the change in her S42A report, but in her Interim Reply¹⁶² stated:

Based on the corporate evidence of Ms Davis, I am, relatively comfortable with the consistent timeframe being applied to buildings and/or structures associated with TMTA and for PER-3 to be deleted.

[552] The Panel agrees that there should be alignment between the length of time a temporary activity can occur and associated activities.

[553] In relation to the activity status of TEMP-R2 NZDF sought that the activity status be amended from restricted discretionary to controlled. NZDF¹⁶³ provided the following rationale and outcome:

¹⁵⁸ Ms Williams Interim Reply 6 June 2025 and Final Reply dated 4 August 2025

¹⁵⁹ Ms Williams – Interim Reply 6 June 2025, Page 24

¹⁶⁰ Temporary Activities and Relocatables S.31section 1.5 Problem Definition

¹⁶¹ NZDF, Letter from Rebecca Davies, Principal Statutory Planner, 17 April 2025 Paras 2.7 to 2.9

¹⁶² Ms Williams Interim Reply 6 June 2025

¹⁶³ NZDF, Letter from Rebecca Davies, Principal Statutory Planner, 17 April 2025 Paras 3.2 and 3.3

NZDF considers a controlled activity status to be appropriate as it provides certainty to NZDF that TMTA will be granted resource consent and are able to occur. Adverse effects are temporary, and can be adequately controlled through conditions of resource consent.

NZDF requests the following as matters of control under TEMP-R2:

1. loss of outlook, shading, loss of privacy and loss of amenity; and
2. location and design of buildings and structure; and
3. the duration of the activity, including the period buildings and structures will remain on site.

[554] Ms Williams had not supported the change in her s42A report, and did not change her position in her Interim Reply¹⁶⁴ which stated:

I do not agree with Ms. Daves that TMTA that does not comply with permitted rule requirements should be a controlled activity. In my opinion there may be circumstances where the rule requirements are being breached, such as where an applicant is seeking not to restore a site to its original condition for a long period of time, or not at all, which may have significant adverse effects on the environment (inconsistent with TEMP-P2). As such I consider the restricted discretionary activity status, as notified, to be more appropriate.

[555] The NZDF¹⁶⁵ also sought a change to Note 2 under Rule TEMP-R2. NZDF considers this is appropriate and that this note is not required. NZDF requests the note is deleted. If it is not deleted, then they request it should be amended to reflect that a traffic management plan will not always be necessary.

[556] Ms Williams had not supported the change in her s42A report, but in her Interim Reply¹⁶⁶ stated:

I agree with Ms. Davies that there may be instances where the relevant road controlling authority does not require a formal traffic management plan.

[557] In relation to not requiring a formal traffic management plan Ms Williams supported a different amendment than was proposed by NZDF.

[558] We accept Ms Williams' analysis and recommendations addressing this rule, other than in relation to an annual limitation for temporary military training activities.

7.8.2 Decision

[559] We adopt Ms Williams' analysis and recommendations on TEMP-R2, other than in relation to an annual limitation for temporary military training activities, where we prefer the analysis of NZDF. The amendments to the rule are set out in **Appendix 3**.

¹⁶⁴ Ms Williams Interim Reply 6 June 2025

¹⁶⁵ NZDF, Letter from Rebecca Davies, Principal Statutory Planner, 17 April 2025 Paras 4.1 and 4.2

¹⁶⁶ Ms Williams – Interim Reply 6 June 2025, Page 25

[560] In terms of s32AA, we are satisfied that amendments are the most appropriate option for achieving the purpose of the RMA, the relevant provisions of the Plan and for giving effect to other relevant statutory instruments. With respect to the duration of temporary military training activities our evaluation of the submissions has identified that the annual limitation is of low effectiveness and is not necessary.

7.9 TEMP-R3 TEMPORARY EVENTS

7.9.1 Assessment

[561] The Rooney Group¹⁶⁷ opposed TEMP-R3 as they considered it appropriate for the number of temporary events per site to be extended. The submitters also considered that TEMP-R3 should apply in all zones, including the OSZ and SARZ, and that it should allow for regular temporary events such as community markets, without requiring a resource consent. In their view, community markets add to the vibrancy of the community. The submitters also requested that TEMP-R3 provided for limited temporary motorsport events as a permitted activity.

[562] Ms Williams noted that Jet Boating [48.18] has not sought any amendments to TEMP-R3 in the event that their recommended amendments to NOISE-R2 are not accepted, which they were not. For this reason, she does not recommend any amendments to TEMP-R3 in response to the submission point. She also explained that the TEMP chapter rules were purposely drafted to only apply to land, as the rules apply specifically to 'sites'. Temporary activities on the surface of water are instead managed by rules in the ASW chapter.

[563] We accept the assessment of Ms Williams and note that the submission to NOISE-R2 is addressed in the Noise Section of this Decision Report and provisions relating to activities on the surface of water are addressed in the ASW Section of this Decision Report. Ms Williams has recommended that clarification be provided in the introduction to the TEMP chapter to make it clear that activities on the surface of water are not addressed within the TEMP chapter, and we agree this clarification should be provided.

[564] In relation to all other submissions, we accept Ms Williams' analysis and recommendations. As noted above, we have incorporated 'temporary emergency services training activities' into TEMP-R3

7.9.2 Decision

[565] We adopt Ms Williams' analysis and recommendations on TEMP-R3. The amendments to the rule are set out in **Appendix 3**.

[566] In terms of s32AA, we are satisfied that amendments are the most appropriate option for achieving the purpose of the RMA, the relevant provisions of the Plan and for giving effect to other relevant statutory instruments.

¹⁶⁷ Rooney Holdings [174.76], Rooney, GJH [191.76], Rooney Group [249.76], Rooney Farms [250.76], Rooney Earthmoving [251.76], TDL [252.76]

7.10 TEMP-R6 TEMPORARY MOTORSPORT EVENTS

7.10.1 Assessment

[567] South Canterbury Car Club [135.1] considered the Council failed to consult with the Club concerning temporary motorsport events and opposes TEMP-R6, as notified. The submitter sought amendments to the provisions. Ms Williams described the amendments requested as:

- (a) the activity status for temporary motorsport events is retained as controlled as per the ODP;
- (b) the maximum duration of temporary motorsport events in RDIS-1 is amended to allow up to two days per site, noting National Status Rally Events typically run up to three days over different locations;
- (c) RDIS-2 is restricted to property sites, to allow for more than two events per road; and
- (d) RDIS-3 is amended to allow temporary motorsport events to operate outside the hours of daylight.

[568] We did not receive any further information or evidence from the submitter on this matter. Ms Williams provided an evaluation of the submission and recommended several amendments to the rule.¹⁶⁸ We accept Ms Williams' analysis and recommendations addressing this rule.

7.10.2 Decision

[569] We adopt Ms Williams' analysis and recommendations on TEMP-R6. The amendments to the rule are set out in **Appendix 3**.

[570] In terms of s32AA, we adopt Ms Williams' evaluation in support of the changes made.

8 RELOCATED BUILDINGS AND SHIPPING CONTAINERS

8.1 GENERAL SUBMISSIONS

8.1.1 Assessment

[571] Burdon, L A [72.4] raised concerns with the increase in the number of shipping containers in the District and considered that these are having a detrimental effect on the landscape.

[572] Submissions from ECan [183.1, 183.4] raised concerns regarding how height is determined and use of terminology to define floor areas of buildings. These submissions are addressed in Part 2 of our decision relating to definitions, but there is one matter specific to this chapter which Ms Williams has made recommendations on.

¹⁶⁸ Liz Williams, s42A Report, para 12.10.3-12.10.11

[573] Ms Williams evaluated these submissions in her s42A report. Ms Williams considered that the rules limit the total 'area' of shipping containers on a site, and in this context considered that within this Chapter RELO-R2 (CON-2) should be amended to refer to the 'gross floor area' to avoid any ambiguity.

[574] We accept Ms Williams' analysis and recommendations addressing general submissions.

8.1.2 Decision

[575] We adopt Ms Williams' analysis and recommendations on RELO-R2. The wording of the provision is set out in **Appendix 3**.

[576] In terms of s32AA, we are satisfied that the original s32 evaluation continues to apply.

8.2 DEFINITIONS – RELOCATED BUILDING

8.2.1 Assessment

[577] Heritage NZ [114.7] submitted on the definition of 'relocated building'. The submitter considered that the definition did not cover the relocation of buildings within a site despite the Proposed Plan referring to the relocation of historic heritage items within or beyond their heritage setting (HH-P6). For consistency and to avoid confusion, the submitter sought amendments to the definition of 'relocated building' to include reference to a building being repositioned within its own site. We did not receive any further evidence from the submitter on this matter.

[578] Ms Williams' analysis of the submission identified that the relocation of heritage items (including buildings) within or outside a heritage setting are managed by provisions in the HH Chapter (HH-P6 and HH-R8¹⁶⁹) and are not intended to be managed by provisions in the RELO Chapter and the definition of 'relocated building' is purposefully drafted to apply only to buildings that move from one site to another.

[579] Ms Williams recommended changes to the definition and the Introduction to the RELO Chapter to clarify the relationship between the RELO Chapter and the HH Chapter and ensure it is clear the relocation of heritage buildings is managed by provisions in the HH Chapter.

[580] We accept Ms Williams' analysis and recommendations.

8.2.2 Decision

[581] We adopt Ms Williams' analysis and recommendations on the definition of 'relocated building' and the Introduction to the RELO Chapter. The amendments to the provisions are set out in **Appendix 3**.

[582] In terms of s32AA, we are satisfied that the original s32 evaluation continues to apply.

¹⁶⁹ Now renumbered HH-R10 in the Decision Version of the provisions.

8.3 RELO-P1 RELOCATED BUILDINGS AND SHIPPING CONTAINERS IN GENERAL INDUSTRIAL ZONE

8.3.1 Assessment

[583] A number of submissions were received addressing buildings and shipping containers in the GIZ. Ms Williams provided an analysis of the submissions¹⁷⁰ of which some supported the provisions and others sought changes to be more enabling of the use of relocated buildings and shipping containers within the GIZ. Submissions were also received from PrimePort [175.71] seeking recognition for the PORTZ within the provisions.

[584] With respect to the GIZ, Ms Williams¹⁷¹ described it as a working environment of mostly utilitarian buildings and structures. She considered that the District Plan anticipates higher levels of amenity around sensitive activities and zone boundaries. On this basis she considered that it is appropriate for relocated buildings and shipping containers in the GIZ to be managed on a case-by-case basis to minimise adverse effects on the character and visual amenity values of the surrounding area.

[585] Ms Williams did consider that changes could be made to the rules to manage effects on sensitive activities and at zone boundaries through permitted activity status with standards to be complied with. Ms Williams considered this may address some of the concerns from submitters seeking more enabling provisions.

[586] With respect to the PORTZ, Ms Williams supported including reference to the PORTZ within Policy RELO-P1. At the hearing we received evidence from Mr Cooper¹⁷² for PrimePort and TDHL [186.40] who addressed the nature and type of relocated buildings that are used within the PORTZ and from Mr Walsh, a planning consultant¹⁷³ who supported the amendment to the policy recommended by Ms Williams.

[587] We accept Ms Williams' analysis and recommendations, supported by the evidence of Mr Cooper and Mr Walsh.

8.3.2 Decision

[588] We adopt Ms Williams' analysis and recommendations on RELO-P1, which were supported by Mr Walsh. The amendments to the policy are set out in **Appendix 3**.

[589] In terms of s32AA, we are satisfied that the amendments are the most appropriate option for achieving the purpose of the RMA, the relevant provisions of the Plan and for giving effect to other relevant statutory instruments.

8.4 RELO-R1 PLACEMENT OF A RELOCATED BUILDING

¹⁷⁰ We note that in the S42A report Ms Williams referred to the GRUZ in error rather than the GIZ. This is an error in the name of the zone the provisions evaluated are those related to the GIZ.

¹⁷¹ Ms Williams S42A Report Paras 10.3.4

¹⁷² Mr Cooper Statement of Evidence Statement of Evidence for PrimePort and TDHL, 9 April 2025 Paras 36 and 37

¹⁷³ Mr Walsh Statement of Evidence for PrimePort and TDHL, 9 April 2025 Paras 109-112

8.4.1 Assessment

[590] A number of submissions were received addressing the activity status for relocated buildings. Ms Williams provided an analysis of the submissions of which some supported the provisions and others sought changes to be more enabling. NZHHA [184.1] sought amendments to RELO-R1 to permit relocated buildings in all zones, and the submission included draft provisions.

[591] Ms Williams' evaluation identified that all relocated buildings in the Proposed Plan, as notified (excluding relocated buildings in the GIZ and PORTZ where they are permitted) require resource consent as a controlled activity. The reason for this, as expressed in the s32 Report, is to manage adverse visual amenity effects associated with the appearance of a relocated building before the foundation and exterior renovation works are completed. Ms Williams, in considering the submission from NZHHA considered that a less onerous consenting pathway can be provided for relocated buildings in all zones while achieving the objective and policy direction in underlying zones and the RELO Chapter. She evaluated and recommended a permitted activity status in a number of zones, subject to certain standards. Mr Bhanan-Thomson (Chief Executive Officer of the House Movers Section of NZHHA) confirmed at the hearing that he agreed with Ms Williams' conclusions on this matter.¹⁷⁴

[592] We also received evidence from Mr Walsh, for PrimePort [175.72] and TDHL [186.41] who focussed his evidence on the PORTZ. Mr Walsh agreed¹⁷⁵ with the officer's report where it states that the activity status for relocated buildings within the PORTZ (and GIZ), is permitted, without controls.

[593] We record that we have addressed the use of notes in Part 1 of our decision. We consider that note on RELO-R1 has the effect of regulation, rather than explanation. We have therefore removed reference to this being a note.

[594] We accept Ms Williams' analysis and recommendations, supported by Mr Walsh and Mr Bhana-Thomson, noting our change to the note.

8.4.2 Decision

[595] We adopt Ms Williams' analysis and recommendations on RELO-R1 as well as our change to the note. The amendments to the rule are set out in **Appendix 3**.

[596] In terms of s32AA, we are satisfied that the amendments are the most appropriate option for achieving the purpose of the RMA, the relevant provisions of the Plan and for giving effect to other relevant statutory instruments.

¹⁷⁴ Mr Bhana-Thomson, Statement of Evidence 30 April 2025 Paras 3.1 and 3.8

¹⁷⁵ Mr Walsh Statement of Evidence for PrimePort and TDHL, 9 April 2025 Para 111

8.5 RELO-P2 – SHIPPING CONTAINERS IN ALL OTHER ZONES AND RELO-R2 PLACEMENT OF A SHIPPING CONTAINER

8.5.1 Assessment

[597] A number of submissions were received addressing the activity status for shipping containers. Ms Williams provided an analysis of the submissions of which some supported the provisions and others sought changes to be more enabling.¹⁷⁶

[598] We did not receive any further evidence or information from submitters other than from Mr Walsh, for PrimePort [175.73] and TDHL [186.42]. Mr Walsh focussed his evidence on the PORTZ. Mr Walsh¹⁷⁷ understood no changes were sought or recommended to that part of the Rule addressing the PORTZ. On that basis, and as applied to the PORTZ, he agreed that the rule is appropriate in its notified format.

[599] We accept Ms Williams' analysis and recommendations, supported by the evidence of Mr Walsh, except in relation to the matter we address below relating to a cl10(2)(b) amendment recommended by Ms Williams.

[600] Ms Williams¹⁷⁸ raised a concern with RELO-R2 (CON-1.2) which requires shipping containers to not be visible from the road. She stated:

RELO-R2 (CON-1.2) requires shipping containers to be not visible from a road. Whether a container is 'visible' from a road, in my opinion, is subjective and does not provide certainty for plan users when this rule requirement is met. The 'visibility' of a container, for example, may depend on the time of year, based on the density of vegetation, or the height of the person viewing the shipping container. As I am recommending RELO-P2.1 be deleted, I therefore recommend that RELO-R2 (CON-1.2) be deleted as a consequential amendment pursuant to Clause 10(2)(b) of the RMA. I acknowledge that this will make RELO (CON-1.2) more restrictive, in circumstances where a container is within 20m of a road but is entirely screened, as all containers within 20m of road will be a restricted discretionary activity regardless of any screening. However, I consider the recommended amendments to be appropriate as they remove any ambiguity of when CON-1.2 is met.

[601] Ms Williams has recommended to remove RELO-R2 (CON-1.2) pursuant to cl10(2)(b) of the RMA as a consequence of deleting the clause "if they are screened so they are not visible from any road" from RELO-P2. We have carefully considered this matter because as stated by Ms Williams deleting the standard applying to screening would increase the level of regulation over that which was notified. All submissions received on RELO-R2 either supported the rule or sought that it be less restrictive. No party sought that the rule becomes more restrictive.

[602] The submissions to the policy without exception all sought that the policy be made more enabling and more flexible. The change to the policy recommended by Ms Williams does provide greater flexibility by removing the specific policy direction relating to screening of

¹⁷⁶ Ms Williams S42A Report Paras 10.5.2-10.5.5

¹⁷⁷ Mr Walsh Statement of Evidence for PrimePort and TDHL, 9 April 2025 Para 112

¹⁷⁸ Ms Williams S42A paragraph 10.5.11

shipping containers so that they are not visible from any road. The policy still retains direction as to their positioning, so they do not dominate the streetscapes, and they do not adversely affect the character and amenity values of the surrounding area. The matter of control relating to screening is a specific approach to the wider matters in the policy and in our view the policy can be amended as recommended without giving rise to an inconsistency with the related rule.

[603] Given that all the submissions on both RELO-P2 and RELO-R2 either supported the provisions or sought they be less restrictive we find that making RELO-R2 more restrictive is not an appropriate change arising from the submissions.

[604] While we understand the issues of uncertainty raised by Ms Williams, we do not have scope either within the submissions, or under cl10(2)(b) to make the change to RELO-R2 CON 1.2 recommended by Ms Williams.

[605] We record that we have addressed the use of notes in Part 1 of our decision. We consider that note on RELO-R1 has the effect of regulation, rather than explanation. We have therefore removed reference to this being a note.

8.5.2 Decision

[606] We adopt Ms Williams' analysis and recommendations on RELO-P2 and RELO-R2, with the exception of her recommendation on RELO-R2 CON-1.2, as well as our change to the note. The amendments to the provisions are set out in **Appendix 3**.

[607] In terms of s32AA, we are satisfied that the amendments are the most appropriate option for achieving the purpose of the RMA, the relevant provisions of the Plan and for giving effect to other relevant statutory instruments.

9 VERSATILE SOILS¹⁷⁹

9.1 GENERAL MATTERS

[608] To align with the NPS-HPL, and as requested by a number of submissions this Chapter is to be renamed 'Highly Productive Land' and all references to 'Versatile Soils' (VS) are replaced by 'Highly Productive Land' (HPL).

9.1.1 Assessment

[609] Mr MacLennan explained in his s42A Report that the NPS-HPL came into force on 17 October 2022. Due to the timing of the NPS-HPL, the provisions of the notified VS Chapter do not give effect to the NPS-HPL.

