



**SECOND
GENERATION
DISTRICT PLAN**

**Natural Environment
Section 42A Report**

**Proposed Second Generation Dunedin City
District Plan (2GP)**

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Primary Authors

Name: Michael Bathgate

Qualifications: BA (Economics), Master of Regional and Resource Planning (with Distinction), Otago University.

Experience: I have been employed by the Dunedin City Council as a Policy Planner since June 2012. I also have 7 years' experience as a Research and Monitoring Planner with Dunedin City Council, and a further 15 years' experience in a range of other policy and research positions, in central and local government and the private sector.

Name: Jane Macleod

Qualifications: BA Hons (History), University of Manchester, UK
MSc in Environmental Studies, University of Strathclyde, UK

Experience: I have been employed by the Dunedin City Council as a Policy Planner since March 2007.

Name: Katie James

Qualifications: BSc (Hons) (Zoology), Master of Regional and Resource Planning,
PhD (Environmental Governance), Otago University

Experience: I have had over 11 years of planning experience, including in central and local government, research and the private sector. I have been employed by the Dunedin City Council as a Policy Planner since October 2015.

Contributing Authors

Name: Peter Rawson

Qualifications: Bachelor of Arts, Geography and Anthropology (Otago University)
Bachelor of Planning (Hons) (University of Auckland)

Experience: I have over 20 years professional planning experience in Local Authorities and consultancies.

Role in report

Preparation: Recommendations on Areas of Significant Conservation Value (ASCVs)
Schedule and mapping

Code of Conduct

We confirm that we have read, and agree to comply with, the Environment Court Code of Conduct for Expert Witnesses (Consolidated Practice Note 2014).

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1.0 Introduction

1.1 Purpose of the Officer's Report

1. This report is prepared under the provisions of section 42A of the Resource Management Act 1991 (RMA) to:
 - assist the Hearing Panel in making their decisions on the submissions and further submissions on the 2GP; and
 - provide submitters with information about how their submissions have been evaluated and the recommendations being made by officers, prior to the hearing.
2. The evaluations and recommendations presented in this report are based on the information available prior to the hearing, including information contained in submissions.
3. In evaluating the submissions and further submissions, the matters considered include:
 - whether a decision requested falls within the functions of Dunedin City Council (DCC) under section 31 of the RMA
 - the matters to be considered in the preparation of district plans as outlined in section 74, including:
 - the matters outlined in section 32 of the RMA
 - the provisions of Part 2 of the RMA
 - having regard to the proposed Otago Regional Policy Statement
 - having regard to the Dunedin Spatial Plan
 - the required content of district plans as outlined in section 75, including giving effect to the operative regional policy statement and any national policy statements
 - any restrictions on rules as outlined in section 76.

1.2 Scope of Natural Environment section

4. The Natural Environment section of the 2GP manages the effects of land use, development and subdivision activities on biodiversity values, landscape values, the natural character of the coast and water bodies, and public access to the natural environment.
5. The Natural Environment section contains city-wide provisions which apply across a number of different management and major facility zones. A number of different methods are used in the Natural Environment section in conjunction with rules. Table 1 on the following page sets out these methods, along with the zones in which they apply, and the main rules that are associated with them.

Table 1: Methods used in the Natural Environment Section

Method	Name	Zones where applicable	Relevant rules ¹
Scheduled Items	Areas of Significant Conservation Value (ASCV)	Rural, Recreation	Activity status rules, including land use activities, buildings and structures over 60m ² , indigenous vegetation clearance.
Landscape overlay zones	Outstanding Natural Feature (ONF)	Rural, Rural Residential	Activity status rules, including forestry and other land use activities, buildings and structures over 60m ² . Standards for minimum building separation and reflectivity.
	Outstanding Natural Landscape (ONL)	Rural	Activity status rules, including forestry and buildings and structures over 60m ² .
	Significant Natural Landscape (SNL)	Rural, Rural Residential	Standards for minimum building separation and reflectivity.
Natural coastal character overlay zones	Outstanding Natural Coastal Character Overlay Zone (ONCC)	Rural	Activity status rules, including forestry and other land use activities, buildings and structures over 60m ² , indigenous vegetation clearance.
	High Natural Coastal Character Overlay Zone (HNCC)	Rural, Rural Residential	Standards for minimum building separation and reflectivity.
	Natural Coastal Character Overlay Zone (NCC)	Rural, Rural Residential, Recreation	Activity status rules, including forestry, buildings and structures over 60m ² , indigenous vegetation clearance. Standards for minimum building separation and reflectivity.
Mapped areas	Coastal environment mapped area	Rural	Indigenous vegetation clearance (Rule 10.3.2)
	Urban conservation mapped area (UCMA)	A range of management and major facility zones	Vegetation clearance (Rule 10.3.2)
	Esplanade reserves and strips mapped area	A range of management zones	Esplanade reserves and strips (Rule 10.3.1)

6. As well as the methods set out in Table 1 above, the Natural Environment section contains a number of rules that apply across different parts of the city, regardless of whether a site is in an overlay zone, mapped area or ASCV. These include

¹ In addition, the threshold for earthworks – large scale is usually lower in ASCVs, overlay zones and mapped areas.

performance standards for vegetation clearance, setback from coast and water bodies, and tree species.

