

**IN THE MATTER OF**      Resource Management Act 1991

**AND**

**IN THE MATTER OF**      Proposed Timaru District Plan

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**Decision Report – Part 4**

**Ecosystems and Indigenous Biodiversity, Natural Character, Natural Features and  
Landscapes and Coastal Environment**

**DRAFT FOR TECHNICAL REVIEW**

**3 February 2026**

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# 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.<sup>1</sup>

[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.<sup>2</sup>

[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

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<sup>1</sup> Liz White, s42A Report: Ecosystems and Indigenous Biodiversity; Natural Character; and Nature Features and Landscapes, 9 October 2024, Para 2.1.6.

<sup>2</sup> 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.<sup>3</sup> 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.<sup>4</sup>

[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 Report<sup>5</sup>, 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.

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<sup>3</sup> Liz White, s42A Report: Ecosystems and Indigenous Biodiversity; Natural Character; and Nature Features and Landscapes, 9 October 2024, Para 2.1.12.

<sup>4</sup> Andrew Willis, s42A Report: Natural Hazards, Coastal Environment and Drinking Water Protection 25 March 2025, Para 2.1.6.

<sup>5</sup> 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 Harding<sup>6</sup>, 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-PX<sup>7</sup> 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-PX<sup>8</sup> and new Rule ECO-R1.4 (insofar as these provisions will enable the maintenance of indigenous biodiversity<sup>9</sup>), 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 NPSIB<sup>10</sup>

[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.<sup>11</sup>

[17] We are satisfied that having considered the legal submissions provided by Ms Vella<sup>12</sup>, 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.<sup>13</sup> 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

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<sup>6</sup> Mike Harding, Appendix 3 to the s42A Report, July 2004 (edited September 2024).

<sup>7</sup> Now renumbered ECO-P6 in the Decision Version of the provisions.

<sup>8</sup> Now renumbered ECO-P6 in the Decision Version of the provisions.

<sup>9</sup> Elizabeth Williams, Statement of Evidence, 29 October 2024, Para 27.

<sup>10</sup> Elizabeth Williams, Statement of Evidence, 29 October 2024, Para 18.

<sup>11</sup> Elizabeth Williams, Statement of Evidence, 29 October 2024, Para 30.

<sup>12</sup> Jen Vella, Legal Submissions of Counsel in response to Minute 19, 18 December 2024

<sup>13</sup> 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-PX<sup>14</sup>, however considered that ECO-PX<sup>15</sup> 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.<sup>16</sup> 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.<sup>17</sup> 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.<sup>18</sup>

[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 rules<sup>19</sup> 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 Group<sup>20</sup> who explained his concerns about the duplication between the Proposed Plan rules and Regional Plan rules for riverbeds. In Minute 19<sup>21</sup> 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 Reply<sup>22</sup> 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);

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<sup>14</sup> Now renumbered ECO-P6 in the Decision Version of the provisions.

<sup>15</sup> Now renumbered ECO-P6 in the Decision Version of the provisions.

<sup>16</sup> Tim Williams, Speaking Notes, 13 November 2024, Para 5.

<sup>17</sup> Liz White, Interim Reply, 18 December 2024, Appendix A.

<sup>18</sup> Liz White, Interim Reply, 18 December 2024, Appendix A.

<sup>19</sup> See ECO-R1.1 PER-6 (now PER-7); ECO-R1.4, PER-1.7

<sup>20</sup> 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].

<sup>21</sup> Panel Minute 19, 21 November 2024.

<sup>22</sup> 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.<sup>23</sup> In her Interim Reply, Ms White agreed with Ms Pearson's view, and relying on Ms Vella's legal submissions<sup>24</sup> 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.<sup>25</sup> In reaching this view we note we received no evidence to the contrary.

<sup>23</sup> Melissa Pearson, Statement of Evidence, 25 October 2024, Para 11.

<sup>24</sup> Jen Vella, Legal Submissions of Counsel in response to Minute 19, 18 December 2024, paras 79-88.

<sup>25</sup> 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-PX<sup>26</sup>, ECO-PY<sup>27</sup>, 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.<sup>28</sup> 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.<sup>29</sup> 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.<sup>30</sup>

[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

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<sup>26</sup> Now renumbered ECO-P6 in the Decision Version of the provisions.

<sup>27</sup> Now renumbered ECO-P8 in the Decision Version of the provisions.

<sup>28</sup> 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.

<sup>29</sup> 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.

<sup>30</sup> 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.<sup>31</sup>

[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.<sup>32</sup> 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 (ECO).

[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

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<sup>31</sup> Rachel Pull, Tabled Letter to the Hearing Panel, 22 October 2024.

<sup>32</sup> 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.<sup>33</sup>

### **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.<sup>34</sup> In reaching this view we note that Forest and Bird [156.98, 156.99, 156.100]<sup>35</sup>, Silver Fern Farms [172.47, 172.48]<sup>36</sup>, Alliance Group [173.50, 173.51]<sup>37</sup>, Federated Farmers [182.100, 182.101]<sup>38</sup>, ECan [183.68, 183.69, 183.70]<sup>39</sup> and DOC [166.31, 166.32]<sup>40</sup> 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 rejected<sup>41</sup>, a position subsequently accepted by the

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<sup>33</sup> Elizabeth Williams, Statement of Evidence, 29 October 2024, Para 13; Tim Williams, Speaking Notes, 12 November 2024, Para 7.

<sup>34</sup> 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.

<sup>35</sup> Tim Williams, Speaking Notes, 12 November 2024, Para 7.

<sup>36</sup> Steve Tuck, Tabled Letter, 22 October 2024.

<sup>37</sup> Doyle Richardson, Tabled Letter, 21 October 2024.