[610] Section 4.1 of the NPS-HPL requires that the Council give effect the NPS-HPL from the commencement date. However, since notification of the Plan amendments have been made to the NPS-HPL that defer the requirement for Regional Councils to undertake mapping

¹⁷⁹ Chapter now renamed Highly Productive Land in the Decision Version of the provisions.

in Regional Policy Statements until 2027.¹⁸⁰ Further changes were made to exempt urban rezoning on LUC 3 land from NPS-HPL restrictions with immediate legal effect, but the exemption does not apply to non-urban rezonings, such as to RLZ.¹⁸¹

[611] The Proposed Plan was notified on 22 September 2022, with submissions closing on 15 December 2022. The NPS-HPL was gazetted on 19 September 2022 and came into effect from 17 October 2022. Therefore, potentially affected parties had several months to understand the NPS-HPL and make submissions and further submissions with reference to its requirements. A number of submissions were received that sought alignment between the VS Chapter and the NPS-HPL. Mr MacLennan was of the view that while there is broad scope within these general submissions to make amendments to the VS Chapter to give effect to the NPS-HPL, it is relevant that the specific changes required to implement the NPS-HPL have not been directly consulted on as part of the Proposed Plan process. As such, while there is technical scope, the appropriateness of introducing these changes at this stage in the review process needs to be considered.

[612] In particular, Mr MacLennan drew our attention to NPS-HPL, cl3.3 which requires that any changes to plans to give effect to it must actively involve tangata whenua (to the extent they wish to be involved). This involvement will be required as part of any future plan change process to give effect to the NPS-HPL.

[613] Mr MacLennan endeavoured to reconcile the VS Chapter with the requirements of the NPS-HPL¹⁸²:

by suggesting various amendments to its provisions that fall within the scope of the submissions. These recommended amendments have been balanced with the need for natural justice.

[614] Mr MacLennan said that the changes he recommended within the Chapter are not intended to fully “give effect” to the NPS-HPL. He said that to fully implement the requirements of the NPS-HPL, a plan change will be required once the mapping of the NPS-HPL is made operative. This approach ensures that the process of giving effect to the NPS-HPL allows for appropriate community and iwi participation, as required by the NPS-HPL. As such, he sought to align the VS Chapter with the NPS-HPL as far as appropriate, acknowledging that the provisions of the NPS-HPL will apply regardless of when triggered by a plan change or resource consent process. Mr MacLennan confirmed his recommended approach remained appropriate in light of the amendments to the NPS-HPL in 2025 and that references to the NPS-HPL 2022, should now refer to the amended version.¹⁸³ We also find that the deferral of the mapping requirements, address in part Mr MacLennan’s initial concern about natural justice issues, arising from an extended application of the NPS-HPL.

[615] The Panel is required to apply the law as it stands at the time of our decision making. RMA s74(1)(ea) requires the Plan to have been prepared in accordance with a national policy statement. At the time the plan was prepared for notification, the NPS-HPL had not been

¹⁸⁰ NPS-HPL 2025, cl 4.1(2).

¹⁸¹ Ibid, clause 3.5(7) and 3.6

¹⁸² Andrew MacLennan, s42A Report, 24 March 2025, para 9.14-9.1.7

¹⁸³ Memorandum of Counsel for Timaru District Council, 20 January 2026.

gazetted. However, RMA s75(3) requires that a District Plan must give effect to any national policy statement. As we understand it, we are required to give effect to the NPS-HPL now that it has been gazetted. Following the close of the hearings, on 18 December 2025, the Government gazetted changes to the NPS-HPL which have effect from 15 January 2026. In Part 1 we record the steps we undertook to seek the views of Council and submitters in response to those changes. We agree that we must give effect to the NPS-HPL from the date it commenced. Given the amended cl 4.1(2) expressly defers the mapping requirement until 31 December 2027, we accept that Mr MacLennan's approach is consistent with the law as it currently stands. We address specific requests for changes to the zoning of LUC 3 land, in Part 10 of the Decision Report.

9.1.2 Decision

[616] We adopt Mr MacLennan's recommendations with regard to the scope and coverage of the chapter. Specific changes to provisions will be addressed below.

9.2 IDENTIFICATION OF VERSATILE SOILS - DEFINITION, POLICY VS-P1¹⁸⁴, AND VERSATILE SOILS OVERLAY

9.2.1 Assessment

[617] These matters are grouped together as they are related, albeit the discussion of Policy VS-P1 is out of sequence of our decision. Four submissions¹⁸⁵ requested the replacement of the definition of 'versatile soils' with 'highly productive land', to be defined as:

Means land identified as Land Use Capability [Class] sic 1, 2, or 3, as mapped by the NZ Land Resource Inventory or by more detailed mapping using the Land Use Capability classification system.

[618] This was supported by further submissions, along with the removal of the mapping in the Plan to avoid confusion with ECan's future task of mapping across the region.

[619] Submissions that supported mapping of versatile soils requested the renaming to highly productive land and for the mapping to include class 3 soils, previously omitted from the Proposed Plan (because it predated the NPS-HPL).

[620] Further submitter DE and SE Payne [160.26FS] opposed ECan's submission point [183.97], suggesting instead that ECan could dispense with the NPS-HPL methods and 'develop a more nuanced framework to identify what is highly productive land in Canterbury.' We do not consider that to be an option as the law stands so have not considered that point further.

[621] Te Rūnanga o Ngāi Tahu [185.2] notes the NPS-HPL requires the active involvement of tangata whenua in decision-making and acknowledges the VS Overlay seeks to comply with this. As such, they consider the best way to recognise tikanga Māori in respect of the Ōrakipaoa Wetland is to remove the VS Overlay, as they consider the area unsuitable for

¹⁸⁴ Now renumbered HPL-P1 in the Decision Version of the provisions.

¹⁸⁵ Hort NZ [245.29], Forest and Bird [156.34], Speirs, B [66.12 and 66.13], ECan [183.12]

promoting primary production. As noted below we agree with the recommendation to remove the overlay for the time being.

[622] Silver Fern Farms [172.157] raised concerns about the accuracy of the mapping, and other submissions noted the inconsistency with areas identified for future development, which ought to be excluded as required by the NPS-HPL, other submissions sought site specific exclusions.

[623] The definition of 'highly productive land' is subject to a number of evaluative tests and exclusions where areas that might otherwise be considered 'highly productive' because they are LUC 1, 2 or 3, are exempt from the NPS-HPL.

[624] The NPS-HPL defines 'highly productive land' as:

land that has been mapped in accordance with clause 3.4 and is included in an operative regional policy statement as required by clause 3.5 (but see clause 3.5(7) for what is treated as highly productive land before the maps are included in an operative regional policy statement and clause 3.5(6) for when land is rezoned and therefore ceases to be highly productive land).

[625] To understand whether land falls within the definition, it is necessary to step through the requirements of Clauses 3.4 and 3.5.

[626] Clause 3.4 requires regional councils to identify and map highly productive land that:

- (a) is in a general rural zone or rural production zone; and
- (b) is predominantly LUC 1, 2, or 3 land; and
- (c) forms a large and geographically cohesive area.

[627] Clause 3.5(1) of the NPS-HPL, prior to the 2025 amendment, required this mapping to be undertaken within 3 years of the NPS-HPL commencement date in a proposed Regional Policy Statement (RPS). Until an RPS containing maps of highly productive land in the region is operative, cl3.5(7) requires territorial authorities to interpret and apply the NPS-HPL as if references to highly productive land were references to land that fall under certain criteria. This includes identifying highly productive land as land that, at the commencement date of the NPS:

- (a) is
 - (i) zoned general rural or rural production; and
 - (ii) LUC 1, 2, or 3 land; but
- (b) is not:
 - (i) identified for future urban development; or
 - (ii) subject to a Council initiated, or an adopted, notified plan change to rezone it from general rural or rural production to urban or rural lifestyle.

- (iii) subject to a resource consent application for subdivision, use or development on LUC 3 land for any activity other than rural lifestyle, where that consent has been lodged at or after the commencement date.

[628] The 2025 amendment) adds cl3.6(6) to exempt the urban rezoning of LUC 3 land from the restrictions of the NPS-HPL.

[629] Mr MacLennan recommended that in order to bring the VS Chapter in line with the NPS-HPL, in addition to the renaming of the Chapter, and the replacement of the definition of versatile soils to 'highly productive land' substantive changes are required to VS-P1¹⁸⁶ because "Rural Lifestyle Zone" is excluded from the meaning of 'highly productive land' under cl3.5(7) of the NPS-HPL. Only land zoned "general rural or rural production" can be highly productive land. He also recommended that the policy removes reference to "identifying" land and instead refers to "recognising" land that achieves the requirements of cl3.5(7) of the NPS-HPL.

[630] In terms of the VS Overlay Mr MacLennan considered the submissions seeking its retention (subject to renaming and possible extension to include LUC 3) and those seeking its deletion. He noted that as notified the VS Overlay does not give effect to the requirements of cl3.5(7) of the NPS-HPL, which requires that until an RPS containing maps of highly productive land in the region is operative, each relevant territorial authority must apply the description of highly productive land set out in cl3.5(7), acknowledging that cl4.1(2) states that the Council must notify changes to objectives, policies, and rules in its District Plan to give effect to this NPS-HPL as soon as practicable, but no later than 2 years after maps of highly productive land in the relevant RPS become operative.

[631] Mr MacLennan carefully considered three options to address submissions but arrived at what he considered to be the most appropriate approach.

[632] Firstly, retaining the status quo, which is the VS Overlay. He noted the notified VS Overlay includes LUC 1 and 2 soils. His view was that if this option was progressed there would be a misalignment between the application of the NPS-HPL and the VS Chapter until a plan change is undertaken to align the application of the VS Chapter.

[633] Secondly, he considered whether the VS Overlay should be removed, and a definition of 'highly productive land' be relied on until the Canterbury Regional Council notifies an HPL Overlay that achieves cl3.4(1) of the NPS-HPL. While this would be aligned with the NPS-HPL, from a plan usability perspective, he considered it may be inconvenient for plan users to rely on a definition reference to maps on external land use capability system mapping rather than using maps within the EPlan. However, this is how the NPS-HPL is currently implemented under the ODP.

[634] He then considered the option of relying on the Transitional Highly Productive Land Overlay which identifies areas of LUC Class 1, 2 and 3 within the GRUZ. He referenced the Proposed EPlan mapping, where there is a "Non-District Plan Layer" tab, which includes a

¹⁸⁶ Now renumbered HPL-P1 in the Decision Version of the provisions.

Transitional Highly Productive Land Overlay that identifies areas of LUC Class 1, 2 and 3 within the GRUZ. He considered that this layer could be used until the Canterbury Regional Council notifies an HPL Overlay that achieves cl3.5(7) of the NPS-HPL.

[635] Overall he considered the most appropriate approach, to avoid pre-empting the mapping by ECan, and any subsequent plan change process to implement the mapping, that in the meantime the VS Overlay within the Proposed Plan be deleted and the Plan rely on the definition of 'highly productive land' included within cl3.5(7) of the NPS-HPL to set the geographic areas that the Chapter applies to until this mapping becomes operative.

[636] We agree that this approach is both effective and efficient in terms of giving effect to the NPS-HPL, recognising the transitional phase that is contemplated by cl3.5(7). The inclusion of the definition as stated in the NPS-HPL, and modifications to the policy and rule framework to support the application of the definition is the most appropriate outcome.

9.2.2 Decision

[637] We adopt the analysis and recommendations of Mr Maclellan to align the VS Chapter with the NPS-HPL by deleting the VS Overlay, replacing the definition of 'versatile soils' with the NPS-HPL definition of 'highly productive land' and amending VS-P1.¹⁸⁷ The amendments to the provisions are set out in **Appendix 3**.

[638] In terms of s32AA, we adopt Mr Maclellan's evaluation in support of the changes made.

9.3 DESCRIPTION OF THE DISTRICT – RURAL AREAS

9.3.1 Assessment

[639] Some submission points that relate to the Descriptive and Introductory parts of the Proposed Plan were addressed by Mr Maclellan in his report on the VS Chapter. Briefly Hort NZ [245.3] and Fonterra [165.12] requested changes to better align the description of Rural Areas with the NPS-HPL. Mr Maclellan accepted the points raised and proposed amendments to the Rural Areas description. We consider these amendments are appropriate, responsive to submissions, and improve alignment to the NPS-HPL. We therefore make changes as recommended.

9.3.2 Decision

[640] We accept the submissions in part and make the changes recommended by Mr Maclellan and adopt his reasons. The amended provisions are set out in **Appendix 3** in the Rural Areas Section of the Description of the District Chapter.

[641] We adopt Mr Maclellan's s32AA evaluation in support of these changes.

¹⁸⁷ Now renumbered HPL-P1 in the Decision Version of the provisions.

9.4 INTRODUCTION TO VS (HPL) CHAPTER

9.4.1 Assessment

[642] NZ Pork [247.1] was initially concerned that the NPS-HPL directs councils to prevent the establishment of piggeries and other Intensive Indoor Primary Production on HPL, however August 2024 amendments to cl3.9(2) of the NPS-HPL include a direction that the use or development of HPL is not considered inappropriate if it provides for intensive indoor primary production or greenhouse activities. Mr MacLennan agreed that the Introduction should be amended to focus on ensuring the ongoing ability to use the land productively for “land-based primary production” and remove the references to “intensive primary production.”

9.4.2 Decision

[643] We adopt the analysis and recommendation of Mr MacLennan on the Introduction to the VS Chapter (now HPL Chapter). We adopt his s32AA evaluation in support of those changes. The amended Introduction is set out in **Appendix 3**.

9.5 ALIGNMENT WITH THE NPS-HPL

9.5.1 Assessment

[644] A number of submissions sought alignment with the NPS-HPL¹⁸⁸, as discussed above, Payne [160.31FS] considers that versatile soil references cannot be replaced or have specific rules relating to NPS-HPL before ECan has completed mapping. We do not agree with that submission point, as cl3.5(7) the NPS-HPL clearly contemplates interim application of the NPS-HPL, notwithstanding the absence of mapping. OWL [181.70], [181.69] also misunderstood the alignment of the VS Chapter in light of the NPS-HPL.

[645] Mr MacLennan agreed with the submitters that the VS Chapter does not give effect to the NPS-HPL, given the timing of the notification of the Proposed Plan, therefore he recommended changes to improve alignment.¹⁸⁹

[646] The Panel received little in the way of other planning evidence that disagreed with this approach. Ms Tait for Fonterra, was ‘largely satisfied that the recommendations of Mr MacLennan achieve that to the extent possible’.¹⁹⁰

[647] Mr MacLennan provided a s32AA review of the changes in his report, which we agree and adopt in support of our decision.

[648] We find that the changes recommended by Mr MacLennan to the policies, give effect to the requirements of the NPS-HPL to the extent that it is possible to do so given the scope of submissions.

¹⁸⁸ For example, Fonterra [165.80], Speirs, B [66.25], ECan [183.96].

¹⁸⁹ Andrew MacLennan, s42A Report, 24 March 2025, paragraphs 9.6.10-9.6.18

¹⁹⁰ Susannah Tait, Statement of Evidence, 9 April, paragraph 7.2

9.5.2 Decision

[649] We adopt the analysis and recommendations of Mr Maclellan on VS-P2.2¹⁹¹ and the inclusion of a new policy to address existing activities - VS-P5.¹⁹² The amended provisions are set out in **Appendix 3**.

[650] We adopt Mr Maclellan's s32AA evaluation in support of the changes made.

9.6 OBJECTIVE VS-O1¹⁹³ – PROTECTION OF VERSATILE SOILS

9.6.1 Assessment

[651] We accept Mr Maclellan's assessment of submissions at the time of the hearing. We note that the 2024 amendment to the NPS-HPL, cl3.9(2)(aa) to provide for intensive indoor primary production and greenhouse activities addresses some submitter concerns.

[652] In response to the concerns raised by the NZ Pork [247.11] and Silver Fern Farms [172.69], Mr Maclellan agreed that the scope of the objective should be broader than 'non-intensive primary production', but he disagreed with the submitter's suggested amendments. He recommended that the drafting of the objective align with the drafting of the NPS-HPL objective and refer to 'land-based primary production', and a new definition of 'land-based primary production' be included within the Proposed Plan.

9.6.2 Decision

[653] We adopt the analysis and recommendation of Mr Maclellan on VS-O1¹⁹⁴ and the definition of 'land-based primary production'. The amendments to the provisions are set out in **Appendix 3**.

[654] We adopt Mr Maclellan's s32AA evaluation in support of the changes made.

9.7 POLICY VS-P2¹⁹⁵ – MAINTAINING AVAILABILITY OF VERSATILE SOIL

9.7.1 Assessment

[655] In reviewing the submission points on this policy Mr Maclellan identified a number of drafting inconsistencies with the requirements of the NPS-HPL, and considered a range of options to address the deficiencies.¹⁹⁶ After considering the costs and benefits of each option he recommended introducing new clauses to VS-P2¹⁹⁵ that include a cross-reference to the NPS-HPL generally. He said:

I consider this to be a temporary measure until a plan change is developed that gives effect to the NPSHPL. This approach ensures alignment with the NPSHPL while maintaining a concise policy structure within the PDP that is not

¹⁹¹ Now renumbered HPL-P2 in the Decision Version of the provisions.

¹⁹² Now renumbered HPL-P5 in the Decision Version of the provisions.

¹⁹³ Now renumbered HPL-O1 in the Decision Version of the provisions.

¹⁹⁴ Now renumbered HPL-O1 in the Decision Version of the provisions.

¹⁹⁵ Now renumbered HPL-P2 in the Decision Version of the provisions.

¹⁹⁶ Andrew Maclellan, s42A Report, 24 March 2025, paragraphs 9.8.11 – 9.8.16

linked directly to cross-reference to specific clauses in the NPSHPL. It avoids unnecessary duplication while ensuring that the direction of the NPSHPL is embedded within the policy framework, reducing the risk of misinterpretation or omission. I note that a similar cross-reference has been included within the Partially Operative Selwyn District Plan (Appeals Version).

[656] We agree that the approach is effective and efficient in the circumstances. We received no evidence contradicting that approach.

9.7.2 Decision

[657] We adopt the analysis and recommendation of Mr Maclellan on VS-P2.¹⁹⁵ The amendments to the policy are set out in **Appendix 3**.

[658] We adopt Mr Maclellan's s32AA evaluation in support of the changes made.

9.8 POLICY VS-P3¹⁹⁷ – EXPANSION OF URBAN AREAS

9.8.1 Assessment

[659] Submissions requested changes to the policy to align with matters addressed in the NPS-HPL. Mr Maclellan agreed that VS-P3¹⁹⁷ as notified is inconsistent with the requirements of clauses 3.6(4) and (5) of the NPS-HPL. Given this, rather than recommending an amendment to VS-P3¹⁹⁷ he considered a broader amendment is required to give effect to clauses 3.6(4) and (5) of the NPS-HPL. He relied on a broad submission from Fonterra [165.80] to make that change.