1.3 Scope and structure of Natural Environment Section 42A report

7. This report responds to the 836 original and 852 further submission points received relating to the Natural Environment section (Section 10) of the Proposed Second Generation Dunedin City District Plan (2GP). These include submissions on related strategic directions; on the proposed provisions (including objectives, policies and rules) of the Natural Environment section; and on the spatial application (mapping) of overlay zones, scheduled items and mapped areas.
8. This section 42A report is structured as follows:
 - Section 2 provides key resource management issues relating to the natural environment, and how the 2GP responds in managing land use, development and subdivision activity. It outlines the consultation and research utilised in developing the notified 2GP.
 - Section 3 provides the statutory context in terms of national and regional legislative and planning instruments. It also outlines some of the non-regulatory policy instruments considered in developing the 2GP.
 - Section 4 provides an overview of submissions received and any resulting recommendations contained in this report.
 - Section 5 sets out each 2GP provision relating to Section 10 Natural Environment, along with submissions on these provision and the planners recommendations on these submissions. Section 5 is set out as follows:
 - 5.1 Definitions
 - 5.2 Strategic Directions
 - 5.3 Submissions on section as a whole and introduction to section
 - 5.4 Section 10 objectives and policies
 - 5.5 Notification rule
 - 5.6 – 5.11 Performance standards – policies and assessment rules that relate specifically to these standards may also be considered here
 - 5.12 Activity status rules
 - 5.13 Assessment rules
 - 5.14-5.17 Submissions on mapping and schedules
 - Section 6 provides a table of minor and inconsequential amendments under clause 16 of the RMA.

2.0 Background

2.1 Key resource management issues and broad 2GP approach

2.1.1 Landscape

9. Dunedin has a range of important and highly-valued natural landscapes and nature features with a diverse set of characteristics, ranging from coastal landscapes through to the high country landscapes at the western extent of the city. Inappropriate subdivision, land use and development can adversely impact on the values of natural features and landscapes. An example of this may be a building of an inappropriate scale, design, or colour located in a highly visible situation. Many of Dunedin's valued landscapes contain working rural environments, so it is also necessary to consider how provisions for landscape protection impact on the use and development of these areas.
10. Natural landscapes and features have been identified, assessed and mapped in the 2GP based on a review of landscapes in the operative Plan. Landscape overlay zones are mapped in the 2GP to indicate where landscape provisions apply, and their values are listed in Appendix A3 to the 2GP. There are three types of landscape areas identified: significant natural landscapes, outstanding natural landscapes and outstanding natural features.
11. Outstanding natural features are a new type of landscape overlay zone in the 2GP, identifying discrete features of such importance, and with such a limited capacity for development, that they warrant the highest level of protection.
12. Strategic Objective 2.4.4 states: *Dunedin's outstanding and significant natural landscapes and natural features are protected.*
13. Objective 10.2.5 states: *Outstanding Natural Features (ONFs), Outstanding Natural Landscapes (ONLs) and Significant Natural Landscapes (SNLs) are protected from inappropriate development and their values as identified in Appendix A3, are maintained or enhanced.*
14. Policies and rules manage certain land use and development activities in landscape overlay zones, with a summary of methods set out in Table 1 above.
15. Refer to the Landscape Section 32 Report for an assessment of the 2GP provisions relating to the protection of natural landscapes and features.

2.1.2 Natural Character of the Coast

16. Dunedin has a diverse coastline of estuaries and wetlands, beaches, sand spits and sand dunes, cliffs and rocky landforms. Associated communities of flora and fauna also contribute to its natural character. Land use, development and subdivision activities can adversely affect the natural character of the coast. In areas where the coast is unmodified, even relatively small scale development can adversely impact on natural character.
17. The coastal environment of Dunedin City has been identified and mapped, and an assessment made of its natural character values.
18. Natural coastal character (NCC) areas are mapped in the 2GP to indicate areas where natural coastal character provisions apply. There are three types of area identified: Outstanding Natural Coastal Character (ONCC), High Natural Coastal Character (HNCC) and Natural Coastal Character (NCC). ONCCs have been assessed as having outstanding natural character, HNCC as having high natural character, and NCC as having at least medium levels of natural character. The values of natural coastal character areas are set out in Appendix A5.

19. In addition, a coastal environment mapped area has been created where areas of less than high natural character coincide with a landscape overlay zone. The intent is to limit the number of overlay zones applying to any one location, but to indicate that a particular coastal control (indigenous vegetation clearance) applies in these locations.
20. Strategic direction Objective 2.4.5 states: *The natural character of the coastal environment is maintained or enhanced.*
21. Objective 10.2.3 states: *Areas of outstanding natural coastal character (ONCC), high natural coastal character (HNCC), and natural coastal character (NCC) are protected from inappropriate use and development and their values, as identified in Appendix A5, are maintained or enhanced.*
22. Policies and rules manage certain land use and development activities in natural coastal character overlay zones, with a summary of methods set out in Table 1 above.
23. Refer to the Natural Environment section 32 report for an assessment of the provisions relating to the natural character of the coast.