<sup>38</sup> Rachel Thomas and Greg Anderson, Statement of Evidence, 29 October 2024, Para 6.

<sup>39</sup> Deidre Francis, Summary Statement, 12 November 2024, Para 8.

<sup>40</sup> Elizabeth Williams, Statement of Evidence, 29 October 2024, Para 13.

<sup>41</sup> 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.<sup>42</sup> 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 submissions<sup>43</sup>, both in support and opposition.

[46] We heard from Mr Hole on behalf of the Rooney Group<sup>44</sup> 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.<sup>45</sup> 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.<sup>46</sup> 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.

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<sup>42</sup> Julia Crossman, Statement of Evidence, 25 October 2024, Para 3.3.

<sup>43</sup> Liz White, s42A Report: Ecosystems and Indigenous Biodiversity; Natural Character; and Nature Features and Landscapes, 9 October 2024, Para 7.6.2.

<sup>44</sup> 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].

<sup>45</sup> Elizabeth Williams, Statement of Evidence, 29 October 2024, Para 13.

<sup>46</sup> 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 Anderson<sup>47</sup> on behalf of the Telcos<sup>48</sup> 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.<sup>49</sup> 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.<sup>50</sup> 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 direction<sup>51</sup> 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.<sup>52</sup> 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.<sup>53</sup> 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.

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<sup>47</sup> Tom Anderson, Statement of Evidence, 25 October 2024, Para 9-11.

<sup>48</sup> Submission points: [176.70, 208.70, 209.70 and 210.70].

<sup>49</sup> Liz White, Interim Reply, 18 December 2024, Appendix A.

<sup>50</sup> Ainsley McLeod, Statement of Evidence, 25 October 2024, Paras 40-45.

<sup>51</sup> Liz White, Interim Reply, 18 December 2024, Appendix A.

<sup>52</sup> Melissa Pearson, Statement of Evidence, 25 October 2024, Para 47.

<sup>53</sup> Tim Williams, Speaking Notes, 12 November 2024, Paras 8-13.

[54] DOC [166.34]<sup>54</sup> and ECan [182.72]<sup>55</sup> indicated support for the s42A recommendations in response to their submission points, as did Silver Fern Farms [172.51]<sup>56</sup> and the Alliance Group [173.54]<sup>57</sup>.

[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 Transpower<sup>58</sup> to be appropriate, noting that the ECO-P5 now includes a specific reference to the new policy National Grid EI-PX.<sup>59</sup>

[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.<sup>60</sup> This is addressed in Part 5 of the Decision Report.

[60] DOC [166.38] signalled support for Ms White's recommended new Policy ECO-PZ<sup>61</sup> for requiring the restoration of indigenous biodiversity in response to their submission.<sup>62</sup> 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

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<sup>54</sup> Elizabeth Williams, Statement of Evidence, 29 October 2024, Para 13.

<sup>55</sup> Deidre Francis, Summary Statement, 12 November 2024, Para 40.

<sup>56</sup> Steve Tuck, Tabled Letter, 22 October 2024.

<sup>57</sup> Doyle Richardson, Tabled Letter, 21 October 2024.

<sup>58</sup> Ainsley McLeod, Statement of Evidence, 25 October 2024, Para 26.

<sup>59</sup> Now renumbered EI-P5 in the Decision Version of the provisions.

<sup>60</sup> Tim Williams, Speaking Notes, 12 November 2024, Para 21.

<sup>61</sup> Now renumbered ECO-P9 in the Decision Version of the provisions.

<sup>62</sup> 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.<sup>63</sup> Ms Williams explained that in her view there is scope within the submissions to amend ECO-P5 (along with ECO-P3 and ECO-PX<sup>64</sup>) to address the avoidance of adverse effects within SNAs and to introduce an effects management hierarchy approach to managing adverse effects outside SNAs.<sup>65</sup> 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]<sup>66</sup> and ECan [182.75]<sup>67</sup> indicated support for the s42A recommendations in response to their submission points, as did Silver Fern Farms [172.51]<sup>68</sup> and the Alliance Group [173.54]<sup>69</sup>.

[62] Overall, we accept Ms White's assessment and recommendations<sup>70</sup> 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.<sup>71</sup>

[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

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<sup>63</sup> Elizabeth Williams, Statement of Evidence, 29 October 2024, Para 66.

<sup>64</sup> Now renumbered ECO-P6 in the Decision Version of the provisions.

<sup>65</sup> Elizabeth Williams, Statement of Evidence, 29 October 2024, Para 36-39.

<sup>66</sup> Melissa Pearson, Statement of Evidence, 25 October 2024, Para 47.

<sup>67</sup> Deidre Francis, Summary Statement, 12 November 2024, Para 40.

<sup>68</sup> Steve Tuck, Tabled Letter, 22 October 2024.

<sup>69</sup> Doyle Richardson, Tabled Letter, 21 October 2024.

<sup>70</sup> 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.

<sup>71</sup> 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-PX<sup>72</sup>) to address the avoidance of adverse effects within SNAs and to introduce an effects management hierarchy approach to managing adverse effects outside SNAs.<sup>73</sup> 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-PX<sup>74</sup> 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.<sup>75</sup> 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-PX<sup>76</sup> and ECO-R1.4 provide sufficient protection, without extending the scope of ECO-P3. We further note that we accept Ms White's evidence<sup>77</sup> that there is no need for ECO-P3 to cover lake margins, noting there are no lakes in the District.

[69] ECan [182.73]<sup>78</sup> indicated broad support for the s42A recommendations, as did Silver Fern Farms [172.52]<sup>79</sup> and the Alliance Group [173.55]<sup>80</sup>. 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.

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<sup>72</sup> Now renumbered ECO-P6 in the Decision Version of the provisions.

<sup>73</sup> Elizabeth Williams, Statement of Evidence, 29 October 2024, Paras 29-39.