[660] Mr Maclellan comprehensively considered the alternatives and evaluated the options under s32AA and recommended that in contrast to the assessment of HPL-P3¹⁹⁷ above, given the limited nature of the matters included within cl3.6(4) and (5) of the NPS-HPL, re-producing cl3.6(4) and (5) within VS-P3¹⁹⁷ will avoid the need for a cross reference within the policy while also ensuring that the policy is easily understood by plan users. He recommended that VS-P3.1 – VS-P3¹⁹⁷ be removed and replaced with the matters listed in clauses 3.6(4) and (5) of the NPS-HPL.

[661] We note however, that in light of the recent amendment to NPS-HPL cl 3.6, to include 3.6(6) that expressly disapplies the limitations of cl 3.6(4) and (5) to do not apply to urban rezoning of LUC 3 land. We consider that in order to give effect to the NPS-HPL, this amendment should also be made to Mr Maclellan's recommended changes. This also addresses in part his concerns about the extended reach of the NPS-HPL from the notified Proposed Plan.

9.8.2 Decision

[662] We adopt the analysis and recommendation of Mr Maclellan on VS-P3, but with the addition of a new clause to disapply the policy from urban rezoning of LUC 3 land.¹⁹⁷ The amendments to the policy are set out in **Appendix 3**.

¹⁹⁷ Now renumbered HPL-P3 in the Decision Version of the provisions.

[663] We adopt Mr Maclellan's s32AA evaluation in support of the changes made.

9.9 POLICY VS-P4¹⁹⁸ – RURAL LIFESTYLE ZONE EXPANSION

9.9.1 Assessment

[664] We have made drafting changes recommended by Mr Maclellan in response to submissions. Mr Maclellan was concerned that this policy was not wholly aligned with the NPS-HPL approach for RLZ expansion, because it was more restrictive than the assessment-based approach in the NPS-HPL, cl3.10.

[665] Mr Maclellan considered that the more restrictive approach was warranted given the importance the Proposed Plan places on avoiding the expansion of the RLZ to prevent land fragmentation and protect highly productive soils. He recommended that the more restrictive direction within VS-P4¹⁹⁸ is retained.

[666] We agree with this approach and note that it is supported by the CRPS.

9.9.2 Decision

[667] We adopt Mr Maclellan's recommendations and retain the policy as notified (with consequential changes due to the removal of the VS Overlay).

9.10 RULES

9.10.1 Assessment

[668] There are only two rules in the notified VS Chapter, VS-R1¹⁹⁹ which controls buildings and impervious surfaces, initially within the VS Overlay, but now to all highly productive land. VS-R2²⁰⁰ relates to controls on subdivision of land on highly productive land.

VS-R1¹⁹⁹

[669] Bonifacio, P [36.4] considers the rule impractical for farming activities and sought justification for the conditions. Silver Fern Farms [172.72] sought to amend the permitted activity standard to provide for repairs and routine maintenance to existing development in the VS Overlay where the extent of site coverage is not increased.

[670] Mr Maclellan explained the justification for VS-R1¹⁹⁹, which is to control building and impervious surface development within the VS Overlay, limiting it to 10% of the site area. This rule was included to achieve VS-P2.1²⁰¹ which aims to preserve versatile soils for non-intensive primary production by restricting building and impervious surface coverage. He considered HPL-R1¹⁹⁹ adequately achieves the direction provided by VS-P2.1²⁰¹ by addressing the potential effects of site coverage on the versatile soil resource.

¹⁹⁸ Now renumbered HPL-P4 in the Decision Version of the provisions.

¹⁹⁹ Now renumbered HPL-R1 in the Decision Version of the provisions.

²⁰⁰ Now relocated and renumbered SUB-R7 in the Decision Version of the provisions.

²⁰¹ Now renumbered HPL-P2.1 in the Decision Version of the provisions.

[671] Regarding the amendment sought by Silver Fern Farms, he explained that repairs and maintenance that do not increase the existing extent of site coverage by buildings and impervious surfaces will not be captured by the VS-R1.¹⁹⁹

[672] NZ Pork [247.14] requested the inclusion of an additional matter of discretion:

The extent to which the primary production activity has a functional and operational need to locate in the rural environment and on versatile soil.

[673] Mr MacLennan agreed in part with the suggested amendment. He has recommended an amendment to VS-P2.8²⁰² which requires that inappropriate use or development of highly productive land (as described in NPS-HPL, cl3.9) is avoided. Therefore, he agreed that consequential amendments are required to the matter of discretion within VS-R1¹⁹⁹ to enable consideration as to how the potential activity gives effect to directive requirements of NPS-HPL, cl3.9(2).

HPL-R2

[674] Bonifacio, P [36.5] considers VS-R2²⁰⁰ to be too restrictive and sought justification for the conditions. Mr MacLennan explained the purpose of VS-R2²⁰⁰ is to manage the subdivision of sites in the VS Overlay across all zones with discretion restricted to assessing the impact of proposed subdivisions on versatile soils' fragmentation and ensuring allotment size and shape to allow for non-intensive primary production.

[675] Forest and Bird [156.131] note the NPS-HPL sets out clear requirements for subdivision and consider the rule fails to reflect these and sought the rule's activity status is amended from restricted discretionary to discretionary. Mr MacLennan agreed in part with Forest and Bird because the NPS-HPL sets out clear requirements for subdivision, some of which are not included within the notified matters of discretion. However, he disagreed that changing the activity status from restricted discretionary to discretionary is required to incorporate these additional matters. Instead, he recommended an additional matter of discretion be added to the rule to enable consideration of the range of matters that are required to be considered by the NPS-HPL.

[676] The submission points on the location of VS-R2²⁰⁰ have been considered within Mr Boyes' s42A Report on Subdivision and Development Areas.²⁰³ He has recommended that VS-R2²⁰⁰ be removed from the VS Chapter and included as a new rule within the SUB Chapter. Mr MacLennan agreed with this recommendation.

9.10.2 Decision

[677] We adopt the analysis and recommendation of Mr MacLennan on VS-R1¹⁹⁹ and VS-R2²⁰⁰ noting the locational change of VS-R2 to the Subdivision Chapter. The amendments to the rules are set out in **Appendix 3**.

[678] We adopt Mr MacLennan's s32AA evaluation in support of the changes made.

²⁰² Now renumbered HPL-P2.8 in the Decision Version of the provisions.

²⁰³ Nick Boyes, s42A Report, Subdivision and Development Areas, Paragraphs 7.1.11 – 7.1.31

10 PUBLIC ACCESS

10.1 GENERAL SUBMISSIONS

10.1.1 Assessment

[679] Submissions generally expressed concern about the provisions encouraging public access which may include access over private land. The submitters gave examples of why this is not always appropriate and requested express exemption from access over private land without landowner permission. In the case of the submission from Fenlea Farms [171.10, 171.11, 171.12], the submitter was particularly concerned about access being encouraged to the Prattley Road lagoons system where access may affect ecological and cultural values (the lagoons are within SASM 19 and SASM 48). The submitter was also concerned about the potential risk to health and safety where access may disrupt farming operations.

[680] Mr MacLennan, the s42A Report author²⁰⁴ responded to those submissions by recommending the addition of an advice note. We have discussed this in Part 1 of the Report. We have found that it is not necessary to include an advice note.

[681] In response to the Fenlea Farm submission point Mr MacLennan did not recommend any additional changes but acknowledged that the policy and rule framework proposed enabled access to the locations listed in SCHED11 to be exempted or limited on a case by case basis and that the circumstances outlined by the submitter would be relevant considerations in terms of proposed PA-P2 and PA-P4.

10.1.2 Decision

[682] We do not adopt Mr MacLennan's recommended amendment to the PA Introduction, for the reasons in Part 1 of our Decision Report.

10.2 OBJECTIVE PA-O1 PUBLIC ACCESS

10.2.1 Assessment

[683] The submissions relating to PA-O1 broadly sought the same relief, further clarity within the objective as to when public access is restricted, and that a more certain word than "desirable" should be used.

[684] Silver Fern Farms [172.64] and Alliance Group [173.68] consider the word "desirable" should be replaced with "necessary" as the term "desirable" does not infer an evidence-based approach. OWL [181.66] considers the word "desirable" should be replaced with "appropriate" as the term "desirable" is not suitable in the context of Policy PA-P4. PrimePort [173.38] supports public access to the CMA and notes it should only be restricted in certain circumstances but considers the wording of PA-O1 is uncertain and requires clarity.

²⁰⁴ Andrew MacLennan, s42A Report, Public Access, Activities on the Surface of Water, and Versatile Soil, 24 March 2025.

[685] Mr MacLennan recommended that “appropriate” replace “desirable” as it is consistent with the requirements of RMA s6(d) which states that maintenance and enhancement of public access to and along the CMA, rivers and lakes is a matter of national importance, and this direction is reflected in CRPS. We agree with his recommendation for those reasons.

[686] Mr Walsh for PrimePort accepted that the changes recommended addressed PrimePort’s concerns.²⁰⁵

[687] Mr MacLennan did not consider that the objective needed to specify the circumstances in which public access may be restricted, noting that such specifics are more appropriate at a policy level. We accept his opinion, having received no evidence to the contrary.

10.2.2 Decision

[688] We adopt Mr MacLennan’s analysis and recommendations on PA-O1. The amendments to the objective are set out in **Appendix 3**.

[689] In terms of s32AA, we adopt Mr MacLennan’s evaluation in support of the changes made.

10.3 NEW OBJECTIVE AND POLICY REQUESTS

10.3.1 Assessment

[690] Federated Farmers [182.137; 182.141] sought a new objective and policy to recognise that private property rights are a key area of focus that needs to be considered within this chapter and to recognise the additional impacts public access may have on the amenity value of selected landscapes and areas, which may cause damage or create security risks.

[691] Mr MacLennan recommended the request be rejected for the reasons outlined in his s42A Report.²⁰⁶

[692] Federated Farmers did not attend the hearing to elaborate further on their submission. We agree with Mr MacLennan that the policy framework enables appropriate consideration of when access should be excluded or limited, including for the reasons identified by Federated Farmers in appropriate circumstances.

10.3.2 Decision

[693] We accept Mr MacLennan’s recommendations, and no additional objective or policy is to be included in the PA Chapter.

²⁰⁵ Timothy Walsh, Statement of Evidence, 9 April 2025, paragraphs 116-117

²⁰⁶ Andrew MacLennan, s42A Report, 25 March 2025, paragraph 7.3.4-7.3.6

10.4 POLICY PA-P1 BENEFITS OF PUBLIC ACCESS

10.4.1 Assessment

[694] The Rooney Group²⁰⁷ sought that PA-P1 be amended to recognise the negative impacts public access can have on landowners, in particular those involved in primary production.

[695] Mr MacLennan explained that the circumstances of concern to this group of submitters is already addressed through the objective and policy framework, which enables consideration of appropriate circumstances to restrict public access. The submitter group did not attend the hearing so did not elaborate further on their concerns. We accept Mr MacLennan's opinion and agree that no change is required to PA-P1.

10.4.2 Decision

[696] We accept Mr MacLennan's recommendations. No change has been made to PA-P1.

10.5 POLICY PA-P2 REQUIREMENTS FOR PUBLIC ACCESS

10.5.1 Assessment

[697] The Rooney Group²⁰⁸ considered that "require" should be replaced with either "facilitate" or "promote", as public access may not be appropriate in all circumstances, depending on the land use. They also sought that an additional clause be added to PA-P2 which recognises reverse sensitivity effects.

[698] Mr MacLennan did not recommend any change to PA-P2, on the basis that the submitters concerns are already addressed in the drafting of the policy. We accept that opinion.

10.5.2 Decision

[699] We adopt Mr MacLennan's recommendations. No change is made to PA-P2 for the reasons given by Mr MacLennan.

10.6 POLICY PA-P3 DESIGN AND CONSTRUCTION OF PUBLIC ACCESS

10.6.1 Assessment

[700] Silver Fern Farms [172.66] and Alliance Group [173.70] considered that public access along rivers and the CMA is, in some areas, subject to riverine and coastal processes that may preclude the maintenance of an access design that meets Council standards. As such, the submitter considered that the policy direction should not foreclose on the ability to consider alternative design outcomes. Federated Farmers [182.14] wish to retain PA-P3 as notified.

²⁰⁷ Rooney Holdings [174.44], Rooney, G.J.H [191.44], Rooney Group [249.44], Rooney Farms [250.44], Rooney Earthmoving [251.44] and TDL [252.44]

²⁰⁸ Rooney Holdings [174.45], Rooney, G.J.H [191.45], Rooney Group [249.45], Rooney Farms [250.45], Rooney Earthmoving [251.45] and TDL [252.45]

[701] Mr Maclellan disagreed that an amendment to PA-P3 is necessary, and we agree with his opinion. PA-P3 requires new public access routes to be designed in accordance with the Council standard. If access is subject to a natural process, this will be considered as part of the design process.

10.6.2 Decision

[702] We adopt Mr Maclellan's recommendation. No change is required to PA-P3.

10.7 POLICY PA-P4 LIMITING PUBLIC ACCESS

10.7.1 Assessment

[703] The DOC submission [166.78] sought an additional subclause to be added to PA-P4 to refer to dunes and estuaries and other sensitive natural areas to ensure consistency with Policy 19 of the NZCPS. The Rooney Group²⁰⁹ requested a new subclause is added to PA-P4 identifying reverse sensitivity as a reason to limit public access.

[704] Mr Maclellan agreed that the change requested by DOC was appropriate and recommended the change be made. Ms Williams for DOC²¹⁰, Ms Eng for Transpower²¹¹, and Mr Walsh for PrimePort²¹² agreed with Mr Maclellan's recommendation to amend the policy. We agree no additional clause identifying reverse sensitivity as a reason to limit public access is necessary.

10.7.2 Decision

[705] We adopt Mr Maclellan's recommendations on PA-P4. The changes to the policy are set out in **Appendix 3**.

[706] In terms of s32AA we adopt Mr Maclellan's evaluation in support of the changes made.

10.8 RULE PA-R1 ANY NEW LAND USE, SUBDIVISION OR DEVELOPMENT

10.8.1 Assessment

[707] Silver Fern Farms [172.68] and Alliance Group [173.72] sought to delete PA-R1 as they considered it is unclear how this provision is intended to work with respect to sites in the GIZ. The submissions stated that the rule appears to require a controlled or restricted discretionary resource consent to be obtained for any new development on a GIZ site larger than 5,000m² that includes a waterway identified in the Public Access Provision (PAP) Overlay, if the proposal requires a discretionary or non-complying consent for any other reason.

²⁰⁹ Rooney Holdings [174.46], Rooney, G.J.H [191.46], Rooney Group [249.46], Rooney Farms [250.46], Rooney Earthmoving [251.46] and TDL [252.46]

²¹⁰ Elizabeth Williams, Statement of Evidence, 9 April 2025, Appendix 1, page 28

²¹¹ Correspondence from Transpower (Ms Eng), 9 April 2025, Attachment A page 10.

²¹² Timothy Walsh, Statement of Evidence, 9 April 2025, paragraph 118.

[708] Speirs, B [66.52] considers that all rules (and associated direction, where required) involving subdivision should be in one place in the Proposed Plan, being the SUB Chapter, and sought for the word “subdivision” to be removed from the rule title of PA-R1.

[709] Mr MacLennan clarified that the intention of the rule is that when development requiring resource consent is proposed on large industrial sites adjacent to the coast or listed waterbodies, consent is required for the new activity as either a controlled activity if public access is being proposed, or a restricted discretionary activity if public access is not being proposed. There is only one PAP Overlay applied within the Proposed Plan. The areas subject to Public Access Provisions are listed in SCHED11 - Schedule of Public Access Provisions. There is not an additional PAP Overlay specific to the foreshore. As such, PA-R1 applies to new land use, subdivision or development within the PAP Overlay, whether this be near the foreshore or elsewhere.

[710] He did not agree that PA-R1 should be deleted because it is required to achieve PA-O1. However, he accepted that once an application has been considered as either a controlled activity or a restricted discretionary activity under PA-R1, an applicant should not be captured by this rule for every new subsequent development on the site. Therefore, he recommended that a new permitted standard be included within PA-R1 that ensures that subsequent developments on the site are permitted if the site has previously obtained resource consent under this rule.

[711] Silver Fern Farms [172.68] and Alliance Group [173.72], did not attend the hearing but both submitters sent correspondence²¹³, which we have reviewed. Alliance Group confirms acceptance of the s42A recommendations on the PA provisions.

[712] In response to Mr Speirs submission, Mr MacLennan agreed that there was a need to clarify the relationship between the PA and SUB Chapters. He explained that the PA and SUB Chapters are complementary but distinct in focus. The PA Chapter applies to all types of “public access”, including access both ‘to’ and ‘along’ the District’s CMA and margins of specified wetlands (and rivers), and directs these are provided for specific land use activities and also specific subdivisions that are located adjoining the 39 waterways listed in SCHED11. The SUB Chapter applies to a broader geographic area, requiring the creation of esplanade reserves, strips, or access strips ‘along’ the 69 waterways listed in SCHED12. These include the 39 waterways in SCHED11, as well as 30 additional waterbodies of significant conservation or recreational value. The SUB Chapter also allows flexibility by waiving esplanade requirements where public access or conservation values are already secured under the Conservation Act 1987.

[713] Mr MacLennan noted that submission points on the location of PA-R1 have been considered within Mr Boyes’ s42A report on Subdivision and Development Areas. Mr Boyes has recommended that PA-R1 be retained in the PA Chapter. Mr MacLennan agreed with this recommendation. We accept the planning expert opinions of Mr Boyes and Mr MacLennan.

²¹³ Letters from Mitchell Daysh on behalf of Silver Fern Farms, dated 9 April 2025 (authored by Steve Tuck) and Alliance Group, dated 4 April 2025 (authored by Doyle Richardson), 4 April 2025. The letter on behalf of Silver Fern Farms does not mention the PA provisions specifically, however we interpret the letter as generally accepting the recommendations of s42A authors for matters addressed in Hearing Stream F.

We retain the rule in the PA Chapter, and we adopt Mr Maclellan's recommendation to provide an additional permitted activity standard in PA-R1.

10.8.2 Decision

[714] We adopt Mr Maclellan and Mr Boyes' recommendations on PA-R1. The amendments to the rule are set out in **Appendix 3**.

[715] In terms of s32AA, we adopt Mr Maclellan's evaluation in support of the changes made.

10.9 PLANNING MAPS AND SCHED11

10.9.1 Assessment

[716] PrimePort [175.5] sought to amend the Planning Maps to delete the Public Access Provision (PAP) Overlay within Lot 2 DP 326718. The submitter noted that this land forms part of the Port Operational Area that periodically requires closure for health and safety reasons. Public access can be gained to the coast from Talbot Street, the adjoining Open Space Zone and along the coast itself. PrimePort [175.6] also sought to ensure there is no public access provision requirement within the Port Operational Area. Lastly, PrimePort [175.94] sought that the public access provisions do not apply to land beside the CMA between Talbot and Charman Streets and sought their removal from SCHED11.

[717] Mr Maclellan noted that "Timaru Port area between Unwin Street and the Eastern Mole extension" is already excluded from SCHED11. The submitter sought that this exclusion be extended to Talbot Street, which will exclude a stretch of approximately 290 metres of the coastline. Mr Maclellan agreed with this extension because the area is a working part of the Port and periodically subject to public closure for health and safety reasons.