2.1.3 Indigenous vegetation and habitats of indigenous fauna

24. Areas of indigenous vegetation in Dunedin are now a fraction of the extent and quality compared to what existed prior to human arrival. Along with containing important plant species they also provide habitats for indigenous fauna. It is important that remnant patches of indigenous vegetation are protected from inappropriate use and development. Land use, development and subdivision activities can adversely affect biodiversity values through the modification, loss or fragmentation of areas of indigenous vegetation and habitats of indigenous fauna.
25. Certain areas of indigenous vegetation or habitats are of such significance that they warrant a very high level of protection. These areas have been assessed and scheduled as Areas of Significant Conservation Value (ASCVs) in the 2GP.
26. Dunedin's urban environment contains a number of areas of bush, including both indigenous and exotic plant species, that provide habitat and ecological corridors for indigenous fauna as well as contributing to amenity values. It is important that the District Plan restricts vegetation clearance in these areas to maintain their conservation values. Areas with identified conservation values are mapped in the 2GP as Urban Conservation Mapped Areas (UCMAs).
27. Objective 2.2.3 states: *Dunedin's indigenous biodiversity is retained, enhanced and restored, with improved connections and resilience.*
28. Objective 10.2.1 states: *Areas of indigenous vegetation and the habitats of indigenous fauna are maintained and enhanced.*
29. Policies and rules manage the clearance of vegetation in ASCVs, UCMAs and in the rural environments where remaining areas of indigenous vegetation and habitats are situated. Land use and development activities are also controlled in ASCVs, in recognition of the particular significance of these areas.
30. Refer to the Natural Environment section 32 report for an assessment of the provisions relating to indigenous biodiversity.

2.1.4 Riparian and coastal margins and public access to the natural environment

31. The margins of the coast and water bodies such as streams, rivers and wetlands are significant for a range of reasons, including: their natural character; their ecological values including biodiversity and habitat value; their role in mitigating the effects of natural hazards; and their function in providing a buffer and filter for adjacent water bodies in terms of the effects of land-based activities. These areas also play a

significant role in enabling access to the natural environment, which is important for the social, cultural and economic wellbeing of people and communities.

32. Land use, development and subdivision activities can adversely affect the biodiversity and natural character of coastal and riparian margins as well as the ability for the public to access the coastal marine area, lakes and rivers.
33. Objective 10.2.2 states: *The biodiversity values and natural character of the coast and riparian margins are maintained and enhanced.*
34. Objective 10.2.4 states: *Subdivision and development activities maintain and enhance access to coastlines, identified water bodies and other parts of the natural environment, including for the purposes of gathering food and mahika kai.*
35. Policies and rules control development activities such as buildings, structures, earthworks and vegetation clearance in riparian and coastal margins. Subdivision in coastal margins and along identified water bodies is required to provide esplanade reserves or esplanade strips to maintain natural character, biodiversity values and public access to the natural environment.
36. Refer to the Natural Environment section 32 report for an assessment of the provisions relating to coastal and riparian margins and public access.

2.2 Consultation

37. The consultation process for developing the 2GP has been extensive and was undertaken over a number of years. Community engagement on the 2GP development was undertaken through two key phases: issues and options, and preferred options phase. However, consultation with key stakeholders and individual landowners has been on-going throughout the process. For more detail about the consultation processes, refer to the Plan Overview Section 42 report.
38. A Natural Environment reference group include representatives from Department of Conservation, Fish and Game, Forest and Bird and other non-governmental organisations provided input into the development of the Natural Environment provisions. A Rural reference group which included representatives from Federated Farmers, Ministry for Primary industries and the Dunedin Food Network, while focused mainly on rural zones provisions, also provided input into some Natural Environment provisions such as the landscape overlay zones.
39. Consultation was also undertaken with agencies on specific matters, including the Department of Conservation in relation to threatened plants and pest plant species and water body values, and the Otago Regional Council and Fish and Game in relation to esplanade requirements and water body values. Kai Tahu ki Otago Ltd was liaised with in relation to the Natural Environment provisions, and hui were attended at Otakou and Puketeraki to discuss landscape and cultural landscape matters.
40. Consultation feedback relevant to the natural environment from the Preferred Options consultation phase can be found in a summary report available on the 2GP website², with relevant sections as follows:
 - Strategic Directions pp 8-9
 - Landscape and coastal overlay zones pp 39-45
 - Biodiversity pp 77-82

²[https://2gp.dunedin.govt.nz/2gp/documents/Section32_Background_Documents/General/2GP%20Preferred%20Options%20Consultation%20Phase%20Report%20\(City%20Development,%20Feb%202014\).pdf](https://2gp.dunedin.govt.nz/2gp/documents/Section32_Background_Documents/General/2GP%20Preferred%20Options%20Consultation%20Phase%20Report%20(City%20Development,%20Feb%202014).pdf)

2.2.1 Identification of Areas of Significant Conservation Value (ASCVs)

41. In the operative Plan there are 115 areas of significant conservation value (ASCVs) listed in schedule 25.4. Most of these ASCVs are publically owned (by DCC, DOC, ORC or City Forests), although there are some which are also QEII covenanted and privately owned.
42. As part of 2GP development, a process was followed to review and improve the accuracy of the ASCVs listed in the Operative Plan, which involved consultation with private and public landowners.