<sup>74</sup> Now renumbered ECO-P6 in the Decision Version of the provisions.

<sup>75</sup> Tim Williams, Speaking Notes, 12 November 2024, Paras 15-17.

<sup>76</sup> Now renumbered ECO-P6 in the Decision Version of the provisions.

<sup>77</sup> Liz White, Interim Reply, 18 December 2024, Appendix A.

<sup>78</sup> Deidre Francis, Summary Statement, 12 November 2024.

<sup>79</sup> Steve Tuck, Tabled Letter, 22 October 2024.

<sup>80</sup> 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 Group<sup>81</sup>, 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.<sup>82</sup> 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.<sup>83</sup> 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 19<sup>84</sup>, 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**.

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<sup>81</sup> 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].

<sup>82</sup> Jen Vella, Legal Submissions of Counsel in response to Minute 19, 18 December 2024, paras 79-88.

<sup>83</sup> Jen Vella, Legal Submissions of Counsel in response to Minute 19, 18 December 2024, paras 79-88.

<sup>84</sup> 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.<sup>85</sup> 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.<sup>86</sup> Having considered the evidence, we are satisfied that the recommended changes to ECO-P2 are sufficient. We agree with Ms White<sup>87</sup> 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.<sup>88</sup> 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.<sup>89</sup> We agree that the amendments

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<sup>85</sup> 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.

<sup>86</sup> Rachel Thomas and Greg Anderson, Statement of Evidence, 29 October 2024, Paras 8-11.

<sup>87</sup> Liz White, Interim Reply, 18 December 2024, Appendix A.

<sup>88</sup> Panel Minute 19, 21 November 2024, Para 8(c).

<sup>89</sup> 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]<sup>90</sup> 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.<sup>91</sup> 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.<sup>92</sup>

[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).<sup>93</sup> We received a helpful account of the genesis of the 2m measurements within these provisions in Ms White's Interim Reply.<sup>94</sup> 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-PX<sup>95</sup> 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

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<sup>90</sup> Note that Ms White's s42A Summary incorrectly referred to submission point 182.104.

<sup>91</sup> Liz White, s42A Report: Ecosystems and Indigenous Biodiversity; Natural Character; and Nature Features and Landscapes, 9 October 2024, Para 7.13.31.

<sup>92</sup> Liz White, s42A Report Interim Reply, 18 December 2024, Appendix A.

<sup>93</sup> Panel Minute 19, 21 November 2024.

<sup>94</sup> Liz White, Interim Reply, 18 December 2024, Appendix C.

<sup>95</sup> Now renumbered ECO-P6 in the Decision Version of the provisions.

policy and rule would largely address the concerns raised by ECan<sup>96</sup>, 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.<sup>98</sup> 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.<sup>99</sup> 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 Group<sup>100</sup> 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 Report<sup>101</sup> noting that Mr Hole did not pursue this submission point in his evidence.<sup>102</sup>

[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'.<sup>103</sup> 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

<sup>96</sup> Jean Jack, Statement of Evidence, 25 October 2024, Paras 24-29.

<sup>97</sup> Deidre Francis, Summary Statement, 12 November 2024, Para 10.

<sup>98</sup> Liz White, s42A Report, 9 October 2024, Para 7.20.14.

<sup>99</sup> Liz White, Interim Reply, 18 December 2024, Appendix A.

<sup>100</sup> 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]

<sup>101</sup> Liz White, s42A Report: Ecosystems and Indigenous Biodiversity; Natural Character; and Nature Features and Landscapes, 9 October 2024, Para 7.13.30.

<sup>102</sup> Nathan Hole, Statement of Evidence, 25 October 2024.

<sup>103</sup> Tim Williams, Speaking Notes, 12 November 2024, Para 27.

indigenous biodiversity in SNAs.<sup>104</sup> 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.<sup>105</sup>

[92] DOC [166.40]<sup>106</sup>, Port Blakely [94.7]<sup>107</sup> Silver Fern Farms [172.54]<sup>108</sup> and Alliance Group<sup>109</sup> [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 Report<sup>110</sup>, noting that OWL [181.62]<sup>111</sup>, Alliance Group [173.58]<sup>112</sup>, DOC [166.42] and Federated Farmers [182.106]<sup>113</sup> 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-R3<sup>114</sup> 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.

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<sup>104</sup> Panel Minute 19, 21 November 2024.

<sup>105</sup> Liz White, Interim Reply, 18 December 2024, Appendix C.

<sup>106</sup> Elizabeth Williams, Statement of Evidence, 29 October 2024, Para 40-41.

<sup>107</sup> Melissa Pearson, Statement of Evidence, 25 October 2024, Paras 10, 45-46.

<sup>108</sup> Steve Tuck, Tabled Letter, 22 October 2024.

<sup>109</sup> Doyle Richardson, Tabled Letter, 21 October 2024.

<sup>110</sup> 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.

<sup>111</sup> Julia Crossman, Statement of Evidence, 25 October, Para 3.3.

<sup>112</sup> Doyle Richardson, Tabled Letter, 21 October 2024.

<sup>113</sup> Rachel Thomas and Greg Anderson, Statement of Evidence, 29 October 2024, Para 16.

<sup>114</sup> 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.<sup>115</sup> 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.<sup>116</sup> 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.<sup>117</sup> 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.<sup>118</sup>

[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]<sup>119</sup>, DOC [166.43]<sup>120</sup> and ECan [183.78]<sup>121</sup> 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

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<sup>115</sup> Ainsley McLeod, Statement of Evidence, 25 October 2024, Paras 38.

<sup>116</sup> Tim Williams, Speaking Notes, 12 November 2024, Paras 28-29.

<sup>117</sup> Liz White, Interim Reply, 18 December 2024, Appendix A.