[718] Harvey Norman [192.4] sought to amend the PAP Overlay so that it is only contained within the Open Space Zone. Mr Maclellan disagreed. He noted that PA-R1 applies to "all sites overlaid, or adjoining waterways identified in the Public Access Provision Overlay". Given that the Taitarakihi Creek is listed within SCHED11, the provisions of PA-R1 will apply to the sites adjoining Taitarakihi Creek, regardless of whether it is contained within the Open Space Zone or not.

[719] Wallwork, C [2.3] sought to amend the PAP Overlay so that the Hae Hae Te Moana River at 1986 Te Moana Road is located within the Four Peaks Esplanade Reserve as the mapped areas are not accessible from Te Moana Road. They saw this as an error, and sought that the PAP Overlay be redrawn. Mr Maclellan disagreed because PA-R1 applies to "all sites overlaid or adjoining waterways identified in the Public Access Provision Overlay". Given this section of the Hae Hae Te Moana River is listed within SCHED11 the provisions of PA-R1 will apply to the Hae Hae Te Moana River regardless of whether it is contained within the 1986 Te Moana Road site boundary or not.

[720] King, R J [194.1] sought to remove the PAP Overlay on 136 Landsborough Road from both SCHED11 and the PAP Overlay. The submitter operates a farming operation on the site

and is concerned that access would create safety issues, devalue the property, and create biosecurity risks. Similarly, the Rooney Group²¹⁴ sought to amend SCHED11 and the PAP Overlay to remove the unnamed tributary of the Pareora River. The submitters noted that this tributary flows from a vegetated gully that has been identified as an SNA and consider there is no reason for this tributary to be included in SCHED11.

[721] Mr MacLennan disagreed that these sites should be removed from the PAP Overlay. He noted that the PAP Overlay will only be triggered when a new land use, subdivision or development is proposed on the site that requires a discretionary or non-complying activity resource consent. In this situation, the provision of public access will be considered on a case-by-case basis as part of the resource consent process required by PA-R1. Through the consent process, matters such as the protection of public health or safety can be considered a reason to exempt or limit public access.

[722] Mr Walsh confirmed in evidence that PrimePort supported the changes recommended by Mr MacLennan. No other submitters attended to speak to their concerns. We accept Mr MacLennan's reasoning to reject the remaining requests for changes.

10.9.2 Decision

[723] We adopt Mr MacLennan's final recommendations and amend SCHED11 and the PAP Overlay to delete the PAP Overlay within Lot 2 DP 326718. We make no other changes to SCHED11 or the PAP Overlay. The amendments to SCHED11 are set out in **Appendix 3**. The amendments to the PAP Overlay are set out in **Appendix 2**.

[724] In terms of s32AA, we adopt Mr MacLennan's evaluation in support of the changes made.

²¹⁴ Rooney Holdings [174.99, 174.100], Rooney, GJH [191.99, 191.100], Rooney Group [249.99, 249.100], Rooney Farms [250.99, 250.100], Rooney Earthmoving [251.99, 251.100], TDL [252.99, 252.100].

Submission on Notified Proposal for Plan, Change or Variation

Clause 6 of Schedule 1, Resource Management Act 1991

To: Timaru District Council

Name of submitter:

..KiwiRail Holdings Limited.....

[State full name]

This is a submission on the following proposed plan or on a change proposed to the following plan or on the following proposed variation to a proposed plan or on the following proposed variation to a change to an existing plan) (the 'proposal'):

..Timaru Proposed District Plan.....

[State the name of proposed or existing plan and (where applicable) change or variation].

I could not* gain an advantage in trade competition through this submission.

[*Select one.]

The specific provisions of the proposal that my submission relates to are: [Give details]

..See attached submission.....

My submission is: [Include whether you support or oppose the specific provisions or wish to have them amended; and reasons for your views]

[If your submission relates to a proposed plan prepared or changed using the collaborative planning process, you must indicate the following:

- Where you consider that the proposed plan or change fails to give effect to a consensus position and therefore how it should be modified; or
- In the case that your submission addresses a point on which the collaborative group did not reach a consensus position, how that provision in the plan should be modified.]

..See attached submission.....

See attached submission.

*[*Delete if you would not consider presenting a joint case.]*

Doc# 636102

15 December 2022

Planning Policy Team
Timaru District Council
PO Box 522
TIMARU 7940

By email: pdp@timdc.govt.nz

SUBMISSION ON PROPOSED TIMARU DISTRICT PLAN – HE PO. HE AO. KA AWATEA

NAME OF SUBMITTER: KiwiRail Holdings Limited (KiwiRail)

ADDRESS FOR SERVICE: Level 1
Wellington Railway Station
Bunny Street
PO Box 593
WELLINGTON 6140

Attention: Sheena McGuire

Ph: 027 227 7780

Email: Sheena.McGuire@kiwirail.co.nz

KiwiRail submission on Proposed Timaru District Plan – He Po. He Ao. Ka Awatea

KiwiRail Holdings Limited (KiwiRail) is the State-Owned Enterprise responsible for the construction, maintenance, and operation of the national railway network. This includes managing railway infrastructure and land, as well as rail freight and passenger services within New Zealand. KiwiRail is also the Requiring Authority for land designated for 'Railway Purposes' (or similar) in District Plans throughout New Zealand.

KiwiRail's national railway network (which comprises of 3,700km of track, over 200 locomotives, 18,100 hectares of land and 1,350 modern and heritage buildings)¹ is a nationally and regionally significant infrastructure asset. The rail network is critical to the safe and efficient movement of freight and passengers throughout New Zealand, and forms an essential part of the national transportation network and the wider supply chain. New Zealanders have invested significantly in the rail network and it is a critical public asset.

Transport modal shifts to more climate-friendly modes of transport, like rail, are critical to reduce carbon emissions. As a result, rail is experiencing a renaissance as evidenced by the significant investment being made by the Government to reinvigorate the railway network, demonstrating a strong and continued confidence in rail's current and future potential.

¹

Half Year Annual Report 2022 and Unaudited Financial Statements for the Six Months Ended 31 December 2021 (KiwiRail, 2022) at page 5.



The Main South Line (MSL) extends through the Timaru district. The MSL forms a key part of the KiwiRail network nationally. KiwiRail seeks to protect its ability to operate, maintain and upgrade these assets into the future.

To achieve this, KiwiRail encourages land uses near the railway corridor that do not compromise the short or long-term ability to operate a safe and efficient rail network, both day and night. Where sensitive activities are proposed on land near the railway corridors, appropriate controls should be imposed to ensure the long-term amenity of sensitive uses. Associated with that is the risk of objections and complaints leading to restraints on the operation, maintenance and enhancement of the rail corridor. Safety is a key concern for KiwiRail so ensuring sightlines and level crossings are protected is also crucial.

KiwiRail's submission the Proposed Timaru District Plan – He Po. He Ao. Ka Awatea (Proposed Plan) is set out in the attached table. The comments largely follow the structure of the Plan but there are some areas where comments are grouped into topic or issue areas. In terms of relief sought, insertions are marked in **bold** and underlined, while any recommended deletions of text are shown in *italics* and ~~struck out~~. All requested changes include any consequential changes to the Plan to link and/or accommodate the requested change in the stated, or alternate location.

KiwiRail is available to meet with the Council to discuss any elements of the comments provided within this table, to provide any clarification that may assist in decisions on the changes requested.

KiwiRail wish to be heard in relation to the submissions and if other parties make similar submissions, KiwiRail would consider presenting a joint case with those parties at the hearing.

Regards,



Sheena McGuire
RMA Advisor
KiwiRail Holdings Limited

Submission Number	Section of Plan	Specific Provision	Support/Oppose/ Seek Amendment	Reasons for Submission	Relief Sought (as stated or similar to achieve the requested relief)
Part 1: Introduction and general provisions					
1.	Definitions	Functional Need	Support	KiwiRail supports the inclusion of this definition in the Proposed Plan.	Retain as proposed
2.	Definitions	Land Transport Infrastructure	Support	The definition is supported by Kiwirail; as it means any infrastructure, land, building, equipment or devices that support the movement of people and goods by land including railway tracks, bridges, tunnels, signalling, access tracks and facilities.	Retain as proposed
3.	Definitions	Maintenance	Support	KiwiRail supports the inclusion of this definition which provides for work required to keep structures, building or infrastructure in good condition or operation.	Retain as proposed
4.	Definitions	Network Utility	Support	This definition is supported as it applies to a project, work, system or structure that is a network utility operation undertaken by a network utility operator.	Retain as proposed
5.	Definitions	Network Utility Operator	Support	KiwiRail supports the use of the RMA meaning of Network Utility Operator, which includes railway activities. This approach supports the integrated management and provision of key infrastructure.	Retain as proposed
6.	Definitions	Noise Sensitive Activity	Seek amendment	KiwiRail seeks amendment to the definition of Noise Sensitive Activity to list all noise sensitive activities to assist with clear interpretation of the Proposed Plan.	Insert as follows: Noise sensitive activity means any lawfully established: a. residential activity, including activity in visitor accommodation or retirement accommodation, including boarding houses, residential visitor accommodation and papakāinga; b. educational activity; c. health care activity, including hospitals; d. congregation within any place of worship; and e. activity at a marae. ~~a. Residential activities;~~ ~~b. Visitor accommodation;~~ ~~c. Educational facility;~~ ~~d. Healthcare activities; and~~ ~~e. Marae (building only).~~
7.	Definitions	Operational Need	Support	KiwiRail supports the inclusion of this definition in the Proposed Plan.	Retain as proposed
8.	Definitions	Public Transport	Support	KiwiRail support that the definition of Public Transport includes rail vehicle as a service for the carriage of passengers for hire or reward, and that includes a public transport interchange, park and ride facilities, drop-off and pick-up points, cycle parking, shelters, waiting rooms, and ticket office.	Retain as proposed
9.	Definitions	Railway Line	Support in part	KiwiRail supports use of the definition provided in Section 4 of the Railways Act 2005. However, KiwiRail notes that definition this does not cover the rail corridor which includes the railway line and adjoining land that is designated in the plan and used for railway purposes.	Retain as proposed noting the scope of the definition doesn't include all aspects of the rail corridor.
10.	Definitions	Regionally Significant Infrastructure	Support	Kiwirail support that regionally significant infrastructure includes the strategic land transport network.	Retain as proposed
11.	Definitions	Repair	Support	KiwiRail supports the inclusion of this definition in the Proposed Plan.	Retain as proposed
12.	Definitions	Replacement	Support	KiwiRail supports the inclusion of this definition in the Proposed Plan.	Retain as proposed
13.	Definitions	Reverse Sensitivity	Support	KiwiRail supports the definition of reverse sensitivity subject to amendment. KiwiRail seeks amendment to recognise that in the context of rail, activities are more than operation of the railway and the definition also needs to encompass development, upgrading and ongoing maintenance of the rail network including rail yards. It is appropriate to recognise the vulnerability of existing, lawfully established activities such as the rail network to other activities in the vicinity which may be sensitive to adverse environmental effects.	Amend as follows: Reverse sensitivity means the potential for the development, upgrading, operation and maintenance of an approved, existing or permitted established activity to be compromised, constrained or curtailed, by the more recent establishment or alteration of another activity which may be sensitive to the actual, potential or perceived adverse environmental effects generated by an approved, existing or permitted activity.
14.	Definitions	Sensitive Activity	Seek amendment	KiwiRail supports the listed activities within this definition, however, also considers that the list should be expanded to capture all sensitive activities.	Amend as follows: Sensitive activity means any: a. residential activities; b. education facilities and preschools; c. guest and visitor accommodation; d. retirement home;

					e. healthcare facilities which include accommodation for overnight care; f. hospitals; g. community facility; h. marae (building only) and papakāinga; or i. place of assembly-worship.
15.	Definitions	Upgrading/Upgrade	Support	The specific ability to replace, renew or improve existing infrastructure resulting in an increase in carrying capacity as upgrading, is supported.	Retain as proposed
Part 2 – District-wide matters					
16.	Strategic Direction	SD-O8 Infrastructure	Seek amendment	KiwiRail seeks an additional clause to provide for the protection of regionally significant infrastructure from reverse sensitivity effects. The rail network can be vulnerable to adverse effects when incompatible subdivision, land use and development is located adjacent to an established rail line. KiwiRail seeks amendment to protect infrastructure from adverse effects in this strategic direction.	Across the District: i. improved accessibility and multimodal connectivity is provided through a safe and efficient transportation network that is able to adapt to technological changes; ii. the provision of new network infrastructure is integrated and co-ordinated with the nature, timing and sequencing of new development; iii. drinking water supplies are protected from the adverse effects of subdivision, use and development; iv. the benefits of regionally significant infrastructure and lifeline utilities are recognised and their safe, efficient and effective establishment, operation, maintenance, renewal and upgrading and development is enabled while managing adverse effects appropriately. v. avoid, remedy or mitigate adverse effects, including reverse sensitivity effects, of subdivision, land use and development on regionally significant infrastructure.
17.	Strategic Direction	UFD-O1 Settlement Patterns	Support	KiwiRail supports clause x. of this strategic direction as it seeks to minimise and avoid conflict between incompatible activities by controlling the location of activities. Urban development adjacent to the rail corridor has the potential to result in reverse sensitivity effects on the MSL. KiwiRail supports strategic direction to minimise and avoid these effects.	Retain as proposed
18.	Energy, Infrastructure	EI-O1 Regionally Significant Infrastructure	Support	KiwiRail supports the objective for effective, resilient, efficient and safe regionally significant infrastructure that enables people and communities to provide for their health, safety and wellbeing. This objective is appropriate to recognise that providing for the health and well-being of our communities relies on having appropriate planning provisions in place, such as controls on development near the rail corridor and other regionally significant infrastructure.	Retain as proposed
19.	Energy, Infrastructure	EI-O2 Adverse effects of Regionally Significant Infrastructure	Support	KiwiRail supports recognition of the functional or operational need for infrastructure to, in some instances, be located in sensitive environments. In these cases, KiwiRail supports that adverse effects must be remedied or mitigated.	Retain as proposed
20.	Energy, Infrastructure	EI-O4 Adverse effects on Regionally Significant Infrastructure and Lifeline Utilities	Support	KiwiRail strongly supports this objective to protect the efficient operation, maintenance, repair, upgrading or development of Regionally Significant Infrastructure. The rail corridor is vulnerable to adverse effects, including reverse sensitivity effects, when incompatible land uses are located near the rail corridor without appropriate development controls are in place. KiwiRail supports this objective as notified.	Retain as proposed
21.	Energy, Infrastructure	EI-P1 Recognising the benefits of Regionally Significant Infrastructure and Lifeline Utilities	Support	Recognition of the benefits of regionally significant infrastructure and the functional and operational needs of infrastructure in policy is supported by KiwiRail. The enabling of the operation, maintenance, repair, upgrade and development of the railway is crucial to ensure the safety and efficiency of the South Island rail network is maintained.	Retain as proposed
22.	Energy, Infrastructure	EI-P2 Managing adverse effects of Regionally Significant Infrastructure and other infrastructure	Seek amendment	KiwiRail supports the management of adverse effects of infrastructure while recognising the matters specified in clause 2. of this policy. The rail network is linear in nature and it is not always possible to avoid sensitive areas and internalise all adverse effects. KiwiRail seeks amendment to seek to 'avoid, remedy or mitigate effects' to recognise this.	Amend as follows: 1. Provide for Regionally Significant Infrastructure and other infrastructure where any adverse effects are appropriately managed by: a. seeking to avoid, remedy or mitigate adverse effects on the identified values and qualities of Outstanding Natural Landscapes and Outstanding Natural Features, Visual Amenity Landscapes, the Coastal Environment, Significant Natural

					Areas, High Naturalness Waterbodies Areas, Sites of Significance to Māori, historic heritage, cultural, and archaeological areas, riparian margins and notable trees; and b. [...]
23.	Energy, Infrastructure	EI-P3 Adverse effects on Regionally Significant Infrastructure	Support	The policy seeks to ensure that incompatible activities are appropriately located or designed so they do not compromise the safe, effective and efficient operation, maintenance, repair, development or upgrading of the rail corridor, this is supported by KiwiRail.	Retain as proposed
24.	Energy, Infrastructure	EI-R1 Maintenance and repair, or removal of infrastructure	Seek amendment	KiwiRail supports the permitted activity status of the maintenance, repair or removal of infrastructure subject to a height standard. KiwiRail seeks broadening of this rule to also apply to the operation of infrastructure as a permitted activity.	Amend as follows: Maintenance, operation and repair, or removal of infrastructure not otherwise addressed by another rule in this chapter
25.	Energy, Infrastructure	EI-R4 Upgrading of above ground network utilities	Support	KiwiRail supports the permitted activity status of upgrading of network utilities such as the rail network, subject to height and proximity standards.	Retain as proposed
26.	Energy, Infrastructure	EI-R5 Vehicle access tracks for network utilities, including ancillary access tracks	Support	KiwiRail supports the permitted activity status of vehicle access tracks for network utilities subject to the track being unsealed and less than 6m in width. KiwiRail's rail network requires ongoing maintenance and repairs to ensure its safe and efficient operations. Accessing often remote parts of the network via access tracks are essential for repair and maintenance activities.	Retain as proposed
27.	Energy, Infrastructure	EI-R7 Temporary network utilities, including generators	Support	KiwiRail supports the permitted activity status of temporary network utilities subject to standards.	Retain as proposed
28.	Energy, Infrastructure	EI-S1 Maximum structure height for network utility structures	Support	KiwiRail supports a higher height standard to the underlying zone.	Retain as proposed
29.	Energy, Infrastructure	EI-S2 Upgrading infrastructure	Support	KiwiRail accepts upgrading infrastructure must be within 5m of the existing alignment or location.	Retain as proposed
30.	Transport	TRAN-O1 Safe, efficient, integrated and sustainable land transport infrastructure	Support	KiwiRail supports the objective for safe, efficient, integrated and sustainable land transport infrastructure.	Retain as proposed
31.	Transport	TRAN-O2 Transport related effects	Support	KiwiRail supports the use of 'avoid, remedy or mitigate' within this objective. The effects of rail infrastructure cannot always be avoided and recognition of this when assessing transport related effects is supported.	Retain as proposed
32.	Transport	TRAN-O3 Adverse effects on land transport infrastructure	Support	KiwiRail supports this policy which seeks to protect land transport infrastructure from incompatible activities.	Retain as proposed
33.	Transport	TRAN-P3 Existing land transport infrastructure	Seek amendment	Policy direction which enables the efficient use of existing land transport infrastructure is supported by KiwiRail. Minor amendment is sought to emphasise that the land transport network should not only be efficient, but also safe.	Amend as follows: Enable the safe and efficient use of existing land transport infrastructure by providing for its operation, maintenance and upgrading.
34.	Transport	TRAN-P4 New land transport infrastructure	Seek amendment	KiwiRail supports policy direction which allows for new land transport infrastructure within sensitive environments/overlays subject to protecting characteristics and values and meeting objectives of the overlay. However, KiwiRail seeks amendment to recognise that, in some instances, there may be a functional or operational need to locate rail infrastructure within a sensitive environmental or overlay. The rail network is linear and avoiding all sensitive areas and overlays is not always possible. The requirement to protect all identified characteristics and values of an overlay is a high threshold. KiwiRail seeks amendment to allow for new land transport infrastructure where there is a demonstrated need for it.	Amend as follows: Only allow new land transport infrastructure: 1. within sensitive environments / overlays, where it can be demonstrated that: a. ~~the~~ adverse effects on identified characteristics and values of the Overlay it is within are avoided, remedied or mitigated ; b. there is a functional or operational need for the land transport infrastructure to be located in the Overlay ; and c. the relevant objectives for the Overlay will be achieved; and 2. in other locations, where it is consistent with or will not compromise achieving the relevant objectives of the zone(s) it is or will be situated.
35.	Transport	TRAN-P6 Effects on land transport infrastructure	Seek amendment	KiwiRail supports policy direction that requires subdivision, use and development to be designed in a way that supports the safe and efficient operation and development of land transport infrastructure. KiwiRail supports policy that seeks to protect the rail corridor from incompatible activities.	Retain as proposed