The process is summarised as follows:

2.2.1.1 Consultation with private landowners with potential ASCVs

43. Over the 2008-2015 period, DCC was involved in consultation with private rural landowners regarding updating the ASCV schedule.
44. A desktop exercise was undertaken by ecological consultants Wildlands to identify rural sites which had the potential to contain ASCVs. As a result of this exercise approximately 1000 landowners were identified as owning land containing potential ASCV areas. These landowners were contacted by letter (in 2008) about whether they would like an ecological survey undertaken to determine the ecological significance of these potential ASCV areas.
45. Of these 1000 people, 64 landowners requested that an ecological survey be undertaken. Some 52 ecological reports were completed and of these 42 of these ecological surveys met the ecological significance criteria for significance. Of these 42 ecological reports, initial responses were that 4 landowners may wish to be listed as an ASCV in the 2GP. Largely because of the uncertainty about what provisions would apply within ASCVs, no additional private landowners were included as ASCVs as part of this process. As part of this process, 7 landowners also indicated that they were going to protect these areas through a QEII covenant.
46. The ASCV schedule was also updated by including 24 new wetland ASCVs that are listed in the Regional Plan: Water for Otago. Some of these wetlands are publically owned and some of these are privately owned.

2.2.1.2 Consultation with public landowners with ASCVs

47. Over the 2008-2015 period, a number of publically owned potential ASCVs were also identified. These were consulted on with DOC, ORC, City Forests and the Water and Waste and Parks and Recreation departments of Council.
48. As a result of this consultation, additional ASCVs sites were identified. Some of these had ecological surveys undertaken, some of were identified by Parks and Recreation through reserve management plan reviews, and updated wetland information relied on ORC ecological assessments. Potential ASCVs on Department of Conservation land relied on the ecological expertise of DOC.
49. As a result of this consultation, some 28 additional ASCVs were added to the ASCV schedule in the 2GP, with there being 143 ASCVs in total on the 2GP schedule. Some boundaries of existing ASCVs were also altered after reviewing their accuracy.

2.3 Research

50. A number of research reports, both commissioned and in-house, contributed to the development of the Natural Environment section of the 2GP. These are summarised as follows, with a more detailed summary on pp 23-24 of the Natural Environment Section 32 report and pp 14-18 of the Landscape Section 32 report; with the reports themselves available on the 2GP website under Section 32 reports.
51. *Moore et al., Coastal Environment of Otago: Natural Character of Outstanding Natural Features and Landscapes Assessment, Dunedin City Section Report 2015* – Identification of Dunedin's coastal environment, and assessment of natural character and landscape values of the coast.
52. *Read, Saddle Hill Assessment 2015* – Assessment of Saddle Hill natural landscape and natural feature.
53. *DCC, Determining Indigenous Vegetation Clearance Thresholds for Dunedin's Rural Zones 2015* – Analysis of indigenous vegetation types/distribution, review of vegetation clearance rules and definition of indigenous vegetation, analysis of appropriate width of riparian buffers.
54. *Ahika Consulting, Urban Landscape Conservation Area Assessments 2015* – Review of conservation values of Urban Landscape Conservation Areas in the operative Plan.
55. *Wildlands Consultants, Ecological Significance Criteria for the Second Generation of the Dunedin City District Plan 2014* – Review of criteria used to select ASCVs, along with review of threatened plant species list.
56. *Moore, Outstanding Natural Features boundary mapping 2013* – Rationale for boundaries of natural features.
57. *Moore, Outstanding Landscape/Coastal Landscape boundary mapping 2013* – Rationale for boundaries of ONLs and coastal environment.
58. *Moore, Significant Features Assessment 2013* – Assessed landscape features identified in Boffa Miskell 2007 study, along with additional features identified.
59. *Moore, Assessment of Landscape Conservation Areas 2013* – Assessed Landscape Character Areas in operative Plan in terms of significance and spatial definition.
60. *Boffa Miskell, Dunedin Landscape Management Areas Review 2007* – Identified, characterised and assessed landscape types, character areas and landscape features across Dunedin.

2.4 Expert advice

61. In forming the recommendations in this report, I have relied on the advice of the following experts:
 - Mike Moore, landscape architect, has provided evidence in response to submissions on the mapping of landscape overlay zones, natural coastal character overlay zones, and the coastal environment mapped area.
 - Mike Moore has also provided evidence in response to submissions on building and structure size, maximum height, reflectivity and minimum building separation in landscape and natural coastal character overlay zones. This evidence also responds to submissions for a new performance standard for screening, and for a new performance standard for the size and number of permitted buildings and structures in overlay zones.
 - Dr Marion Read, landscape architect, has provided evidence in response to submissions on the mapping of the Saddle Hill ONF and SNL.
 - Dr Kelvin Lloyd, Wildlands Consultants, has provided evidence in relation to submissions on the definition of indigenous vegetation, the significance criteria

used in Policy 2.2.3.1 to identify areas of significant indigenous vegetation and significant habitats of indigenous vegetation, the indigenous vegetation clearance performance standards, and the mapping of ASCVs.

- Dr Kelvin Lloyd has also provided evidence in relation to submissions on Rule 10.3.4 which manages tree species with wilding risk.
- Richard Ewans has provided evidence in relation to submissions on the mapping of Urban Conservation Mapped Areas.