<sup>118</sup> Including Objective 5.2.2, and Policy 16.3.4

<sup>119</sup> Rachel Thomas and Greg Anderson, Statement of Evidence, 29 October 2024, Para 17.

<sup>120</sup> Elizabeth Williams, Statement of Evidence, 29 October 2024, Para 16.

<sup>121</sup> 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.<sup>122</sup> 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.<sup>123</sup>

[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.<sup>124</sup> 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-RX<sup>125</sup> 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]<sup>126</sup>, Alliance Group [173.59]<sup>127</sup>, Federated Farmers [182.109]<sup>128</sup>, and ECan [183.80]<sup>129</sup> signalled acceptance of the s42A recommendations, while DOC [166.43] and the Rooney Group<sup>130</sup> 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-R6<sup>131</sup>**

### **2.17.1 Assessment**

[109] The Rooney Group<sup>132</sup> 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

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<sup>122</sup> Tim Williams, Speaking Notes, 12 November 2024, Para 32.

<sup>123</sup> Liz White, Interim Reply, 18 December 2024, Appendix A.

<sup>124</sup> Ainsley McLeod, Statement of Evidence, 25 October 2024, Paras 38.

<sup>125</sup> Now renumbered ECO-R6 in the Decision Version of the provisions.

<sup>126</sup> Steve Tuck, Tabled Letter, 22 October 2024.

<sup>127</sup> Doyle Richardson, Tabled Letter, 21 October 2024.

<sup>128</sup> Rachel Thomas and Greg Anderson, Statement of Evidence, 29 October 2024, Para 18.

<sup>129</sup> Deidre Francis, Statement of Evidence, 25 October 2024, Para 59.

<sup>130</sup> 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]

<sup>131</sup> Now renumbered SUB-R9 in the Decision Version of the provisions.

<sup>132</sup> 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.<sup>133</sup> 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-R9 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 Report<sup>134</sup>, noting that Federated Farmers [182.111] has signalled support for the recommended amendments<sup>135</sup> 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-PX<sup>136</sup> 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.<sup>137</sup> We have addressed this matter

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<sup>133</sup> 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.

<sup>134</sup> 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.

<sup>135</sup> Rachel Thomas and Greg Anderson, Statement of Evidence, 29 October 2024, Para 21.

<sup>136</sup> Now renumbered ECO-P6 in the Decision Version of the provisions.

<sup>137</sup> Tim Williams, Speaking Notes, 12 November 2024, Para 33.

in above in response to ECO-PX<sup>138</sup> 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 Report<sup>139</sup> 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.<sup>140</sup>

[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.<sup>141</sup>

[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.<sup>142</sup>

#### *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'.<sup>143</sup> 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,<sup>144</sup> and we received no further evidence on this matter from Forest and Bird or DOC.

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<sup>138</sup> Now renumbered ECO-P6 in the Decision Version of the provisions.

<sup>139</sup> Liz White, s42A Report: Ecosystems and Indigenous Biodiversity; Natural Character; and Nature Features and Landscapes, 9 October 2024, Para 7.19.3.

<sup>140</sup> Rachel Thomas and Greg Anderson, Statement of Evidence, 29 October 2024, Para 26.

<sup>141</sup> Liz White, Interim Reply, 18 December 2024, Appendix A.

<sup>142</sup> Liz White, s42A Report: Ecosystems and Indigenous Biodiversity; Natural Character; and Nature Features and Landscapes, 9 October 2024, Para 7.20.13.

<sup>143</sup> Liz White, s42A Report: Ecosystems and Indigenous Biodiversity; Natural Character; and Nature Features and Landscapes, 9 October 2024, Para 7.20.10.

<sup>144</sup> 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.<sup>145</sup>

### *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.<sup>146</sup>

### **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 Report<sup>147</sup> 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.

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<sup>145</sup> Deidre Francis, Summary Statement, 12 November 2024, Para 31.

<sup>146</sup> Liz White, s42A Report: Ecosystems and Indigenous Biodiversity; Natural Character; and Nature Features and Landscapes, 9 October 2024, Para 7.21.3.

<sup>147</sup> 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.<sup>148</sup> 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.<sup>149</sup> 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]<sup>150</sup>, Alliance Group [173.60]<sup>151</sup> and ECan [183.82]<sup>152</sup> 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.<sup>153</sup> NATC-P4 is discussed in more detail below.

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<sup>148</sup> Tim Williams, Speaking Notes, 12 November 2024, Para 34.

<sup>149</sup> Liz White, s42A Report: Ecosystems and Indigenous Biodiversity; Natural Character; and Nature Features and Landscapes, 9 October 2024, Para 8.2.6.

<sup>150</sup> Steve Tuck, Tabled Letter, 22 October 2024.

<sup>151</sup> Doyle Richardson, Tabled Letter, 21 October 2024.

<sup>152</sup> Deidre Francis, Summary Statement, 12 November 2024, Para 10.

<sup>153</sup> 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.<sup>154</sup>

[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.<sup>155</sup> We do not find that the relief sought is appropriate.

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<sup>154</sup> Tim Williams, Speaking Notes, 12 November 2024, Para 21.

<sup>155</sup> 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.<sup>156</sup> Having considered the evidence, we accept Ms White's recommended amendment which addresses the submitter's concern by referencing both E1-P2 and EI-PX<sup>157</sup>.

[143] We generally accept the assessment and recommendations of Ms White in response to submissions<sup>158</sup>, and note that Silver Fern Farms [172.59]<sup>159</sup>, Alliance Group [173.63]<sup>160</sup> and Rangitata Dairies [44.7]<sup>161</sup> 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.<sup>162</sup> 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

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<sup>156</sup> Ainsley McLeod, Statement of Evidence, 25 October 2024, Para 28.