36.	Transport	TRAN-P9 Non-transport related activities	Neutral	KiwiRail note the policy direction to encourage road and rail corridor to be used for other network utilities and non-transport related activities. Approval of any activities within the rail corridor will be at the discretion of KiwiRail.	
37.	Transport	TRAN-R1 Maintenance of existing land transport infrastructure	Support	KiwiRail supports the permitted activity status of maintaining existing land transport infrastructure.	Retain as proposed
38.	Transport	TRAN-R2 Upgrading any existing land transport infrastructure	Support	KiwiRail supports the permitted activity status of upgrading any existing land transport infrastructure subject the upgrading being within 5m of the outer edge of the outer edge of an existing railway line.	Retain as proposed
39.	Transport	TRAN-R3 New vehicle access way TRAN-R4 New Vehicle Crossings	Support	KiwiRail supports the permitted activity status of new vehicle access ways and crossings, subject to compliance with TRAN-S9.	Retain as proposed
40.	Transport	TRAN-R11 New private roads, roads and other land transport infrastructure outside of existing road or rail corridors	Support	KiwiRail notes the discretionary activity status for other land transport infrastructure outside of rail corridors.	Retain as proposed
41.	Transport	TRAN-S9 Approach sight triangles for public road/rail level crossings	Seek amendment	Public safety at level crossings is crucial, and protection of sight lines and vehicle crossing setbacks are a key means of ensuring this. KiwiRail therefore support the inclusion of a standard for sight triangles for railway level crossings. KiwiRail seeks amendment to assist with the clear interpretation and implementation of this standard.	TRAN-S9 <i>Rail level crossing sightlines and vehicle crossing setbacks</i> ~~Approach sight triangles for public road/rail level crossings~~ 1. Any vehicle access way and vehicle crossing must not cross a railway line and any vehicle crossing must not be located less than 30 metres from a rail level crossing. <i>The 30 metres shall be measured from the edge of the closest rail track to the edge of seal on the proposed vehicle access point.</i> 2. Any building, structure, ~~or~~ planting <i>or other visual obstruction</i> must not be located within the ~~shaded~~ <i>restart or approach sightline</i> areas <i>of a rail level crossing as shown in the shaded areas</i> ~~identified in Figure 7 or Figure 8 below.~~ ~~Figure 7 – level crossings controlled by Stop or Give Way control~~ <i>Approach sight triangles for level crossings with Give Way signs</i> [...]
42.	Natural Hazards	NH-O2 Regionally Significant Infrastructure NH-P5 Subdivision and Regionally significant Infrastructure in Liquefaction Awareness Areas NH-P6 Subdivision and Regionally Significant Infrastructure in Earthquake Fault Awareness Areas NH-P11 Regionally Significant	Support	Rail infrastructure is linear and is not easily relocated. KiwiRail supports the objective and policies that recognises that in some instances, regionally significant infrastructure is required to be located within areas of hazard risk.	Retain as proposed

		Infrastructure in Natural Hazard Areas			
43.	Natural Hazards	NH- R5 Regionally Significant Infrastructure - maintenance, replacement and upgrading	Support	KiwiRail supports the permitted activity status of the maintenance, replacement and upgrading of regionally significant infrastructure, subject to standards.	Retain as proposed
44.	Natural Hazards	NH-R6 Regionally Significant Infrastructure – New	Seek amendment	This rule includes an exception for structures within a road corridor. KiwiRail seeks broadening of this exception to include structures within a rail corridor. There are cases where rail structures are required within flood assessment areas due to their functional or operational need to be located there. KiwiRail seeks that these structures be excluded from NH-R6.1 and NH-R6.2.	Amend as follows: Regionally Significant Infrastructure – New NH-R6.1 does not apply if: - the infrastructure is below ground; or - above ground infrastructure is less than 10m2 and is not located within a high hazard area as determined under NH-S1; or - the structure is located within a road or rail corridor. [...] 2 Overland flow paths identified in a Flood Risk Certificate issued in accordance with NH-S1 Activity status: Permitted Where: PER-1 The infrastructure is below ground; or PER-2 Above ground infrastructure is less than 10m2; or PER-3 The infrastructure is located within a road or rail corridor.
45.	Historic Heritage	Objective and policy	New	There is one heritage item located within the rail corridor and KiwiRail seeks amendment to this chapter to provide a linkage to objective EI-O2 and policy EI-P2 to ensure regionally significant infrastructure can be located in sensitive environments (such as heritage settings) where there is a functional or operational need to be in that location.	Amend chapter to provide for regionally significant infrastructure in sensitive areas.
46.	Notable Trees	TREES-P2 Maintenance of Notable Trees	Seek amendment	There is one grouping of notable trees located within the rail corridor. KiwiRail seeks policy which enables maintenance to ensure the safe and efficient operation of regionally significant infrastructure.	Amend as follows: Enable the minor pruning and trimming of branches where the works will: - retain or improve the health of the Notable Tree; and - allow the regular maintenance of the Notable Tree; and ensure the safe and efficient operation of regionally significant infrastructure; and [...]
47.	Notable Trees	TREES-P3 New activity and development within root protection area of Notable Trees	Support	KiwiRail supports recognition of the functional need of infrastructure to be located within the root protection area of a notable tree in some instances.	Retain as proposed
48.	Notable Trees	TREES-P4 Removal of Notable Trees	Support	KiwiRail supports that there may be instances where the removal of a notable tree is necessary to maintain regionally significant infrastructure.	Retain as proposed
49.	Sites and Areas of	Objective and policy	New	There are sites and areas of significance to Māori located within the rail corridor and KiwiRail seeks amendment to this chapter to provide a linkage to objective EI-O2 and policy EI-P2 to ensure regionally significant infrastructure can be located in	Amend chapter to provide for regionally significant infrastructure in sensitive areas.

	Significance to Māori			sensitive environments (such as SASM) where there is a functional or operational need to be in that location.	
50.	Ecosystems and Indigenous Biodiversity	ECO-P2 Appropriate indigenous vegetation clearance in significant natural areas	Seek amendment	There are SNA's that extend into the rail corridor. KiwiRail seeks amendment to broaden clause 5. of this policy so that it applies to all regionally significant infrastructure that serves the district, not only the national grid and public roads. Vegetation clearance is often required to ensure the rail network can operate safely and efficiently and can be maintained over time.	Amend as follows: Provide for the clearance of indigenous vegetation in Significant Natural Areas where it is appropriate for health and wellbeing or customary reasons, by enabling clearance: [...] 5. for the operation, maintenance or repair of the National Grid, <i>rail network</i> and public roads.
51.	Ecosystems and Indigenous Biodiversity	ECO-P5 Protection of Significant Natural Areas	Support	KiwiRail supports the linkage to EI-P2 within this policy which allows for regionally significant infrastructure where adverse effects are managed.	Retain as proposed
52.	Ecosystems and Indigenous Biodiversity	ECO-R1 Clearance of indigenous vegetation	Seek amendment	Clause 1 within SNA – KiwiRail seeks amendment to ensure vegetation clearance for the safe and efficient operation of the rail corridor is provided for as a permitted activity. Clause 2 - KiwiRail supports the permitted activity status of vegetation clearance within 2m, and for the purpose, of maintenance, repair or replacement of existing lawfully established utilities, including the rail corridor.	Amend as follows: New clause <i>PER-6</i> <i>The vegetation clearance is carried out to maintain the safe and efficient operation of the rail network.</i>
53.	Ecosystems and Indigenous Biodiversity	ECO-R5 Earthworks in a Significant Natural Area	Support	KiwiRail supports the restricted discretionary activity status for earthworks within 2m, and for the purpose, of maintenance, repair or replacement of existing lawfully established utilities, including the rail corridor.	Retain as proposed
54.	Natural Character	NATC-P5 Anticipated activities in riparian margins	Seek amendment	The rail network includes bridges over waterways within the Timaru district. KiwiRail seeks recognition of bridge works as an anticipated activity in riparian margins.	Amend as follows: Provide for activities in riparian margins which are appropriate for safety, enhancement, wellbeing or customary reasons, by enabling: [...] 5. earthworks that are for the purpose of maintenance and repair of existing fences, tracks, <i>the rail network</i> , roads or for limited new fencing and tracks.
55.	Natural Character	NATC-R1 Vegetation clearance	Seek amendment	KiwiRail seeks that vegetation clearance for the operation, maintenance, repair or upgrade of the rail corridor within riparian margins be provided for as a permitted activity.	Amend as follows: <i>PER-7</i> <i>The vegetation clearance is for the operation, maintenance or repair of the rail network.</i>
56.	Natural Character	NATC-R3 Earthworks	Seek amendment	KiwiRail seeks that earthworks for the operation, maintenance, repair or upgrade of the rail corridor within riparian margins be provided for as a permitted activity.	Amend as follows: <i>PER-5</i> <i>The earthworks are required for the operation, maintenance or repair of the rail network.</i> 2 [...] <i>PER-3</i> <i>The earthworks are required for the operation, maintenance or repair of the rail network.</i>
57.	Subdivision	SUB-O1 General subdivision design	Seek amendment	KiwiRail supports the objective to manage adverse effects on regionally significant infrastructure. However, KiwiRail seeks strengthening of this objective to avoid adverse effects. The rail network interacts with almost all zones within Timaru. KiwiRail seeks an objective that identifies that subdivision in any zone could result in the location of a noise sensitive use adjacent to the rail corridor. If not managed effectively at the subdivision stage, this can result in reverse sensitivity effects on the operational corridor which threatens the effective function and operation of the existing rail network.	Amend as follows: New subdivisions will: [...] 8. ~~have minimal~~ <i>avoid</i> adverse effects on regionally significant infrastructure or intensive primary production; and [...]
58.	Subdivision	SUB-P5 Reverse Sensitivity	Seek amendment	KiwiRail supports the intent of this policy but seeks minor amendment to clarify that it is the safe and efficient operation of regionally significant infrastructure that requires protection.	Amend as follows: Only allow subdivision that does not result in reverse sensitivity effects that would compromise the <i>safe and efficient</i> operation of regionally

					significant infrastructure/facilities and legally established intensive primary production.
59.	Subdivision	SUB-P6 Infrastructure	Support	Stormwater discharge onto the rail corridor has the potential to damage the rail network and disrupt the safe and efficient function of the railway. KiwiRail supports policy direction to ensure that stormwater does not result in increased flooding and erosion risk.	Retain as proposed
60.	Subdivision	SUB-P9 Residential subdivision	Seek amendment	KiwiRail seeks the strengthening of clause 7. to avoid conflict and adverse effects on adjoining land uses including the rail corridor.	Amend as follows: Require residential subdivision to accord with the purpose, character and qualities of the zone, and maintain and enhance amenity values, by ensuring: [...] 7. Adverse effects, including reverse sensitivity effects from ~~conflict between~~ residential activities on and adjoining land uses are avoided ~~minimised~~ .
61.	Subdivision	SUB-R1 Boundary adjustment	Seek amendment	KiwiRail seeks amendment to the matters of control to clearly outline what adverse effects are to be managed.	Amend as follows: Matters of control are restricted to: [...] 13. measures to manage adverse effects, including reverse sensitivity effects, on existing land uses.
62.	Subdivision	SUB-R3 Subdivision not listed in SUB-R1 and SUB-R2	Seek amendment	KiwiRail seeks amendment to the matters of control to clearly outline what adverse effects are to be managed.	Amend as follows: Matters of control are restricted to: [...] 13. measures to manage adverse effects, including reverse sensitivity effects, on existing land uses.
63.	Subdivision	SUB-S6 Vehicular Access	Support	KiwiRail supports the requirement to comply with the Transport Chapter Standards and that vehicular access must not be across a railway line.	Retain as proposed
64.	Coastal Environment	Objective	New	Parts of the rail corridor are within the Coastal Environment and KiwiRail seeks amendment to this chapter to provide a linkage to objective EI-O2 to ensure regionally significant infrastructure can be located in sensitive environments (such as the coastal environment) where there is a functional or operational need to be in that location.	Amend chapter to provide for regionally significant infrastructure in sensitive areas.
65.	Coastal Environment	CE-P13 Regionally Significant Infrastructure in Coastal Hazard Areas	Support	KiwiRail supports policy that recognises there is, in some instances, a functional or operational need for infrastructure to be located in the coastal environment.	Retain as proposed
66.	Coastal Environment	CE- R7 Regionally Significant Infrastructure - maintenance and upgrade	Support	KiwiRail supports the permitted activity status of the maintenance and upgrade of regionally significant infrastructure within coastal overlays, subject to standards.	Retain as proposed
67.	Coastal Environment	CE- R8 Regionally Significant Infrastructure - New	Support	KiwiRail notes the discretionary activity status of new regionally significant infrastructure within the Coastal High Natural Character Area Overlay.	Retain as proposed
68.	Earthworks	EW-P1 Benefits and necessity	Support	KiwiRail supports recognition of the necessity of earthworks for the provision of utilities.	Retain as proposed
69.	Earthworks	EW-P4 Infrastructure	Support	KiwiRail supports protection of regionally significant infrastructure from the effects of earthworks.	Retain as proposed
70.	Earthworks	EW-R1 Earthworks	Support	KiwiRail supports the exclusion for infrastructure permitted in the Energy, Infrastructure and Transport chapters of the Plan.	Retain as proposed
71.	Noise	NOISE-O2 Reverse sensitivity	Support	KiwiRail supports recognition of the need to protect railway lines from reverse sensitivity effects from noise sensitive activities.	Retain as proposed
72.	Noise	NOISE-P5 Reverse sensitivity	Seek amendment	KiwiRail supports the recognition of higher noise environments within close proximity to a railway line and the need to require noise sensitive activities to be located and designed to minimise adverse effects on the health and amenity of occupants. KiwiRail seeks amendment to identify that noise and vibration effects are felt within 100m of a railway line and this should be specified in policy. KiwiRail considers clauses 1-4 are not required and would weaken the intent of the policy to meet NOISE-O2 and protect railway lines from reverse sensitivity effects.	Amend as follows: Require noise sensitive activities located in higher noise environments to be located and designed so as to minimise adverse effects on the amenity values and health and safety of occupants and minimise sleep disturbance from noise., while taking into account: ~~1. the type of noise generating activity; and~~ ~~2. other noise sources in the area; and~~ ~~3. the nature and occupancy of the noise sensitive activity; and~~

					4. ~~mitigation measures, including acoustic insulation, screening and topography.~~ For the purpose of this Policy, higher noise environments include: 1. Commercial and Mixed Use Zones; and 2. Residential zones in close proximity to any General industrial zone and areas within the Port Noise Outer Control Boundary and within that part of the Medium Density Residential Zone and City Centre Zone located within the Port Noise Inner Control Boundary; and 3. Locations within 100m of a ~~in close proximity to~~ a State Highway or the railway line.
73.	Noise	NOISE-R9 Any new building for use by a noise sensitive activity and alterations to existing buildings for use by a noise sensitive activity	Seek amendment	KiwiRail seeks the amendment and inclusion of noise and vibration controls requiring acoustic insulation and ventilation to be installed in new (or altered) sensitive uses within 100m of the railway corridor. Noise and vibration from rail activities can potentially give rise to adverse health and amenity effects on noise sensitive activities located nearby if not properly addressed and provided for. The amended standard will provide options for developers in achieving an appropriate level of amenity for residents who live within 100m of the rail corridor. The rail network is a 24 hour a day, seven day a week operation, and the frequency, length and weight of trains can change without community consultation. Noise and vibration can have an impact on the internal amenity of a building. Appropriate mitigation, installed to ensure that the health and wellbeing of those living and working near to the rail network are not adversely affected, is pivotal to ensure that undue restrictions are not placed on the operation of the rail network. Rail activities not only generate noise, but also vibration effects. KiwiRail seek amendment to require acoustic and vibration treatment for sensitive activities within identified corridors adjacent to the railway networks to ensure an appropriate level of internal amenity is achieved in buildings adjacent to the rail corridor. The proposed standard includes the requirement for feedback form KiwiRail. As the railway and network utility operator, KiwiRail's feedback about any effects of non-compliance is required to ensure that any proposed mitigation is appropriate. KiwiRail also seeks controls within 60m of the railway corridor, for buildings containing new (or altered) sensitive uses to be constructed to manage the impacts of vibration. These controls are important to ensure new development is undertaken in a way that achieves a healthy living environment for people locating within proximity to the railway corridor, minimising the potential for complaints about the effects of the railway network.	Amend as follows: Any site within 100m ~~40m~~ of the railway line Activity status: Permitted Where: PER-1 The building or alteration to an existing building is acoustically insulated and ventilated in accordance with: 1. NOISE-S3 and NOISE-S4; and 2. the acoustic insulation must be assessed in accordance with ISO 717-1:2020 Acoustics — Rating of sound insulation in buildings and of building elements — Part 1: Airborne sound insulation, excluding acoustic insulation installed to address rail noise; or PER-2 An acoustic design certificate signed by a suitably qualified acoustic engineer demonstrates either: a. the level of noise incident on the most exposed part of the exterior of any habitable room can be shown under a reasonable maximum use scenario to not exceed the following noise limits at all points 1.5m above ground level, and any part of the floor levels above ground: i. less than 55 dB LAeq(1h) for rail noise; or ii. Less than 57 dB LAeq(1h) for road noise; or iii. Less than 57 dB LAeq(1h) for port noise; or b. the building is at least 50 ~~20~~ metres from all roads subject to the standard and/or the railway line and there is a solid building, fence, wall or landform that completely blocks the line-of-sight from all parts of all windows and doors to all parts of any road surface subject to the standard, or all points above 3.8 metres for railway track. PER-3 Any new building or alteration to existing building containing an activity sensitive to noise, closer than 60 metres from the boundary of a railway network is designed, constructed and maintained in accordance with NOISE-S7.