3.0 Statutory and Strategic Context

3.1 Resource Management Act 1991 (RMA)

62. Under the RMA, district plans must be prepared in accordance with the provisions of Part 2 (ss5-8). The purpose of the RMA, as stated in section 5, is the sustainable management of natural and physical resources to meet the reasonably foreseeable needs of future generations which enables people and communities to provide for their social, economic, and cultural well-being while safeguarding the environment.
63. Section 6 of the RMA sets out the following matters of national importance which local authorities should recognise and provide for:
- a) the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development
 - b) the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development
 - c) the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna
 - d) the maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers
64. Section 7 of the RMA lists other matters which local authorities should have particular regard to, including:
- b) the efficient use and development of natural and physical resources
 - c) the maintenance and enhancement of amenity values
 - d) intrinsic values of ecosystems
 - f) maintenance and enhancement of the quality of the environment
 - g) any finite characteristics of natural and physical resources
65. In addition, s31(1)(b)(iii) of the Act has, as a function of territorial authorities, the control of the effects of the use, development or protection of land for the maintenance of indigenous biological diversity.
66. The Natural Environment Section objectives, policies and methods provide for the identification and protection of significant natural resources, and the management of the effects of land use, development and subdivision on natural resources. I consider these provisions have been prepared in accordance with Part 2 of the RMA.

3.2 National Policy Statements (NPS) and National Environment Standards (NES)

67. Under section 75(3) of the RMA, district plans must give effect to any NPS or NES that affects a natural or physical resource that the plan manages.
68. The New Zealand Coastal Policy Statement 2010 (NZCPS) sets out policies guiding the management of the coastal environment which includes indigenous biodiversity, natural character, natural features and landscapes and public access. The 2GP must give effect to the NZCPS, with the policies particularly relevant to the Natural Environment section set out in Table 2 below.

Table 2: Relevant New Zealand Coastal Policy Statement Provisions

Policy 11 Indigenous biological diversity	<i>To protect indigenous biological diversity in the coastal environment...</i>
Policy 13 Preservation of natural character	<i>(1) to preserve the natural character of the coastal environment and to protect it from inappropriate subdivision, use and development... (2) recognise that natural character is not the same as natural features and landscapes or amenity values...</i>
Policy 14 Restoration of natural character	<i>Promote restoration or rehabilitation of the natural character of the coastal environment...</i>
Policy 15 Natural features and natural landscapes	<i>To protect the natural features and natural landscapes (including seascapes) of the coastal environment from inappropriate subdivision, use and development...</i>
Policy 16 Surf breaks of national significance	<i>Protect the surf breaks of national significance for surfing listed in Schedule 1...</i>
Policy 18 Public open space	<i>Recognise the need for public open space within and adjacent to the coastal marine area...</i>
Policy 19 Walking access	<i>Recognise the public expectation of and need for walking access to and along the coast...</i>
Policy 22 Sedimentation	<i>...Require that subdivision, use, or development will not result in a significant increase in sedimentation in the coastal marine area, or other coastal water...</i>

69. I consider that the proposed 2GP Natural Environment provisions give effect to these policies and therefore to the NZCPS.
70. The National Policy Statement for Freshwater Management 2014 (NPSFM) recognises the national significance of freshwater for New Zealand and directs local government to manage freshwater resources in an integrated and sustainable way. While freshwater is managed through Otago Regional Council processes, appropriate management of land use and development by territorial authorities also has a major impact on the protection of freshwater resources. The proposed 2GP Natural Environment section gives effect to the NPSFM through provisions which help to protect the quality of freshwater resources throughout the City.
71. A proposed National Policy Statement on Indigenous Biodiversity was notified and consulted on in 2011. While this was not passed as legislation, and there were further

moves to develop an NPS in 2016, I have noted its proposed provisions in developing the biodiversity provisions in the Natural Environment section.

72. A draft National Environmental Standard for Plantation Forestry has been consulted on in 2011 and 2015. While still only at a draft stage, I have had regard to this National Environmental Standard when developing the proposed performance standard on wilding tree species (Rule 10.3.4).

3.3 Operative and Proposed Regional Policy Statement (RPS)

73. Both the operative and proposed RPS highlight the resource management issues of the region, and clarify roles and responsibilities of the ORC and territorial authorities. The operative RPS (1998) directs strategic planning at a regional level. The relevant provisions of the operative RPS are set out in Table 3.

Table 3: Relevant operative Otago Regional Policy Statement (1998) provisions

5: Land	
Objectives	<p>5.4.2 To avoid, remedy or mitigate degradation of Otago's natural and physical resources resulting from activities utilising the land resource.</p> <p>5.4.3 To protect Otago's outstanding natural features and landscapes from inappropriate subdivision, use and development.</p> <p>5.4.4 To ensure that public access opportunities exist in respect of activities utilising Otago's natural and physical land features</p>
Policies	<p>5.5.3 To maintain and enhance Otago's land resource through avoiding, remedying or mitigating the adverse effects of activities which have the potential to, among other adverse effects:</p> <ul style="list-style-type: none"> a) Reduce the soil's life-supporting capacity b) Reduce healthy vegetative cover c) Cause soil loss d) Contaminate soils e) Reduce soil productivity f) Compact soils g) Reduce soil moisture holding capacity. <p>5.5.5 To minimise the adverse effects of landuse activities on the quality and quantity of Otago's water resource through promoting and encouraging the:</p> <ul style="list-style-type: none"> a) Creation, retention and where practicable enhancement of riparian margins; and b) Maintaining and where practicable enhancing, vegetation cover, upland bogs and wetlands to safeguard land and water values; and c) Avoiding, remedying or mitigating the degradation of groundwater and surface water resources caused by the introduction of contaminants in the form of chemicals, nutrients and sediments resulting from landuse activities. <p>5.5.6 To recognise and provide for the protection of Otago's outstanding natural features and landscapes which:</p> <ul style="list-style-type: none"> a) Are unique to or characteristic of the region; or b) Are representative of a particular landform or land cover occurring in the Otago region or of the collective characteristics which give Otago its particular character; or c) Represent areas of cultural or historic significance in Otago; or