<sup>157</sup> Now renumbered EI-P5 in the Decision Version of the provisions.

<sup>158</sup> 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.

<sup>159</sup> Steve Tuck, Tabled Letter, 22 October 2024.

<sup>160</sup> Doyle Richardson, Tabled Letter, 21 October 2024.

<sup>161</sup> Justin O'Brien, Statement of Evidence presented at Hearing, un-dated.

<sup>162</sup> 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.<sup>163</sup> 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-PX<sup>164</sup>.

[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.<sup>165</sup> 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 submissions<sup>166</sup>, and note that Rangitata Dairies [44.7]<sup>167</sup> 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 Report<sup>168</sup>. 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.

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<sup>163</sup> Ainsley McLeod, Statement of Evidence, 25 October 2024, Para 28.

<sup>164</sup> Now renumbered EI-P5 in the Decision Version of the provisions.

<sup>165</sup> Michelle Grinlinton-Hancock, Tabled Letter, 24 October, Appendix A.

<sup>166</sup> 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.

<sup>167</sup> Justin O'Brien, Statement of Evidence presented at Hearing, un-dated.

<sup>168</sup> 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-R1<sup>169</sup>, NATC-R2<sup>170</sup>, NATC-R3<sup>171</sup> and NATC-R5<sup>172</sup> relating to functional needs.<sup>173</sup> 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 Chapters<sup>174</sup>. 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.<sup>175</sup>

[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-R1<sup>176</sup> – 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

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<sup>169</sup> Rule now deleted in the Decisions Version of the provisions.

<sup>170</sup> Rule now renumbered NATC-R1 in the Decision Version of the provisions.

<sup>171</sup> Rule now renumbered NATC-R2 in the Decision Version of the provisions.

<sup>172</sup> Rule now renumbered NATC-R4 in the Decision Version of the provisions.

<sup>173</sup> Ainsley McLeod, Statement of Evidence, 25 October 2024, Paras 48-49.

<sup>174</sup> Liz White, s42A Summary Statement, 7 November, Para 10 (a).

<sup>175</sup> Elizabeth Williams, Statement of Evidence, 29 October 2024, Appendix 1.

<sup>176</sup> 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 submissions<sup>177</sup> 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 further<sup>178</sup>, 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 concerns<sup>179</sup>, and that the Alliance Group [173.64]<sup>180</sup>, Silver Fern Farms [172.60]<sup>181</sup> and OWL [181.12FS]<sup>182</sup> 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'<sup>183</sup> 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-R2<sup>184</sup>**

### **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.

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<sup>177</sup> Submissions including Forest and Bird [156.124], Transpower [159.76], Road Metals [169.23], Fulton Hogan [170.24], Port Blakely [94.1, 94.9].

<sup>178</sup> Ainsley McLeod, Statement of Evidence, 25 October 2024, Para 38.

<sup>179</sup> Melissa Pearson, Statement of Evidence, 25 October 2024, Para 70.

<sup>180</sup> Doyle Richardson, Tabled Letter, 21 October 2024.

<sup>181</sup> Steve Tuck, Tabled Letter, 22 October 2024.

<sup>182</sup> Julia Crossman, Statement of Evidence, 25 October, Para 3.3.

<sup>183</sup> Michelle Grinlinton-Hancock, Tabled Letter, 24 October, Appendix A.

<sup>184</sup> 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-R2<sup>185</sup> 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-R3<sup>186</sup>

#### 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.<sup>187</sup> 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-R3<sup>188</sup> PER-3 which permits earthworks for a 3m wide track.<sup>189</sup> 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.<sup>190</sup> 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 submissions<sup>191</sup>, and note that Rangitata Dairies [44.7]<sup>192</sup> have indicated support of the conclusions reached by Ms White, as have Silver Fern Farms [172.61]<sup>193</sup>, the Alliance Group

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<sup>185</sup> Now renumbered NATC-R1 in the Decision Version of the provisions.

<sup>186</sup> Now renumbered NATC-R2 in the Decision Version of the provisions.

<sup>187</sup> Para 13; Tim Williams, Speaking Notes, 12 November 2024, Para 39-31.

<sup>188</sup> Now renumbered NATC-R2 in the Decision Version of the provisions.

<sup>189</sup> Panel Minute 19, 21 November 2024.

<sup>190</sup> Memorandum of Counsel, Tim Williams, 4 December 2024, paras 5-9.

<sup>191</sup> 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.

<sup>192</sup> Justin O'Brien, Statement of Evidence presented at Hearing, un-dated.

<sup>193</sup> Steve Tuck, Tabled Letter, 22 October 2024.



[173.65]<sup>194</sup>, OWL [181.13FS]<sup>195</sup>, DOC [166.55]<sup>196</sup>, Port Blakely [94.10]<sup>197</sup>, and KiwiRail [187.60]<sup>198</sup> 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-R3<sup>199</sup> 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-R4<sup>200</sup> AND NATC-R5<sup>201</sup>**

### **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'<sup>202</sup> 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.

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<sup>194</sup> Doyle Richardson, Tabled Letter, 21 October 2024.

<sup>195</sup> Julia Crossman, Statement of Evidence, 25 October, Para 3.3.

<sup>196</sup> Elizabeth Williams, Statement of Evidence, 29 October 2024, Appendix 1.

<sup>197</sup> Melissa Pearson, Statement of Evidence, 25 October 2024, Para 73-74.

<sup>198</sup> Michelle Grinlinton-Hancock, Tabled Letter, 24 October, Appendix A.

<sup>199</sup> Now renumbered NATC-R2 in the Decision Version of provisions.

<sup>200</sup> Now renumbered NATC-R3 in the Decision Version of the provisions.