74.	Noise	NOISE-S3 Acoustic insulation	Seek amendment	KiwiRail acknowledge the intent of NOISE-S3 to require acoustic insulation for new habitable rooms within proximity to noise generating activities such as rail activities. KiwiRail supports the intent of this standard but seeks amendment to achieve an efficient approach specific to rail noise. For fixed noise sources such as the rail corridor, the method outlined in NOISE-S3 1. is inefficient. KiwiRail considers that for rail noise, the requirement to achieve a minimum internal noise level for habitable rooms allows for a more flexible, room-specific approach based on exposure to the noise source. Alternatively, the external to internal noise reduction (which takes a more blanket approach) could result in the over-designing of buildings and under-designing of more exposed buildings. KiwiRail seeks amendment to provide a specific rule clause for habitable rooms in a new building or altered building within 100m of the rail corridor.	Amend as follows: NOISE-S3 1. ~~Within 40m of a railway line~~ Add new rule clause NOISE-S3 3. <i>Within 100m of a railway line</i> <i>Any habitable room in a new building used for a noise sensitive activity, or an alteration to an existing building that changes its use to a noise sensitive activity:</i> <i>is designed, constructed and maintained to achieve indoor noise levels resulting from the railway not exceeding 35 dB LAeq(1h); or</i> <i>is a single-storey framed residential building with habitable rooms designed, constructed and maintained in accordance with the construction schedule in Table 25 - Minimum construction requirements for external building elements of habitable rooms to achieve an advanced level of acoustic insulation.</i> <i>A report is submitted to the council demonstrating compliance with the above prior to the construction or alteration of any building containing an activity sensitive to noise.</i> Matters of discretion are restricted to: <i>Whether the activity sensitive to noise could be located further from the railway network.</i> <i>The extent to which the noise criteria are achieved and the effects of any non-compliance.</i> <i>The character of, and degree of, amenity provided by the existing environment and proposed activity.</i> <i>The outcome of any consultation with KiwiRail.</i> Notification: <i>Application for resource consent under this rule will be decided without public notification. KiwiRail are likely to be the only affected person determined in accordance with section 95B of the Resource Management Act 1991.</i>
75.	Noise	NOISE-S4 Ventilation requirements	Seek amendment	KiwiRail supports a standard for mechanical ventilation. Where windows must be closed in habitable rooms to protect occupants from noise effects, mechanical ventilation is required to achieve an appropriate level of amenity for occupants. KiwiRail seeks amendments to ensure that the standard aligns with other relief sought by KiwiRail and to ensure ventilation provides controllable cooling and heating to maintain an appropriate room temperature. In addition, the matters of discretion require amendment to relate specifically to the required mechanical ventilation and compliance with the standard only. Matters 1, 3 and 4 are not considered appropriate when the standard is very clear on what is and isn't acceptable.	Amend as follows: - The ~~requirements of minimum external to internal noise reduction levels in NOISE-S3~~ must be achieved at the same time as the ventilation requirements of the New Zealand Building Code. An alternative means of ventilation must be provided within any <i>habitable room study or bedroom</i> unless an acoustic design certificate signed by a suitably qualified acoustic engineer is provided that states the design of any bedroom or any study as proposed will comply with the NOISE-S3 acoustic insulation standards with windows open. - Ventilation systems where installed must: ~~generate sound levels not exceeding:~~ <i>provide cooling and heating that is controllable by the occupant and can maintain the inside temperature between 18°C and 25°C;</i> <i>not generate more than 35 dB LAeq(30s) when measured 1 metre away from any grille or diffuser; and</i> <i>provide an adjustable airflow rate of up to at least 6 air changes per hour.</i> Matters of discretion are restricted to: ~~effects on the ability of existing or permitted activities to operate or establish without undue constraint; and~~

					2. the effects of the non-compliance; and ~~3. the ability to provide the appropriate levels of ventilation through other means; and~~ 4. ~~the amenity of present and future residents of the site.~~
3.	Noise	NOISE-S7	New	As above, KiwiRail seeks a new standard relating to indoor railway vibration. This standard is designed to protect the rail corridor from reverse sensitivity effects and provide an appropriate level of amenity for occupants that neighbour the rail corridor.	Insert as follows: <i>NOISE-S7 Indoor railway vibration</i> <i>1. Any new buildings or alterations to existing buildings containing an activity sensitive to noise, closer than 60 metres from the boundary of a railway network:</i> <i>a) is designed, constructed and maintained to achieve rail vibration levels not exceeding 0.3 mm/s vw,95 or</i> <i>b) is a single-storey framed residential building with:</i> <i>I. a constant level floor slab on a full-surface vibration isolation bearing with natural frequency not exceeding 10 Hz, installed in accordance with the supplier's instructions and recommendations; and</i> <i>II. ii. vibration isolation separating the sides of the floor slab from the ground; and</i> <i>III. no rigid connections between the building and the ground.</i> <i>2. A report is submitted to the council demonstrating compliance with the above prior to the construction or alteration of any building containing an activity sensitive to vibration.</i> <i>Matters of discretion are restricted to:</i> <i>1. Whether the activity sensitive to vibration could be located further from the railway network.</i> <i>2. The extent to which the vibration criteria are achieved and the effects of any non-compliance.</i> <i>3. The character of, and degree of, amenity provided by the existing environment and proposed activity.</i> <i>4. The outcome of any consultation with KiwiRail.</i> <i>Notification:</i> <i>Application for resource consent under this rule will be decided without public notification. KiwiRail are likely to be the only affected person determined in accordance with section 95B of the Resource Management Act 1991.</i>
4.	Noise	Table 25 Minimum construction requirements for external building elements of habitable rooms to achieve an advanced level of acoustic insulation	Support	KiwiRail supports Table 25 as proposed. This Table aligns with KiwiRail's model noise standard.	Retain as proposed
5.	Sign	SIGN-P2 Managing road safety	Support	KiwiRail supports policy direction that ensures signs do not adversely affect traffic safety, particularly at rail level crossings.	Retain as proposed
6.	Sign	SIGN-S1 Traffic safety	Support	KiwiRail support the requirement for signs to not be erected in a manner that obstructs any intersection.	Retain as proposed
7.	Temporary activities	TEMP-R1 Temporary buildings and structures ancillary to construction work	Support	Seek amendment	KiwiRail seeks amendment to this provision to allow for the establishment of temporary works sites to carry out works to the rail corridor, which may be adjacent to transport or other infrastructure. For safety reasons it is not always possible to work from within a transport corridor. A discretionary status where a worksite is proposed adjacent to the corridor will not facilitate critical infrastructure works.

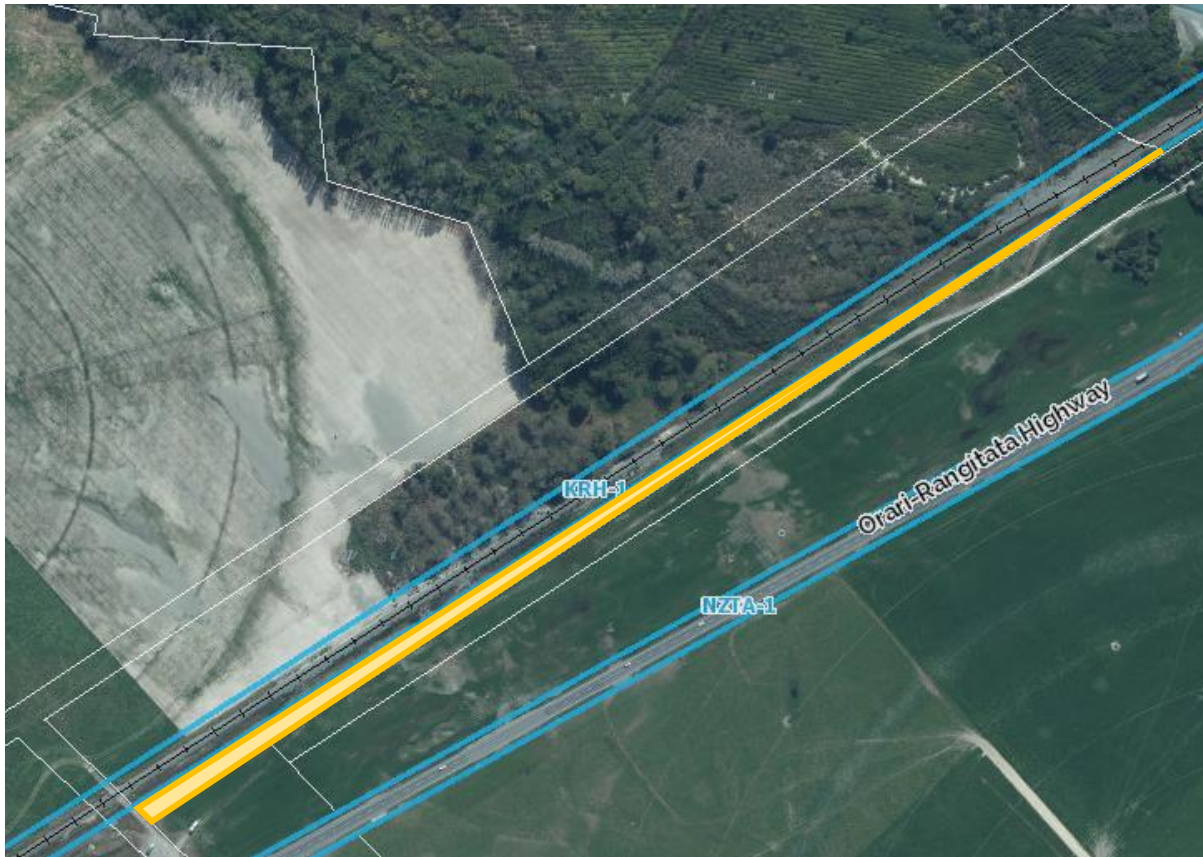
8.	Multiple	All zones adjacent to rail corridor including: GRZ MRZ GRUZ SETZ LFRZ MUZ TCZ CCZ GIZ NOSZ OSZ SARZ MPZ PORTZ	New rules	KiwiRail note there is variation in boundary setback rules in zone chapters in the Proposed Plan. There are zones with no boundary setback requirements and others with road, zone and internal boundary setbacks. For health and safety reasons, KiwiRail seek a setback for structures from the rail corridor boundary. While KiwiRail do not oppose development on adjacent sites, ensuring the ability to access and maintain structures without requiring access to rail land is important. KiwiRail seeks a setback requirement of 5m from the railway corridor for new buildings or structures on sites adjoining the railway corridor. This is to ensure that people can use and maintain their land and buildings safely without needing to extend out into the railway corridor, minimising the risks of physical interference on railway operations and health and safety hazards on these residents. A 5m setback from the rail corridor is appropriate in providing for vehicular access to the backs of buildings (e.g. a cherry picker) and allowing for scaffolding to be erected safely. This in turn fosters visual amenity, as lineside properties can be regularly maintained. It provides for the unhindered operation of buildings, including higher rise structures and for the safer use of outdoor deck areas at height. KiwiRail seeks a 5m building setback in all zones which adjoin the rail corridor as proposed in our relief sought. This includes new matters of discretion when there is a non-compliance with the rail boundary setback rule.	Amend as follows: New rule: Rail corridor setback Activity Status Permitted Where: No building or structure may be located within 5m of any site boundary with the rail corridor. Activity status when compliance not achieved: RDIS New rule: Buildings or structures not meeting Rule XXX-RX Activity Status Restricted Discretionary Where: The building is setback less than 5m from the rail corridor boundary. Discretion is restricted to: the location and design of the building as it relates to the ability to safely use, access and maintain buildings without requiring access on, above or over the rail corridor; and the safe and efficient operation of the rail network.
9.	Designations	KRH – KiwiRail Holdings Limited	Support	KiwiRail supports the wording in the designations chapter as notified. Minor changes are reflected to the mapped extent of the designation as outlined below.	Retain as proposed
Part 4 – Appendices and schedules					
10.	Schedule 5B – Notable Group of Trees	TREESG-11	Oppose	The protection of these trees would not be conducive to the designation of the Main South Line for 'railway purposes'. Maintaining vegetation within the rail corridor is essential to provide for appropriate train clearances and ensure the rail network can operate safely and efficiently. KiwiRail seek to preserve trees and mature vegetation where possible but object to the scheduling of these trees which are owned by KiwiRail. KiwiRail seeks the removal of the tree grouping from the schedule of notable trees.	Remove TREESG-11 from Schedule 5B.
11.	Schedule 7 – Significant Natural Areas	SNA-116b Rangitata Island SNA-823 Penguin habitat SNA-851 Ōpihi River SNA-852 Ōrāri River SNA-853 Rangitata River	Support	KiwiRail note there are SNA's that extend within the rail corridor. KiwiRail accept the river SNA's (SNA-851, SNA-852 and SNA-853) subject to a minor change to KiwiRail's designation to ensure rail bridges are designated over all rivers in the Proposed Plan (see submission point 12 below). SNA-823 extends into the designated corridor however, this area does not contain track infrastructure and is currently leased to Timaru District Council for the coastal walkway and lighthouse site. KiwiRail accepts this scheduled site noting vegetation clearance for utilities within SNA's is provided for as a permitted activity and earthworks is provided for as a restricted discretionary activity. SNA-116b extends into the margins of the rail corridor and does not currently include existing track infrastructure. KiwiRail accepts this scheduled site noting vegetation clearance for utilities within SNA's is provided for as a permitted activity and earthworks is provided for as a restricted discretionary activity.	Retain as proposed
Planning maps					
12.	All maps containing railway designation	Designation KRH1	Seek amendment	On 23 July 2018 KiwiRail submitted a clause 4(1) notice for the rollover of KiwiRail designations with corrections and a GIS shapefile to Council. KiwiRail acknowledge that the submitted shapefile contained proposed modifications that were not identified or assessed in the clause 4(1) notice. The Proposed Plan as notified included the rollover designation with minor corrections	Amend planning maps as detailed in Schedule A.

				only. Corrections were limited to merging all designations into one, updating the purpose, removal of legal description and adding location/address. KiwiRail have reviewed the planning maps and seek minor changes to the proposed planning maps and KiwiRail designation in accordance with Schedule 1, clause 16 of the RMA. KiwiRail note that these minor changes were not notified as part of the Proposed Plan and provide justification for their inclusion post-notification below. Case law has established that the test for whether an amendment to a proposed plan is of "minor effect" will depend on whether the amendment affects (prejudicially or beneficially) the rights of a member of public, or whether the amendment is "merely neutral". The Courts have found that clause 16 is not intended to avoid the rights of public participation in the RMA by permitting changes to the information in a plan where had that information been present in the proposed plan, it might have drawn a submission. Accordingly, if the effect of an amendment to a proposed plan will be neutral, a local authority is permitted to make that amendment under clause 16(2) (ie without going through the full submission, hearing and appeals process for changes to a plan under the remainder of Schedule 1). KiwiRail have assessed all proposed minor changes in Schedule A attached. Changes include: - Changes to the alignment of the designation over the rail corridor as a result of technology improvements; and - the inclusion of minor gaps in a designation on KiwiRail owned land, so that the designation alignment more accurately reflects the alignment of KiwiRail's assets within the rail corridor. The above changes are considered to have a neutral effect on the rights of a member of public and KiwiRail seeks that these changes be accepted by Council as a minor change. <u>Please note:</u> The inclusion of KiwiRail land at the following locations has been identified as a modification to the designation and KiwiRail will submit application(s) for alteration to the Operative Plan KiwiRail designations in accordance with s181 of the RMA in due course. - Temuka Yard - Washdyke siding - Timaru Yard	

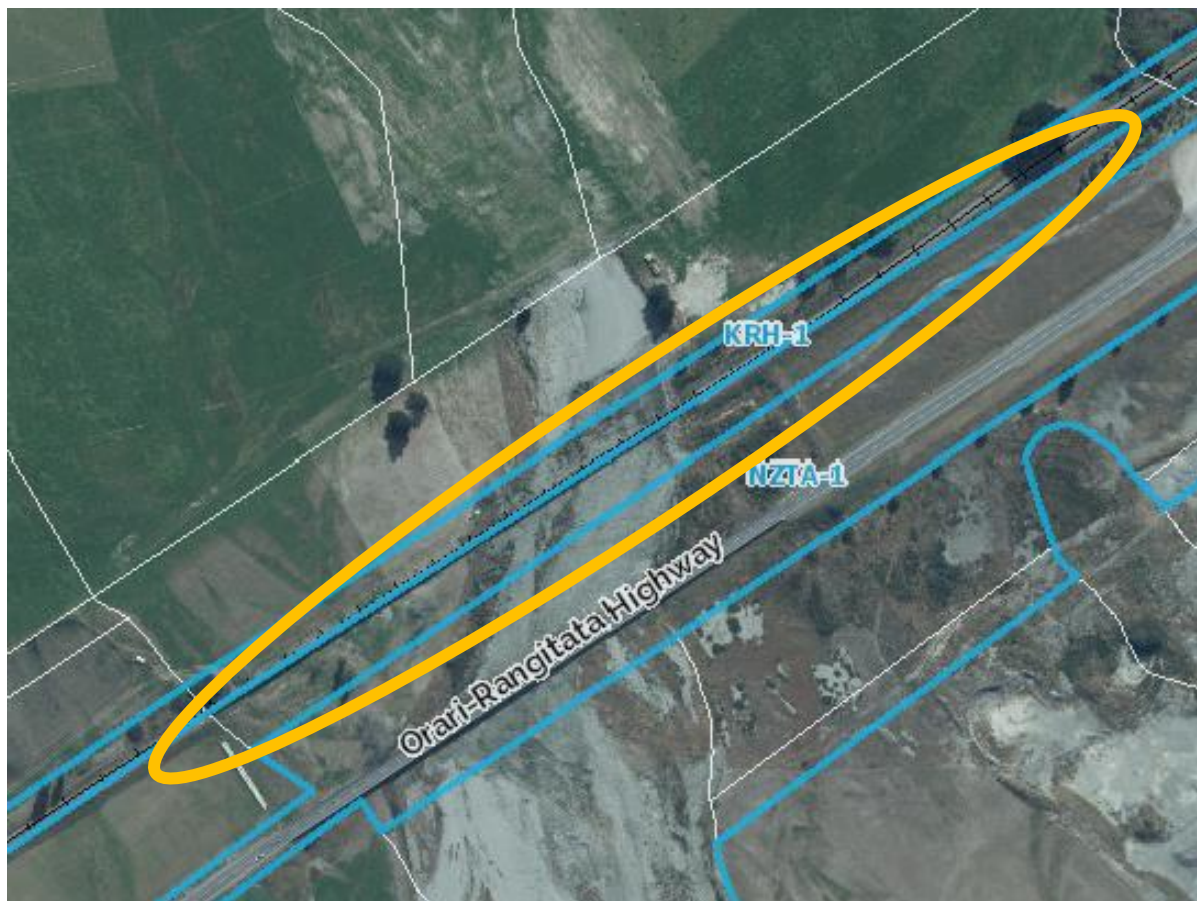
SCHEDULE A - Proposed Timaru District Plan – KRH-1 Minor Changes (North to South)



Minor change sought (Sch 1, cl 16):	Include full extent of existing rail asset Bridge 57, Main South Line which extends over the Rangitata River. Area to be included shown as orange shape above. The notified designation boundary is shown in blue.
Land ownership (LINZ):	Parcel – Railway purposes NZ Gazette 1952 p 1632
Assessment:	The land is currently used and gazette for Railway Purposes. The designation should be corrected to reflect historic and current land use, and ownership. The land to the north west of the amended designation is listed for Railway Purposes in NZ Gazette 1952 p 1632. The land to the south east is listed as Land Declared Road New Zealand Gazette 2021 In 2541 Vested in the Crown. Waka Kotahi's State Highway bridge is setback from Bridge 57. KiwiRail considers that the inclusion of the bridge assets is not substantive, is deemed to be minor and will not be prejudicial to any other parties.