	<p>d) Contain visually or scientifically significant geological features; or e) Have characteristics of cultural, historical and spiritual value that are regionally significant for Tangata Whenua and have been identified in accordance with Tikanga Maori.</p> <p>5.5.7 To promote the provision of public access opportunities to natural and physical land features throughout the Otago region except where restriction is necessary:</p> <p>a) To protect areas of significant indigenous vegetation and/or significant habitats of indigenous fauna; or b) To protect Maori cultural values; or c) To protect public health or safety; or d) To ensure a level of security consistent with the purpose of a resource consent or in circumstances where safety and security concerns require exclusive occupation; or e) In other exceptional circumstances sufficient to justify the restriction notwithstanding the importance of maintaining that access.</p>
6: Water	
Objectives	<p>6.4.4 To maintain and enhance the ecological, intrinsic, amenity and cultural values of Otago's water resources.</p> <p>6.4.5 To avoid, remedy or mitigate degradation of water resources resulting from the use, development or protection of the beds and banks of Otago's water bodies and of adjacent land areas.</p> <p>6.4.7 To maintain and enhance public access to and along the margins of Otago's water bodies.</p> <p>6.4.8 To protect areas of natural character, outstanding natural features and landscapes and the associated values of Otago's wetlands, lakes, rivers and their margins.</p>
Policies	<p>6.5.6 To protect Otago's remaining significant wetlands from the effects of any activity except:</p> <p>(a) Where such activities can be shown to have no significant adverse effects on:</p> <p>i. Community needs; or ii. Kai Tahu cultural and spiritual values; or iii. The natural hydrological characteristics of the wetland; or iv. The natural character of the water body; or v. Habitats of indigenous fauna; or vi. Amenity values; or vii. Intrinsic values of ecosystems; or viii. Salmon or trout habitat; or</p> <p>(b) Where alternative habitats of a similar or improved nature are provided in compensation for any loss of habitat.</p> <p>6.5.7 To maintain and where practicable enhance existing well vegetated riparian margins and, where necessary, to promote the creation of further such margins:</p> <p>(a) To provide for the preservation of the natural character of wetlands, rivers, lakes and their margins; and (b) To maintain and enhance water quality; and (c) To maintain and enhance ecological, amenity, intrinsic and habitat values; while considering the need to reduce threats posed by flooding and erosion.</p> <p>6.5.10 To maintain and enhance public access to and along the margins of</p>

	<p><i>Otago's water bodies through:</i></p> <p><i>(a) Encouraging the retention and setting aside of esplanade strips and reserves and access strips to and along the margins of water bodies which will enhance access; and</i></p> <p><i>(b) Identifying and providing for other opportunities to improve access; except where restriction is necessary:</i></p> <p><i>i. To protect areas of significant indigenous vegetation and/or significant habitats of indigenous fauna,</i></p> <p><i>ii. To protect Maori cultural values,</i></p> <p><i>iii. To protect public health or safety,</i></p> <p><i>iv. To ensure a level of security consistent with the purpose of a resource consent; or</i></p> <p><i>v. In other exceptional circumstances sufficient to justify the restriction notwithstanding the national importance of maintaining that access.</i></p>
8: Coast	
Objectives	<p><i>8.4.5 To protect areas of natural character, outstanding natural features and landscapes and their associated values within the coastal environment.</i></p> <p><i>8.4.6 To maintain and enhance public access to and along Otago's coastal marine area.</i></p>
Policies	<p><i>8.5.3 To maintain and enhance public access to and along Otago's coast through:</i></p> <p><i>(a) Identifying areas where access is not meeting community expectations; and</i></p> <p><i>(b) Providing for the retention and setting aside of esplanade strips and reserves or access strips along the coastal margin which may enhance access; and</i></p> <p><i>(c) Identifying and providing for other opportunities to improve access; except where such restriction is necessary;</i></p> <p><i>i. To protect areas of significant indigenous vegetation and/or significant habitats of indigenous fauna; or</i></p> <p><i>ii. To protect Maori cultural values; or</i></p> <p><i>iii. To protect public health or safety; or</i></p> <p><i>iv. To ensure a level of security consistent with the purpose of a resource consent; or</i></p> <p><i>v. In other exceptional circumstances sufficient to justify the restriction notwithstanding the national importance of maintaining that access.</i></p> <p><i>8.5.4 To recognise and provide for the preservation of the natural character of Otago's coastal environment and to protect outstanding natural coastal features and landscapes from inappropriate subdivision, use and development through identifying and protecting:</i></p> <p><i>a) Estuarine areas, salt marshes and lagoons;</i></p> <p><i>b) Significant habitats of indigenous flora and fauna;</i></p> <p><i>c) Areas of significant conservation value;</i></p> <p><i>d) Important coastal physical features; and</i></p> <p><i>e) Areas of cultural, historic, spiritual, recreational and scientific significance in Otago.</i></p>
10: Biota	
Objectives	<p><i>10.4.1 To maintain and enhance the life-supporting capacity and diversity of Otago's biota.</i></p> <p><i>10.4.2 To protect Otago's natural ecosystems and primary production from significant biological and natural threats.</i></p>