<sup>201</sup> Now renumbered NATC-R4 in the Decision Version of the provisions.

<sup>202</sup> Liz White, Interim Reply, 18 December 2024, Appendix A.

### **3.13 SUBDIVISION - NATC-R6<sup>203</sup>**

#### **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-R10 '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.<sup>204</sup> 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.

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<sup>203</sup> Now relocated and renumbered SUB-R10 in the Decision Version of the provisions.

<sup>204</sup> 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 Group<sup>205</sup> 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.<sup>206</sup>

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<sup>205</sup> 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].

<sup>206</sup> Liz White, Interim Reply, 18 December 2024, Appendix C.

[193] The Telcos<sup>207</sup> 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.<sup>208</sup> 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.<sup>209</sup> 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.<sup>210</sup> 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.<sup>211</sup> Legal Counsel for RDRML then presented a range of drafting options that would address the relief sought by the submitter.<sup>212</sup>

[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.<sup>213</sup> As previously addressed in Section 2.1, in Minute 19<sup>214</sup> 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 evidence<sup>215</sup> and find the amendment to NFL-R2 to exclude application of the earthworks rules within ONLs and VALs to riverbeds to be appropriate.

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<sup>207</sup> Submission points: Connexa [176.73-176.75]; Spark [208.73-208.75]; Chorus [209.73-209.75] and Vodafone [210.73-210.75].

<sup>208</sup> Tom Anderson, Statement of Evidence, 25 October 2024, Paras 12-20.

<sup>209</sup> Tom Anderson, Statement of Evidence, 25 October 2024, Paras 21-25.

<sup>210</sup> Liz White, Interim Reply, 18 December 2024, Appendix A.

<sup>211</sup> Tony McCormick, Statement of Evidence, 25 October 2024.

<sup>212</sup> Vanessa Hamm / Cory Lipinski, 1 November 2024, Para 18.

<sup>213</sup> Liz White, Interim Reply to Minute 19, Appendix C, line 14.

<sup>214</sup> Panel Minute 19, 21 November 2024.

<sup>215</sup> 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 Reply<sup>216</sup> 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.<sup>217</sup> 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.

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<sup>216</sup> Liz White, Interim Reply, 18 December 2024, Appendix A

<sup>217</sup> 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.<sup>218</sup> 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.<sup>219</sup> 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.<sup>220</sup>

[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.<sup>221</sup>

[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.

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<sup>218</sup> Liz White, s42A Report: Ecosystems and Indigenous Biodiversity; Natural Character; and Nature Features and Landscapes, 9 October 2024, Para 9.4.8.

<sup>219</sup> Rachel Pull, Tabled Letter to the Hearing Panel, 22 October 2024.

<sup>220</sup> Liz White, Interim Reply, 18 December 2024, Appendix A.

<sup>221</sup> 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.<sup>222</sup>

[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.<sup>223</sup> 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.<sup>224</sup>

[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.

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<sup>222</sup> 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.

<sup>223</sup> Rachel Pull, Tabled Letter to the Hearing Panel, 22 October 2024.

<sup>224</sup> 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 evidence<sup>225</sup> presented to us by the Telcos<sup>226</sup>, 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.<sup>227</sup> 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.

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<sup>225</sup> Tom Anderson, Statement of Evidence, 25 October 2024, Paras 12-25

<sup>226</sup> Submission points: Connexa [176.76]; Spark [208.76]; Chorus [209.76] and Vodafone [210.76].

<sup>227</sup> 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.<sup>228</sup> 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-R9<sup>229</sup>**

#### **4.12.1 Assessment**

[232] The Rooney Group<sup>230</sup> opposed the inclusion of boundary adjustment subdivisions or subdivisions facilitating primary production activities in NFL-R9<sup>231</sup> 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 Reply<sup>232</sup> to amend NFL-R9<sup>233</sup> to exclude the application of the

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<sup>228</sup> 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.

<sup>229</sup> Now relocated and renumbered SUB-R11 in the Decision Version of the provisions.

<sup>230</sup> 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].

<sup>231</sup> Now relocated and renumbered SUB-R11 in the Decision Version of the provisions.

<sup>232</sup> Liz White, Interim Reply, 18 December 2024, Appendix A.

<sup>233</sup> Now relocated and renumbered SUB-R11 in the Decision Version of the provisions.

rule to boundary adjustments is appropriate and on this basis the submission is accepted in part.<sup>234</sup> 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 Study<sup>235</sup>) 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 sought<sup>236</sup>.

[234] We accept Ms White's assessment and recommendations, noting the locational change of NFL-R9, now entitled SUB-R11 Subdivision 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-R9<sup>237</sup> 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

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<sup>234</sup> 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-R11 provision in the Decision Versions of the provisions.

<sup>235</sup> Timaru Landscape and Coastal Study report (Boffa Miskell, 2020)

<sup>236</sup> Liz White, Interim Reply, 18 December 2024, Appendix A.

<sup>237</sup> Now relocated and renumbered SUB-R11 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.<sup>238</sup>

[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 submissions<sup>239</sup>, Ms White’s Interim Reply<sup>240</sup>, and Ms Pflüger’s updated map<sup>241</sup> (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 Group<sup>242</sup>, 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-

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<sup>238</sup> Rachel Pull, Tabled Letter to the Hearing Panel, 22 October 2024.

<sup>239</sup> Jen Vella, Legal Submissions of Counsel, 19 December 2024, Paras 44-47.

<sup>240</sup> Liz White, Interim Reply, 18 December 2024, Appendix C.

<sup>241</sup> Liz White, Interim Reply, 18 December 2024, Attachment 1.