Minor change sought (Sch 1, cl 16):	Include KiwiRail land to the immediate south west of the railway tracks (shown in orange shape above). The notified designation boundary is shown in blue.
Land ownership (LINZ):	Government Purposes (Railway) NZ Gazette 1888 p 50
Assessment:	The land is currently leased and is administered by KiwiRail. The designation should be changed to align with the gazette railway purpose. Stormwater management adjacent to the operative railway line is crucial for rail operations. Low lying grassed areas adjacent to the railway tracks are important for preventing ponding in and around the track infrastructure. The land to the north west is currently designated rail land and the land to the south east is identified as a paper road currently used as a farm track. Given the lease agreement, it is considered that the leasee and adjoining landowners understand that the land is owned and administered by KiwiRail. KiwiRail considers that the inclusion of rail and is not substantive, is deemed to be minor and will not be prejudicial to any other parties.



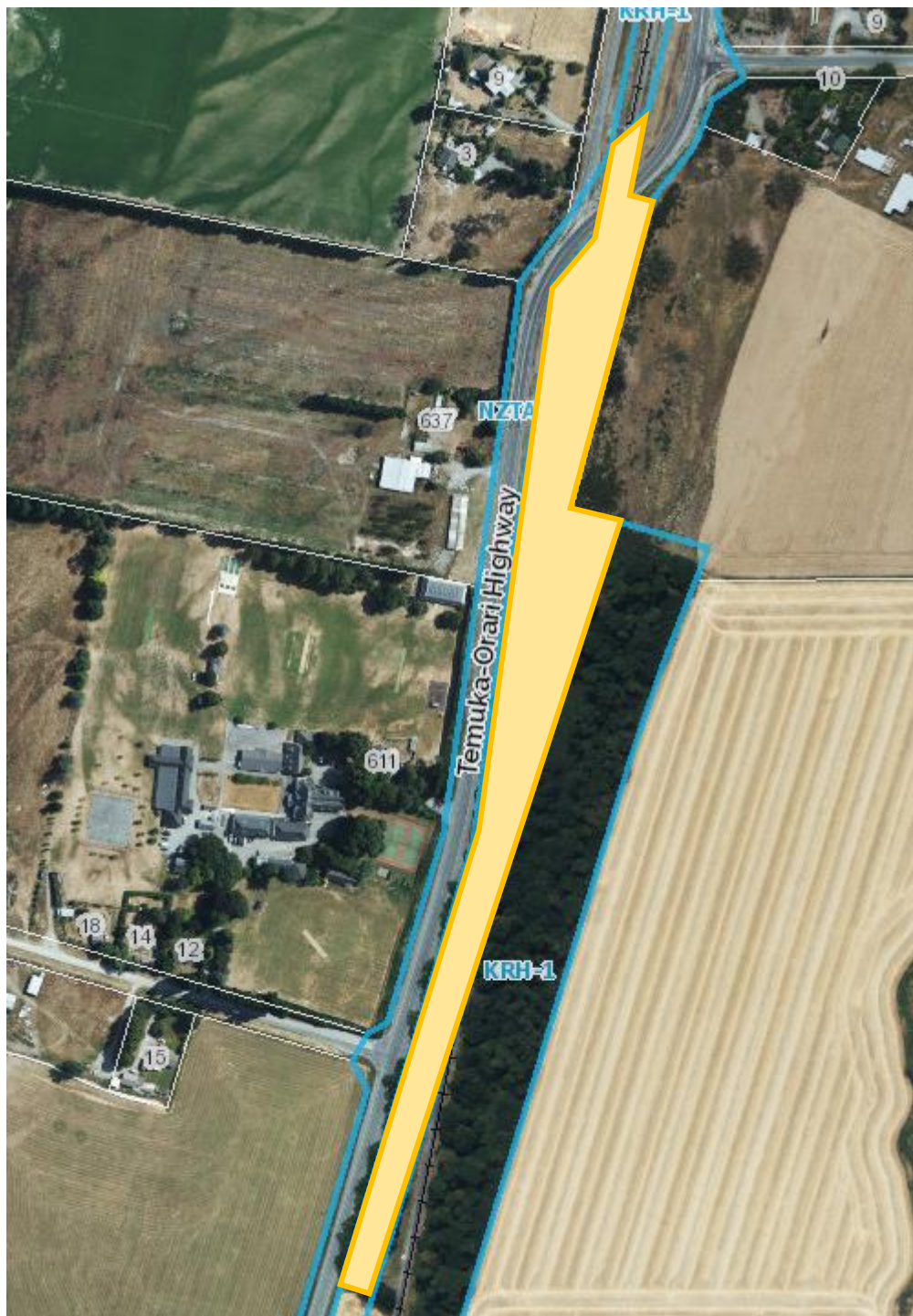
Minor change sought (Sch 1, cl 16):	Realign designation boundaries to accurately follow curvature of railway within orange circle above. The notified designation boundary is shown in blue.
Land ownership (LINZ):	Parcel – Railway NZ Gazette 1952 p 1632
Assessment:	The land is currently used for Railway Purposes and is administered by KiwiRail. The designation should be corrected to reflect current land use and ownership. The land to the north and south of the amended boundary is listed for Railway Purposes in NZ Gazette 1952 p 1632. There is no change proposed to a boundary shared with a third party. The change to the contour of the line to match the rail corridor is not substantive, is deemed to be minor and will not be prejudicial to any other parties.



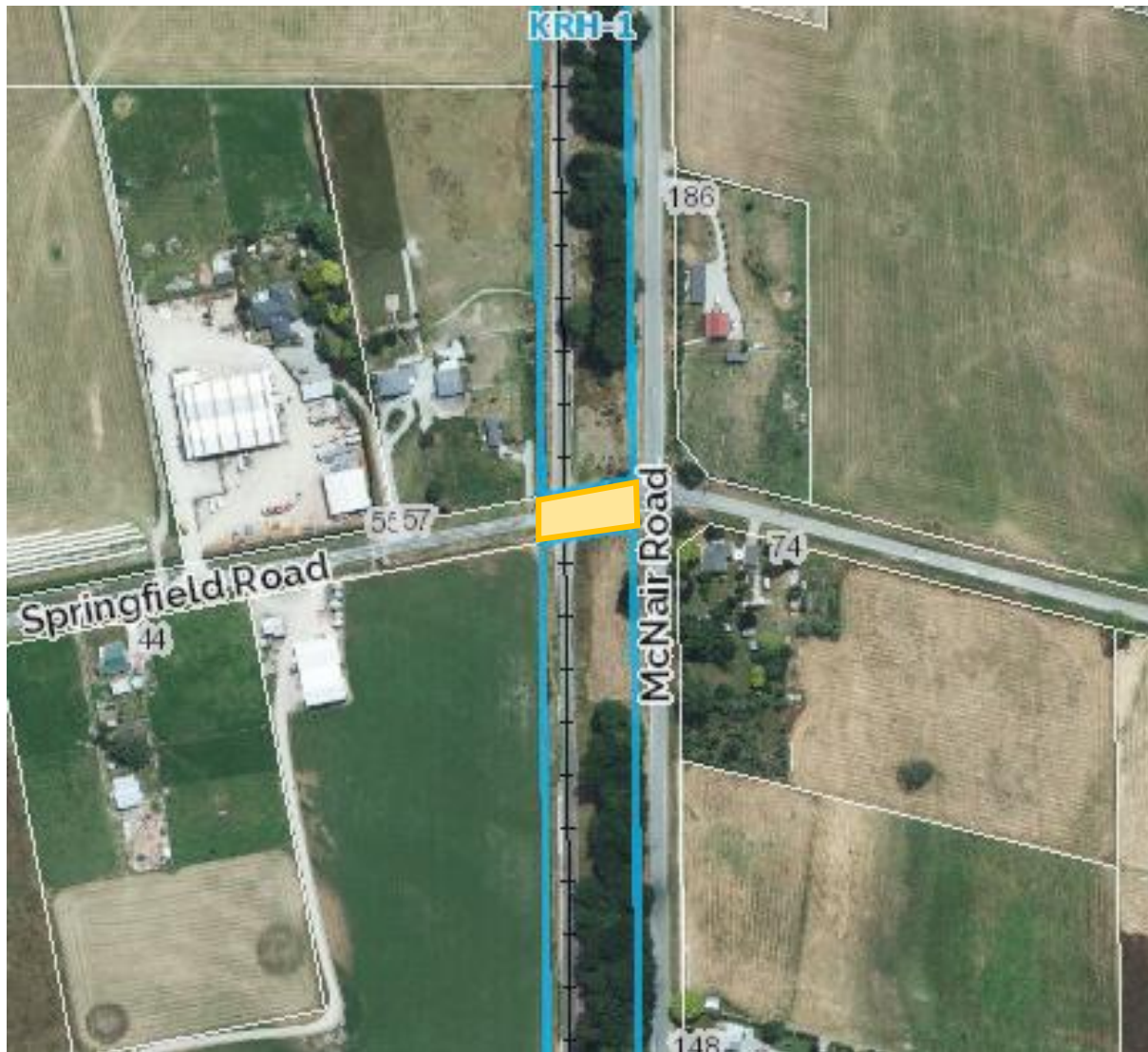
Minor change sought (Sch 1, cl 16):	Include full extent of existing rail asset Bridge 67, Main South Line which extends over the Orari River. Area to be included shown as orange shape above. The notified designation boundary is shown in blue.
Land ownership (LINZ):	Hydro parcel
Assessment:	The land is currently used for Railway Purposes and the designation should reflect this. KiwiRail accepts a narrower width shapefile over the hydro parcel to cover the bridge and piers below only. It is important to include all existing rail assets within district plans to identify existing infrastructure and illustrate the linear nature of the rail network. This is the accepted approach taken with other councils throughout New Zealand. The hydro parcel to the east and west of the rail bridge is not in private ownership. Therefore, the change to include the existing bridge asset is deemed to be minor and will not be prejudicial to any other parties.



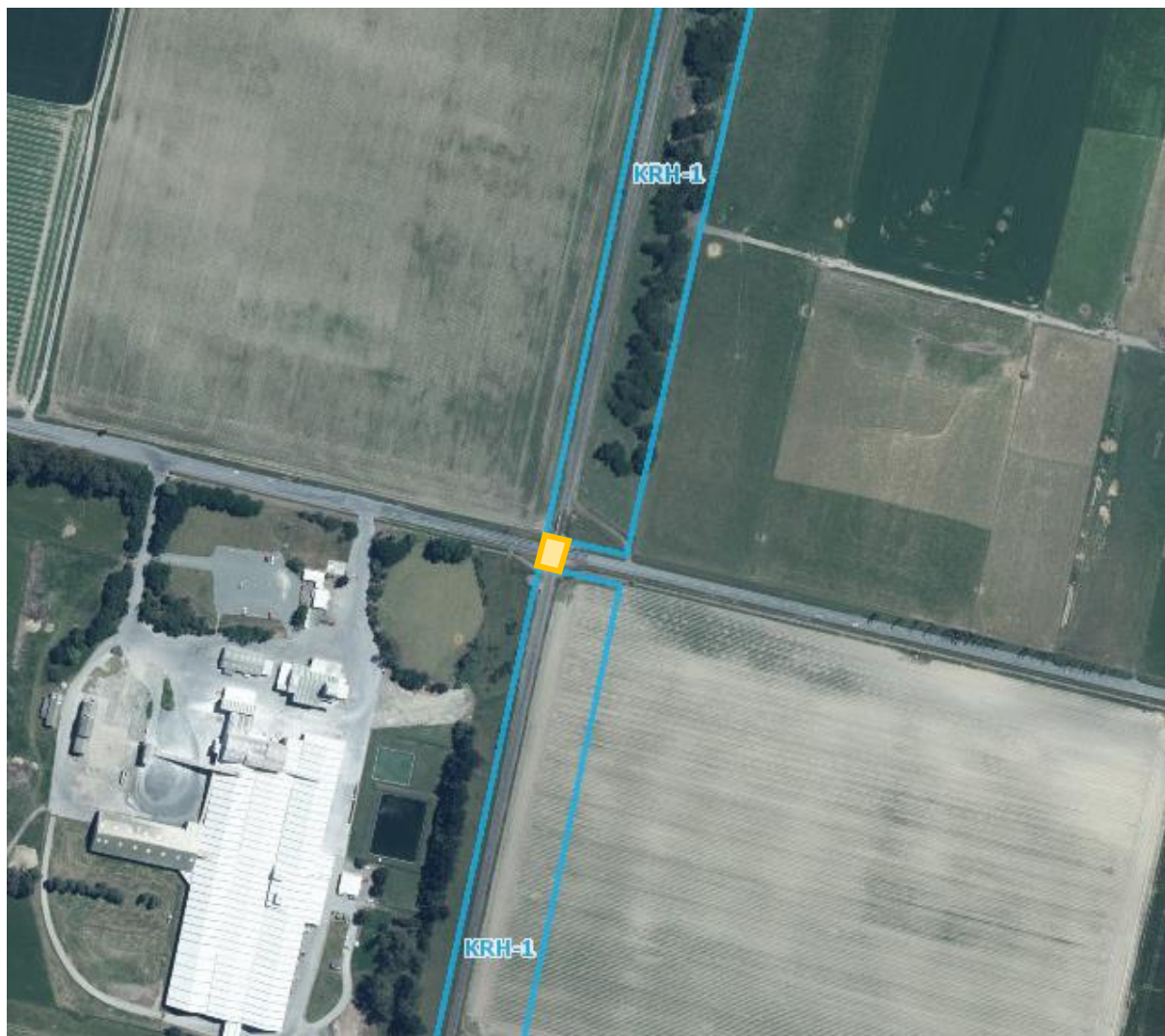
Minor change sought (Sch 1, cl 16):	Include KiwiRail land to the immediate west of the railway tracks (shown in orange shape above). The notified designation boundary is shown in blue.
Land ownership (LINZ):	Government Purposes (Railway) NZ Gazette 1888 p 492
Assessment:	The land is owned by KiwiRail and is currently leased to Council as a Beautification Licence. The land is not able to be developed under this licence. The designation should be changed to reflect land ownership and the secondary purpose for stormwater management adjacent to the operative railway line. Low lying grassed and planted areas adjacent to the railway tracks are important for preventing ponding in and around the track infrastructure. The minor change will have neutral impact on third parties. The land to the west and south is currently designated rail land and the land to the north and east adjoins the road network. Given the lease agreement, it is considered that the leasee understands that the land is owned and administered by KiwiRail. For this reason, it is considered that the change is deemed to be minor and will not be prejudicial to any other parties.



Minor change sought (Sch 1, cl 16):	Include level crossing and KiwiRail land to south and west of existing designation (shown in orange shape above). The notified designation boundary is shown in blue.
Land ownership (LINZ):	Road Railway Sec 16 Government Railways Act 1887 Railway Memorial 46341
Assessment:	The rail network is linear, however the Proposed Plan as notified shows a gap in the rail designation at the location shown above. KiwiRail seeks minor change so the existing level crossing and rail infrastructure are accurately designated. KiwiRail have a Deed of Grant agreement in place for the use of the public level crossing at SH1 Winchester 144.497km where the rail network intersects with the state highway. KiwiRail works closely with Waka Kotahi on designation reviews as the rail and roading networks often overlap. In these instances, KiwiRail accepts 'Varies' as the designation hierarchy. Please see attached email confirmation of overlapping designation from Waka Kotahi. For the land south of the state highway, this is currently used for Railway Purposes, contains rail infrastructure and is administered by KiwiRail. Given the current ownership and use, it is considered that adjoining landowners understand that the land is owned and administered by KiwiRail. For this reason, it is considered that there is neutral impact, the change is deemed to be minor and will not be prejudicial to any other parties.



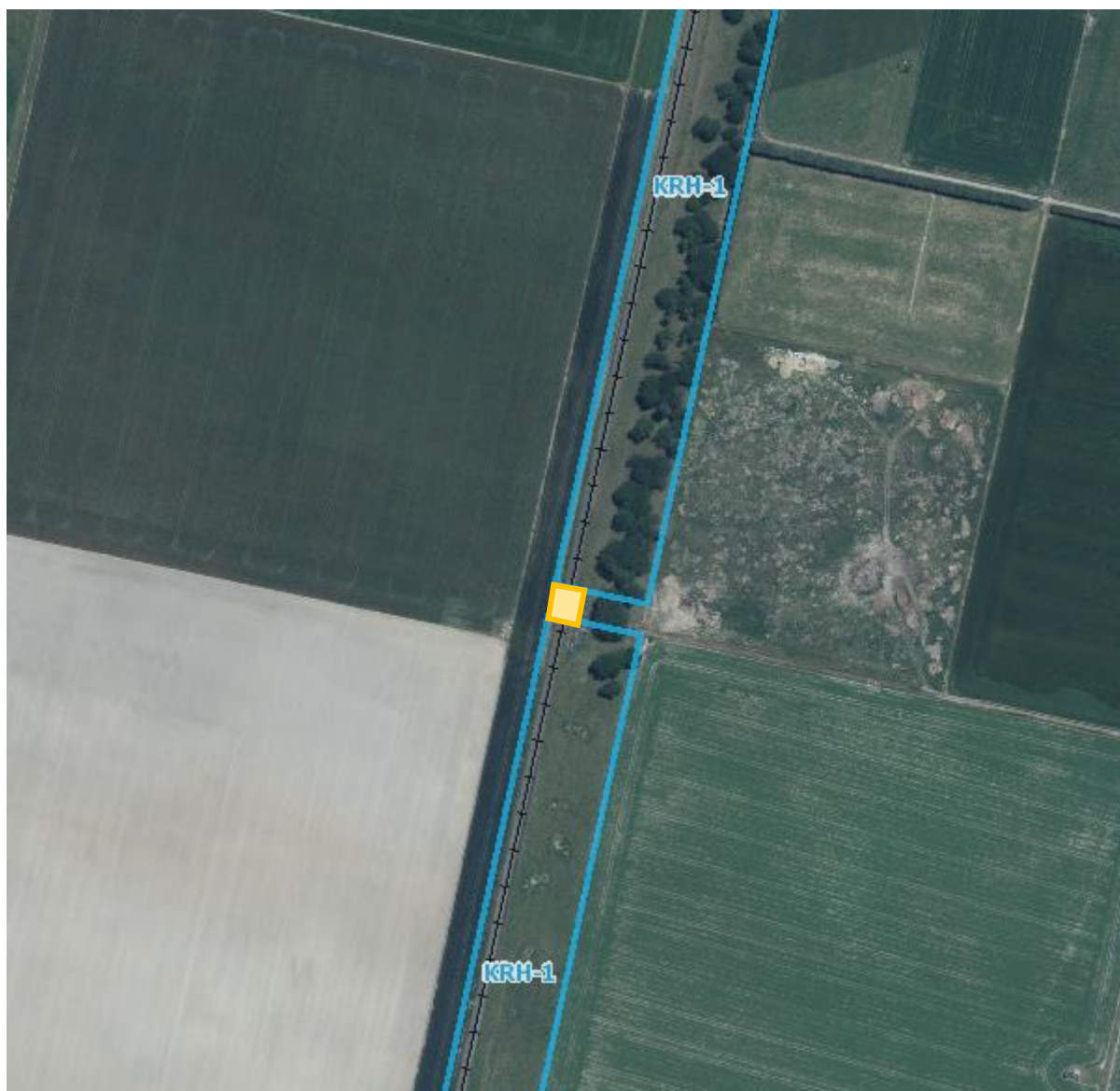
Minor change sought (Sch 1, cl 16):	Include Springfield Road rail level crossing (shown in orange shape above). The notified designation boundary is shown in blue.
Land ownership (LINZ):	Part Railway Reserve
Assessment:	The rail network is linear, however the Proposed Plan as notified shows a gap in the rail designation at the location shown above. In this instance, the land is railway reserve and used for railway purposes. KiwiRail seeks a minor change to include this existing level crossing in the designation and reflect current land use. The minor change to the designation would be a continuation of the designated rail corridor to the north and south, and would border the road network to the east and west. The change is deemed to be minor and will not be prejudicial to any other parties.