	<p>10.4.3 To maintain and enhance the natural character of areas with significant indigenous vegetation and significant habitats of indigenous fauna.</p>
Policies	<p>10.5.2 To maintain and where practicable enhance the diversity of Otago's significant indigenous vegetation and the significant habitat of indigenous fauna, trout and salmon which are:</p> <ul style="list-style-type: none"> (a) Covered under a statute or covenant for protection; or (b) Habitat or vegetation that support the maintenance or recovery of indigenous species that are uncommon or threatened with extinction (rare, vulnerable or endangered) regionally or nationally; or (c) Vegetation that contains associations of indigenous species which are rare or representative regionally or nationally; or (d) Vegetation that contains a substantially intact, uninterrupted ecological sequence of indigenous species which are rare or representative regionally or nationally; or (e) Important for soil and water values or have functions in natural hazard mitigation; and to promote and encourage, where practicable, the retention, enhancement and re-establishment of indigenous ecosystems within Otago. <p>10.5.3 To reduce and where practicable eliminate the adverse effects of plant and animal pests on Otago's communities and natural and physical resources through:</p> <ul style="list-style-type: none"> (a) Developing strategies to effectively manage Otago's plant and animal pests; and (b) Educating about the responsibilities of all parties in the management of Otago's plant and animal pests; and (c) Adopting the most practicable method of pest control while safeguarding the environment. <p>10.5.4 To reduce the adverse effects associated with introductions and movements of undesirable new species into and around Otago through:</p> <ul style="list-style-type: none"> (a) Promoting and educating about methods to reduce the spread of plant and animal pests; and (b) Being able to respond quickly to any new introduction or movement; and (c) Eradicating, where practicable, undesirable new species.

74. The Proposed RPS was notified in May 2015. Following hearings, the decisions version of the proposed RPS (pORPS-dv) was released in February 2017. relevant provisions of the pORPS-dv are set out in Table 4.

Table 4: Relevant Provisions within the proposed Regional Policy Statement for Otago decisions version 2017 (pORPS-dv)

Chapter 3 Otago has high quality natural resources and ecosystems	
Objective	3.1 The values of Otago's natural resources are recognised, maintained and enhanced
Policies	<p>3.1.1 Fresh water Manage fresh water to achieve all of the following:</p> <ul style="list-style-type: none"> a) Maintain or enhance ecosystem health in all Otago aquifers, and rivers, lakes, wetlands, and their margins; b) Maintain or enhance the range and extent of habitats provided by fresh water, including the habitat of trout and salmon; c) Recognise and provide for the migratory patterns of freshwater species, unless detrimental to indigenous biological diversity; d) Avoid aquifer compaction and seawater intrusion in aquifers; e) Maintain good water quality, including in the coastal marine area, or enhance

it where it has been degraded;

- f) Maintain or enhance coastal values;
- g) Maintain or enhance the natural functioning of rivers, lakes, and wetlands, their riparian margins, and aquifers;
- h) Maintain or enhance the quality and reliability of existing drinking and stock water supplies;
- i) Recognise and provide for important recreation values;
- j) Maintain or enhance the amenity and landscape values of rivers, lakes, and wetlands;
- k) Control the adverse effects of pest species, prevent their introduction and reduce their spread;
- l) Avoid, remedy or mitigate the adverse effects of natural hazards, including flooding and erosion;
- m) Avoid, remedy, or mitigate adverse effects on existing infrastructure that is reliant on fresh water.

3.1.9 Ecosystems and indigenous biological diversity

Manage ecosystems and indigenous biological diversity in terrestrial, freshwater and marine environments to achieve all of the following:

- a) Maintain or enhance ecosystem health and indigenous biological diversity;
- b) Maintain or enhance biological diversity where the presence of exotic flora and fauna supports indigenous biological diversity;
- c) Maintain or enhance areas of predominantly indigenous vegetation;
- d) Recognise and provide for important hydrological services, including the services provided by tussock grassland;
- e) Recognise and provide for natural resources and processes that support indigenous biological diversity;
- f) Maintain or enhance habitats of indigenous species and the habitat of trout and salmon that are important for recreational, commercial, cultural or customary purposes;
- g) Control the adverse effects of pest species, prevent their introduction and reduce their spread.

3.1.10 Natural features, landscapes, and seascapes

Recognise the values of natural features, landscapes and seascapes are derived from the biophysical, sensory and associative attributes in Schedule 3.

3.1.11 Natural character in the coastal environment

Recognise the values of natural character in the coastal environment are derived from one or more of the following attributes:

- a) Natural elements, processes and patterns;
- b) Biophysical, ecological, geological and geomorphological aspects;
- c) Natural landforms such as headlands, peninsulas, cliffs, dunes, wetlands, estuaries, reefs, freshwater springs and surf breaks;
- d) The natural movement of water and sediment;
- e) The natural darkness of the night sky;
- f) Places or areas that are wild or scenic;
- g) A range of natural character from pristine to modified;
- h) Experiential attributes, including the sounds and smell of the sea; and their context or setting.