<sup>242</sup> 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.<sup>243</sup> PrimePort [175], whose activities are significantly impacted by the CE Chapter, agreed that the provisions would be better merged into the NH Chapter.<sup>244</sup> 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:

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<sup>243</sup> Andrew Willis, s42A Report, 25 March 2025, paragraph 1.25 and 1.26

<sup>244</sup> 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;<sup>245</sup>
- (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-OX<sup>246</sup>, NH-P9, NH-P12, NH-P13, and NH-R2<sup>247</sup>);
- (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-R6<sup>248</sup> 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).

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<sup>245</sup> Joint Witness Statement, 30 June 2025 in response to Minute 34

<sup>246</sup> Now renumbered NH-O2 in the Decision Version of the provisions.

<sup>247</sup> Now renumbered NH-R3 in the Decision Version of the provisions.

<sup>248</sup> 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-P11<sup>249</sup> 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 Francis<sup>250</sup> appearing at the hearing for ECan supported the recommendation of Mr Willis in response to these submission points. Ms Williams<sup>251</sup> 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.

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<sup>249</sup> Now renumbered CE-P8 and CE-P9 in the Decision Version of the provisions.

<sup>250</sup> Evidence of Ms Francis to Hearing F, 9 April 2025 Appendix 2

<sup>251</sup> 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 Report<sup>252</sup>, 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-P8<sup>253</sup> 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.

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<sup>252</sup> Andrew Willis S42A report paragraph 8.4.4

<sup>253</sup> 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 ACTIVITIES<sup>254</sup>**

### **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

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<sup>254</sup> 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-O4<sup>255</sup> 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.

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<sup>255</sup> 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-P11.1<sup>256</sup> directly addresses RSI and refers to EI-P2 (in addition, CE-R7 and CE-R8<sup>257</sup> 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 Heppelthwaite<sup>258</sup> 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

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<sup>256</sup> Now renumbered CE-P9 in the Decision Version of the provisions.

<sup>257</sup> Now renumbered CE-R8 and CE-R9 in the Decision Version of the provisions.

<sup>258</sup> 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-P3<sup>259</sup> 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 Willis<sup>260</sup> 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-P4<sup>261</sup> specifically addresses Kāti Huirapa values. Given that the policies will be

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<sup>259</sup> Previously CE-P5

<sup>260</sup> Mr Willis S42A report paragraph 8.14.6

<sup>261</sup> Previously CE-P6

considered as a suite of provisions, it is not necessary to include Kāti Huirapa values within CE-P3<sup>262</sup> as it is already addressed in CE-P4<sup>263</sup>.

### **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-P3<sup>264</sup> 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-P5<sup>265</sup> 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-P5<sup>266</sup> 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-P6<sup>267</sup> 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.

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<sup>262</sup> Previously CE-P5

<sup>263</sup> Previously CE-P6

<sup>264</sup> Previously CE-P5

<sup>265</sup> Previously CE-P7

<sup>266</sup> Previously CE-P7

<sup>267</sup> 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-R11<sup>268</sup> 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 Francis<sup>269</sup> 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-P6<sup>270</sup> 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-P7<sup>271</sup> 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.

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<sup>268</sup> Now relocated and renumbered SUB-R12 in the Decision Version of the provisions.

<sup>269</sup> Evidence of Ms Francis to Hearing F, 9 April 2025 Appendix 2

<sup>270</sup> Previously CE-P8.

<sup>271</sup> 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-R11<sup>272</sup> which requires a resource consent for subdivision). Ms Francis<sup>273</sup> 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-P7<sup>274</sup> 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-P8<sup>275</sup> 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.

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<sup>272</sup> Now renumbered SUB-R12 in the Decision Version of the provisions.

<sup>273</sup> Evidence of Ms Francis to Hearing F, 9 April 2025 Appendix 2

<sup>274</sup> Previously CE-P9

<sup>275</sup> 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. Transpower<sup>276</sup> 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

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<sup>276</sup> Letter from Transpower dated 9 April 2025 Attachment A



Willis<sup>277</sup> 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-R13<sup>278</sup> 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 Tait<sup>279</sup> 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 Group<sup>280</sup> 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 Francis<sup>281</sup> 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-P8<sup>282</sup> are set out in **Appendix 3**.

[334] In terms of s32AA, we adopt Mr Willis' evaluation in support of the changes made.

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<sup>277</sup> Mr Willis S42A report paragraph 8.18.12

<sup>278</sup> Now renumbered CE-R12 in the Decision Version of the provisions.

<sup>279</sup> Evidence of Ms Tait, 9 April 2025, Section 8

<sup>280</sup> Alliance Group Statement tabled at Hearing F dated 4 April 2025, Para 3

<sup>281</sup> Evidence of Ms Francis to Hearing F, 9 April 2025 Appendix 2

<sup>282</sup> Previously CE-P10

## **5.15 POLICY CE-P9<sup>283</sup> 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-P11<sup>284</sup> 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 Transpower<sup>285</sup> 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 Williams<sup>286</sup> appearing at the hearing did not seek further changes to the provision.

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<sup>283</sup> Previously CE-11

<sup>284</sup> Now renumbered CE-P9 in the Decision Version of the provisions.

<sup>285</sup> Letter from Transpower dated 9 April 2025 Attachment A

<sup>286</sup> Evidence of Ms Williams to Hearing F, 9 April 2025, Paragraph 73

[342] In addressing the Fenlea Farms submission, Mr Willis<sup>287</sup>, 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-P11<sup>288</sup> 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 Willis<sup>289</sup>, 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 Farms<sup>290</sup> and Alliance Group<sup>291</sup> 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-P9<sup>292</sup> are set out in **Appendix 3**.

[347] In terms of s32AA, we adopt Mr Willis' evaluation in support of the changes made.

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<sup>287</sup> Mr Willis S42A report paragraphs 8.19.11

<sup>288</sup> Now renumbered CE-P9 in the Decision Version of the provisions.