Minor change sought (Sch 1, cl 16):	Include Domain Road East rail level crossing (shown in orange shape above). The notified designation boundary is shown in blue.
Land ownership (LINZ):	Road
Assessment:	The rail network is linear, however the Proposed Plan as notified shows a gap in the rail designation at the location shown above. In this instance, the level crossing extends over land identified as road. KiwiRail will accept a narrower width shapefile over the road to cover the existing level crossing and reflect current land use. The minor change to the designation would border the designated rail corridor to the north and south, and the road network to the east and west. The change is deemed to be minor and will not be prejudicial to any other parties.



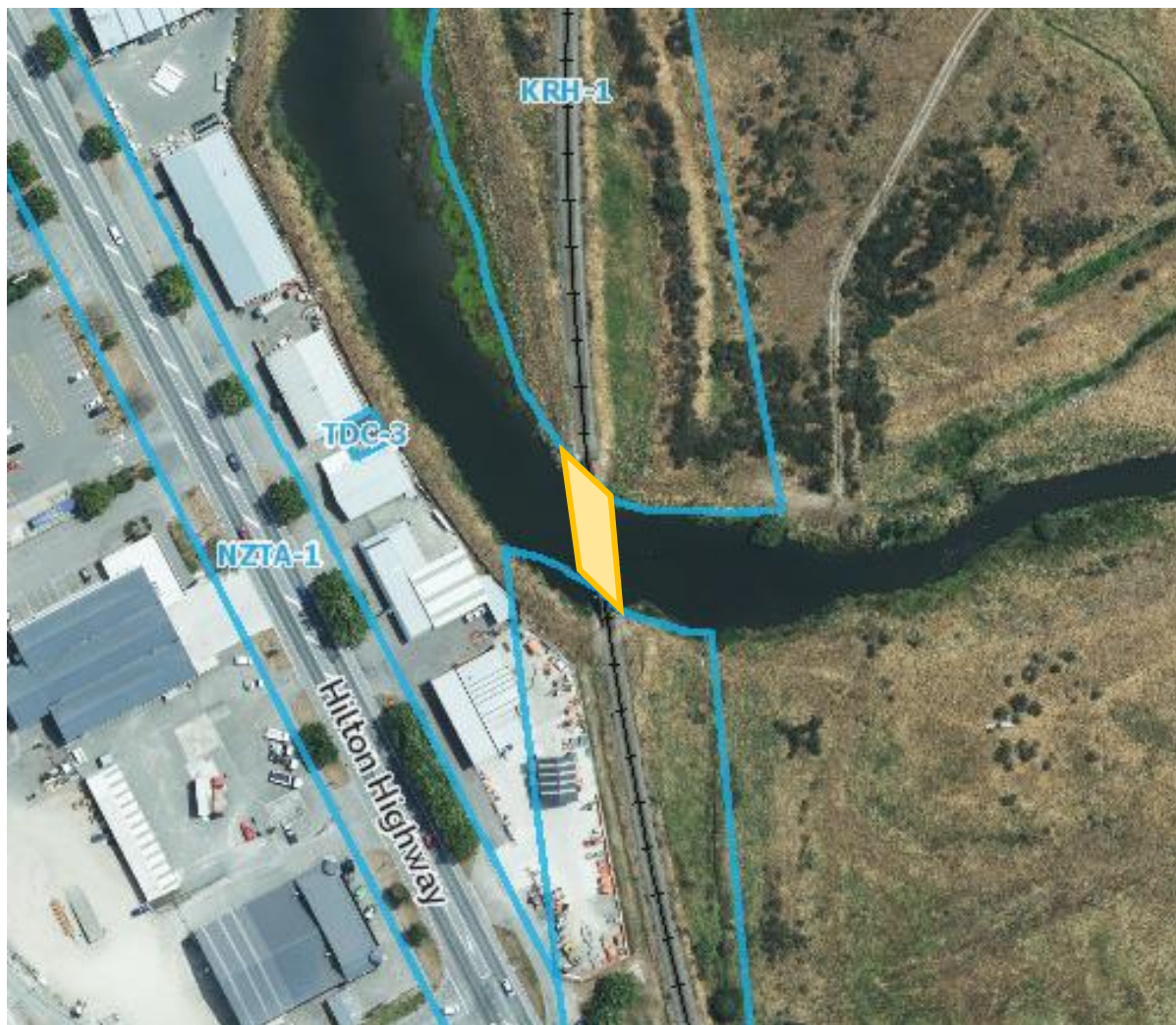
Minor change sought (Sch 1, cl 16):	Include Hedley Road rail level crossing (shown in orange shape above). The notified designation boundary is shown in blue.
Land ownership (LINZ):	Road
Assessment:	The rail network is linear, however the Proposed Plan as notified shows a gap in the rail designation at the location shown above. In this instance, the level crossing extends over land identified as road. KiwiRail will accept a narrower width shapefile over the road to cover the existing level crossing and reflect current land use. The minor change to the designation would border the designated rail corridor to the north and south, and the road network to the east and west. The change is deemed to be minor and will not be prejudicial to any other parties.



Minor change sought (Sch 1, cl 16):	Include rail infrastructure (shown in orange shape above). The notified designation boundary is shown in blue.
Land ownership (LINZ):	Road
Justification:	The rail network is linear, however the Proposed Plan as notified shows a gap in the rail designation at the location shown above. In this instance, the level crossing extends over land identified as road. KiwiRail will accept a narrower width shapefile over the paper road to cover the existing level crossing and reflect current land use. The minor change to the designation would border the designated rail corridor to the north and south, and a paper road to the east and west. The change is deemed to be minor and will not be prejudicial to any other parties.



Minor change sought (Sch 1, cl 16):	Include Seadown Road rail level crossing (shown in orange shape above).
Land ownership (LINZ):	Road
Justification:	The rail network is linear, however the Proposed Plan as notified shows a gap in the rail designation at the location shown above. In this instance, the level crossing extends over land identified as road. KiwiRail will accept a narrower width shapefile over the paper road to cover the existing level crossing and reflect current land use. The minor change to the designation would border the designated rail corridor to the north and south, and a Seadown Road to the north east and south west. The change is deemed to be minor and will not be prejudicial to any other parties.



Minor change sought (Sch 1, cl 16):	Include full extent of existing rail asset Bridge 79, Main South Line which extends over Washdyke Creek. Area to be included shown as orange shape above. The notified designation boundary is shown in blue.
Land ownership (LINZ):	Hydro parcel
Assessment:	The land is currently used for Railway Purposes and the designation should reflect this. KiwiRail will accept a narrower width shapefile over the hydro parcel to cover the bridge and piers below only. It is important to include all existing rail assets within district plans to identify existing infrastructure and illustrate the linear nature of the rail network. This is the accepted approach taken with other councils throughout New Zealand. The hydro parcel to the east and west of the rail bridge is not in private ownership. Therefore the change to include the existing bridge asset is deemed to be minor and will not be prejudicial to any other parties.



Minor change sought (Sch 1, cl 16):	Include rail infrastructure (shown in orange shape above). The notified designation boundary is shown in blue.
Land ownership (LINZ):	Hydro parcel
Assessment:	Land is currently used for Railway Purposes and the designation should reflect this. KiwiRail will accept a narrower width shapefile over the hydro parcel to cover rail infrastructure. As can be seen in the aerial, the hydro parcel extends over dry land and this minor change is a correction to include track infrastructure. It is important to include all existing rail assets within district plans to illustrate what infrastructure exists and the linear nature of the rail corridor. The hydro parcel to the east and west of the rail bridge is not in private ownership. The change is deemed to be minor and will not be prejudicial to any other parties.



Minor change sought (Sch 1, cl 16):	Realign designation boundary to accurately follow railway as shown in red line above. The notified designation boundary is shown in blue.
Land ownership (LINZ):	Railway New Zealand Gazette 1978 p 3206
Assessment:	The land is currently used for Railway Purposes and is administered by KiwiRail. The designation should be corrected to reflect gazette and current land use. The land to the north is identified as road and land to the west and south of the amended boundary is listed for Railway Purposes in NZ Gazette 1978 p 3206. The amendment will decrease the designation to the south and extend it slightly further adjacent to the level crossing. The realignment to respect existing rail assets is deemed to be minor and will not be prejudicial to any other parties.



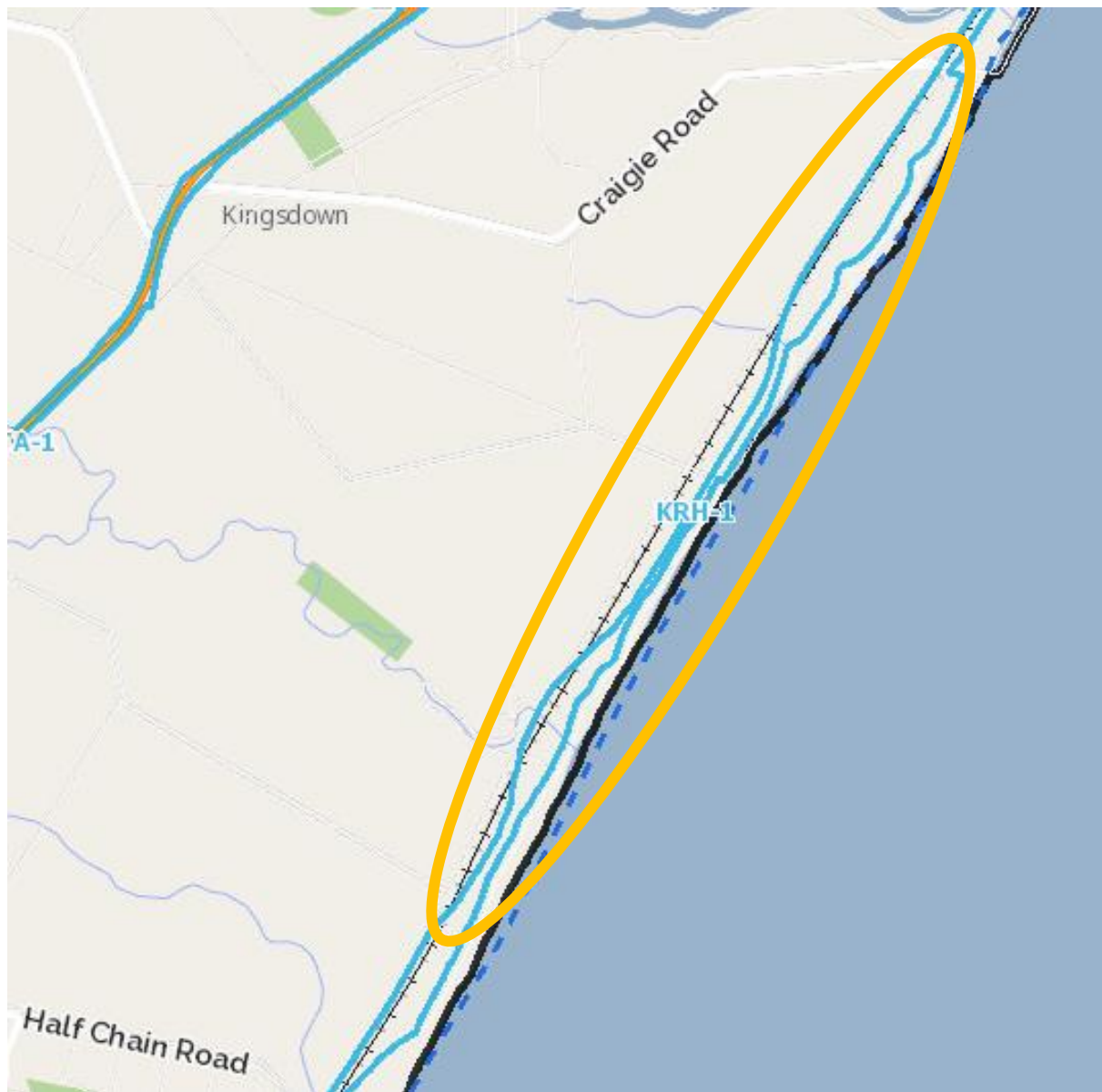
Minor change sought (Sch 1, cl 16):	Realign designation boundary to accurately follow rail land boundaries as shown in red line above. The notified designation boundary is shown in blue.
Land ownership (LINZ):	Railway DI 54D875 Railway New Zealand Gazette 1978 p 2418 Railway New Zealand Gazette 1978 p 3362 Railway DI 46D673 Railway Sec 16 Government Railways Act 1887
Assessment:	The land is currently used for Railway Purposes and is administered by KiwiRail. The designation should be corrected to reflect current land use and ownership. To the north, the minor change sought is to include existing KiwiRail pedestrian overpass Bridge 89 MSL over Strathallan Street. The western minor change is to include a garden strip of rail land currently leased to Timaru District Council, the Timaru Station platform and an existing signals building, and remove part of a car park. The eastern minor change is to include existing rail infrastructure and align with KiwiRail land holdings. In all cases, KiwiRail is seeking to include land which is currently administered by KiwiRail and contains existing KiwiRail assets. KiwiRail considers that it is commonly understood that the land is used for railway purposes, the changes are deemed to be minor and will not be prejudicial to any other parties.



Minor change sought (Sch 1, cl 16):	Include full extent of existing Main South Line rail assets. Area to be included shown as orange shape above. The notified designation boundary is shown in blue.
Land ownership (LINZ):	Crown land Road
Assessment:	The rail network is linear, however the Proposed Plan as notified shows a gap in the rail designation at the location shown above. In this instance, the level crossing extends over land identified as crown land and road. KiwiRail will accept a narrower width shapefile over the land and road to cover the existing railway and level crossing and reflect current land use. The minor change to the designation would border the designated rail corridor to the north and south, and a Scarborough Road to the west. KiwiRail considers that it is commonly understood that the land is used for railway purposes, and the change is deemed to be minor and will not be prejudicial to any other parties.



Minor change sought (Sch 1, cl 16):	Realign designation boundary east of Normanby Lagoon to accurately follow rail land boundaries as shown in yellow line above. The notified designation boundary is shown in blue.
Land ownership (LINZ):	Railway DI 7CS937
Assessment:	The land is currently used for Railway Purposes and is administered by KiwiRail. The designation should be corrected to reflect current land use and ownership. KiwiRail considers that technology improvements have been made since the previous designation was mapped and we are seeking to 'smooth out' the designation to align with true land boundaries. KiwiRail is seeking to include land which is currently identified as rail land administered by KiwiRail and contains existing KiwiRail assets. KiwiRail considers that it is commonly understood that the land is used for railway purposes and the minor change will not be prejudicial to any other parties.





Minor change sought (Sch 1, cl 16):	Realign designation boundary to accurately follow rail land and include existing rail assets within the orange circle and red above. The notified designation boundary is shown in the first extract above in blue. The correct land holdings is shown in the second extract above in red.
Land ownership (LINZ):	Railway - Part RS 3753 Railway Purposes New Zealand Gazette 1980 p 3643 Purposes of the Main South Railway New Zealand Gazette 1981 p 2507 Railway Sec 16 Government Railways Act 1887
Assessment:	The land is currently used for Railway Purposes and is administered by KiwiRail. The designation should be corrected to reflect current land use and ownership. The notified boundaries fail to include existing assets and do not follow KiwiRail land holding boundaries. KiwiRail considers that technology improvements have been made since the previous designation was mapped and we are seeking to 'smooth out' the designation to align with true land boundaries. KiwiRail is seeking to remove land which isn't rail land and include land which is currently identified as rail land administered by KiwiRail containing existing KiwiRail assets. No changes to legal access will be affected by this change. KiwiRail considers that it is commonly understood that the land is used for railway purposes and the minor change will not be prejudicial to any other parties.

Michelle Reeves

From: Sheena McGuire <Sheena.McGuire@kiwirail.co.nz>
Sent: Wednesday, 21 December 2022 12:23 pm
To: PDP
Subject: RE: KiwiRail submission - Proposed Timaru District Plan
Attachments: 636102-Template-Form-5-Submission-on-proposed-plan-change-or-variation.pdf;
KiwiRail submission - Proposed Timaru District Plan.pdf

Kia ora Jane,

Please see attached.

Ngā mihi,

Sheena McGuire | RMA Advisor

MOB: +64 27 227 7780

Wellington Railway Station, Bunny Street, Wellington 6011 | PO Box 593, Wellington 6140, New Zealand



www.kiwirail.co.nz

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From: PDP <pdp@timdc.govt.nz>
Sent: 21 December 2022 12:14
To: Sheena McGuire <Sheena.McGuire@kiwirail.co.nz>
Subject: RE: KiwiRail submission - Proposed Timaru District Plan

CAUTION EXTERNAL EMAIL: Do not click links or open attachments unless you know the content is safe.

Good afternoon Sheena,

Thank you for your submission. Please fill out the attached Submission Form 5 so as to ensure all the required questions are responded to and resend it with your submission so that it may be processed.

Regards

Jane



Timaru District Council | PO Box 522 | Timaru 7940
P: 03 687 7200 | W: www.timaru.govt.nz

From: sasm <sasm@timdc.govt.nz>
Sent: Wednesday, 21 December 2022 12:10 pm

To: PDP <pdp@timdc.govt.nz>

Subject: FW: KiwiRail submission - Proposed Timaru District Plan



Timaru District Council | PO Box 522 | Timaru 7940
P: 03 687 7200 | W: www.timaru.govt.nz

From: Sheena McGuire <Sheena.McGuire@kiwirail.co.nz>

Sent: Thursday, 15 December 2022 4:48 pm

To: sasm <sasm@timdc.govt.nz>

Subject: KiwiRail submission - Proposed Timaru District Plan

Kia ora,

Please find attached KiwiRail's submission on the Proposed District Plan.

If you have any questions or wish to discuss please don't hesitate in contacting me.

Ngā mihi,

Sheena McGuire | **RMA Advisor**

MOB: +64 27 227 7780

Wellington Railway Station, Bunny Street, Wellington 6011 | PO Box 593, Wellington 6140, New Zealand



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182	Federated Farmers	lhume@fedfarm.org.nz
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