<sup>289</sup> Mr Willis S42A report paragraphs 8.19.12

<sup>290</sup> Silver Fern Farms Statement tabled at Hearing F dated 9 April 2025

<sup>291</sup> Alliance Group Statement tabled at Hearing F dated 4 April 2025, Para 3

<sup>292</sup> 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 Study<sup>293</sup>, 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.

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<sup>293</sup> 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 150m<sup>2</sup> 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 Willis<sup>294</sup> 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 10m<sup>2</sup> 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 150m<sup>2</sup> 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**.

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<sup>294</sup> 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 Willis<sup>295</sup> 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-R6<sup>296</sup> 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-RY<sup>297</sup> to cover vehicle access tracks for network utilities.

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<sup>295</sup> Mr Willis S42A paragraphs 8.25.6-8.25.8

<sup>296</sup> Now renumbered CE-R8 in the Decision Version of the provisions.

<sup>297</sup> Now renumbered CE-R6 in the Decision Version of the provisions.

[367] Regarding the Silver Fern Farms [172.90] submission, Mr Willis<sup>298</sup> 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-R6<sup>299</sup> 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-R7<sup>300</sup> 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

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<sup>298</sup> Mr Willis S42A paragraph 8.25.9

<sup>299</sup> Previously CE-RY

<sup>300</sup> 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-R8<sup>301</sup> 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 Willis<sup>302</sup> 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 200m<sup>2</sup> 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 1000m<sup>2</sup>). 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 Telcos<sup>303</sup> who are unlikely to exceed the 25% / 1000m<sup>2</sup> 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.<sup>304</sup>

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<sup>301</sup> Previously CE-R7

<sup>302</sup> Mr Willis S42A paragraphs 8.27.7 and 8.27.8

<sup>303</sup> Connexa [176.84]; Spark [208.84]; Chorus [209.84] and Vodafone [210.84].

<sup>304</sup> 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-R8<sup>305</sup> 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-R9<sup>306</sup> 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-R8.2<sup>307</sup>, 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-R8.1<sup>308</sup> and amend CR-R8.2<sup>309</sup> from discretionary to non-complying.

[384] Regarding the Forest and Bird submission, Mr Willis<sup>310</sup> referenced his analysis of CE-R7<sup>311</sup> 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 200m<sup>2</sup>. 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 Telcos<sup>312</sup>, who are unlikely to exceed the 200m<sup>2</sup> 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.<sup>313</sup> We also heard from

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<sup>305</sup> Previously CE-R7

<sup>306</sup> Previously CE-R8

<sup>307</sup> Now renumbered CE-R9.2 in the Decision Version of the provisions.

<sup>308</sup> Now renumbered CE-R9.1 in the Decision Version of the provisions.

<sup>309</sup> Now renumbered CE-R9.2 in the Decision Version of the provisions.

<sup>310</sup> Mr Willis S42A paragraph 8.28.6

<sup>311</sup> Now renumbered CE-R8 in the Decision Version of the provisions.

<sup>312</sup> Connexa [176.85]; Spark [208.85]; Chorus [209.85] and Vodafone [210.85].

<sup>313</sup> Ms Heppelthwaite 9 April paragraphs 5g and h

Transpower who supported the s42A recommendation for the reasons given in the Report<sup>314</sup> and in Transpower's submission.<sup>315</sup> We received written confirmation from the Fuel Companies<sup>316</sup> 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-R9<sup>317</sup> 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-R12<sup>318</sup> 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-P11<sup>319</sup> 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.

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<sup>314</sup> Transpower letter dated 9 April 2025 – Attachment A

<sup>315</sup> The Panel notes that the submission of Transpower and reasons related to the provision as notified not the amendment provision.

<sup>316</sup> Letter from SLR Consulting New Zealand for Fuel Companies, 10 April Attachment A

<sup>317</sup> Previously CE-R8

<sup>318</sup> Previously CE-R13

<sup>319</sup> Now renumbered CE-P9 in the Decision Version of the provisions.

[393] Mr Willis<sup>320</sup> 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-R10<sup>321</sup> 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

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<sup>320</sup> Mr Willis S42A report paragraphs 8.32.6 and 8.32.7

<sup>321</sup> 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 Willis<sup>322</sup> 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 500m<sup>2</sup> 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-R10<sup>323</sup> are set out in **Appendix 3**.

[404] In terms of s32AA, we adopt Mr Willis' evaluation in support of the changes made.

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<sup>322</sup> Mr Willis S42A report paragraphs 8.33.6 and 8.33.7

<sup>323</sup> 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 150m<sup>2</sup> 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 Willis<sup>324</sup> 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 Study<sup>325</sup>. 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.

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<sup>324</sup> Mr Willis S42A paragraphs 8.37 and 8.38

<sup>325</sup> 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 Study<sup>326</sup>. 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 Willis<sup>327</sup> 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.

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<sup>326</sup> Timaru Landscape and Coastal Study report (Boffa Miskell, 2020)

<sup>327</sup> 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 Study<sup>328</sup> 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.

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<sup>328</sup> 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-R7<sup>329</sup> and CE-R8<sup>330</sup> 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 Willis<sup>331</sup> 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

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<sup>329</sup> Now renumbered CE-R8 in the Decision Version of the provisions.

<sup>330</sup> Now renumbered CE-R9 in the Decision Version of the provisions.

<sup>331</sup> 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.<sup>332</sup>

[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-R33<sup>333</sup>), we conclude that, irrespective of the merits or otherwise of the

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<sup>332</sup> Mr Willis Final Reply dated 10 October 2025

<sup>333</sup> 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-R9<sup>334</sup>. As there are no changes to the Plan, a s32AA assessment is not required.

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<sup>334</sup> Previously CE-R7 and CE-R8