3.1.12 Environmental enhancement

Encourage, facilitate and support activities which contribute to enhancing the natural environment, by one or more of the following:

- a) Improving water quality and quantity;
- b) Protecting or restoring habitat for indigenous species;
- c) Regenerating indigenous species;
- d) Mitigating natural hazards;
- e) Protecting or restoring wetlands;
- f) Improving the health and resilience of:
 - i. Ecosystems supporting indigenous

	<p><i>biological diversity;</i></p> <p><i>ii. Important ecosystem services, including pollination;</i></p> <p><i>g) Improving access to rivers, lakes, wetlands and their margins, and the coast;</i></p> <p><i>h) Buffering or linking ecosystems, habitats and areas of significance that contribute to ecological corridors;</i></p> <p><i>i) Controlling pest species.</i></p>
Objective	3.2 <i>Otago's significant and highly-valued natural resources are identified, and protected or enhanced</i>
Policies	<p>3.2.1 Identifying significant vegetation and habitats <i>Identify areas and values of significant indigenous vegetation and significant habitats of indigenous fauna, using the attributes detailed in Schedule 4.</i></p> <p>3.2.2 Managing significant vegetation and habitats <i>Protect and enhance areas of significant indigenous vegetation and significant habitats of indigenous fauna, by all of the following:</i></p> <p><i>a) Avoiding adverse effects on those values which contribute to the area or habitat being significant;</i></p> <p><i>b) Avoiding significant adverse effects on other values of the area or habitat;</i></p> <p><i>c) Remedying when other adverse effects cannot be avoided;</i></p> <p><i>d) Mitigating when other adverse effects cannot be avoided or remedied;</i></p> <p><i>e) Encouraging enhancement of those areas and values which contribute to the area or habitat being significant;</i></p> <p><i>f) Controlling the adverse effects of pest species, preventing their introduction and reducing their spread.</i></p> <p>3.2.3 Identifying outstanding natural features, landscapes and seascapes <i>Identify areas and values of outstanding natural features, landscapes and seascapes, using the attributes in Schedule 3.</i></p> <p>3.2.4 Managing outstanding natural features, landscapes and seascapes <i>Protect, enhance and restore outstanding natural features, landscapes and seascapes, by all of the following:</i></p> <p><i>a) Avoiding adverse effects on those values which contribute to the significance of the natural feature, landscape or seascape;</i></p> <p><i>b) Avoiding, remedying or mitigating other adverse effects;</i></p> <p><i>c) Recognising and providing for the positive contributions of existing introduced species to those values;</i></p> <p><i>d) Controlling the adverse effects of pest species, preventing their introduction and reducing their spread;</i></p> <p><i>e) Encouraging enhancement of those areas and values which contribute to the significance of the natural feature, landscape or seascape.</i></p> <p>3.2.5 Identifying highly valued natural features, landscapes and seascapes <i>Identify natural features, landscapes and seascapes, which are highly valued for their contribution to the amenity or quality of the environment but which are not outstanding, using the attributes in Schedule 3.</i></p> <p>3.2.6 Managing highly valued natural features, landscapes and seascapes <i>Protect or enhance highly valued natural features, landscapes and seascapes by all of the following:</i></p> <p><i>a) Avoiding significant adverse effects on those values which contribute to the high value of the natural feature, landscape or seascape;</i></p> <p><i>b) Avoiding, remedying or mitigating other adverse effects;</i></p> <p><i>c) Recognising and providing for positive contributions of existing introduced species to those values;</i></p> <p><i>d) Controlling the adverse effects of pest species, preventing their introduction</i></p>

	<p>and reducing their spread; e) Encouraging enhancement of those values which contribute to the high value of the natural feature, landscape or seascape.</p> <p>3.2.7 Landward extent of the coastal environment Identify the landward extent of the coastal environment, recognising that the coastal environment consists of one or more of the following:</p> <p>a) The coastal marine area; b) Islands within the coastal marine area; c) Areas where coastal processes, influences or qualities are significant, including coastal lakes, lagoons, tidal estuaries, saltmarshes, coastal wetlands, and the margins of these; d) Areas at risk from coastal hazards; e) Coastal vegetation and the habitat of indigenous coastal species including migratory birds; f) Elements and features that contribute to the natural character, landscape, visual qualities or amenity values; g) Items of cultural and historic heritage in the coastal marine area or on the coast; h) Inter-related coastal marine and terrestrial systems, including the intertidal zone; and i) Physical resources and built facilities, including infrastructure, that have modified the coastal environment.</p> <p>3.2.8 Identifying high and outstanding natural character in the coastal environment Identify areas and values of high and outstanding natural character in the coastal environment, where one or more of the following attributes are met:</p> <p>a) Natural elements, processes and patterns; b) Biophysical, ecological, geological and geomorphological aspects; c) Natural landforms such as headlands, peninsulas, cliffs, dunes, wetlands, estuaries, reefs, freshwater springs and surf breaks; d) The natural movement of water and sediment; e) The natural darkness of the night sky; f) Places or areas that are wild or scenic; g) A range of natural character from pristine to modified; h) Experiential attributes, including the sounds and smell of the sea; and their context or setting.</p> <p>3.2.9 Managing the outstanding natural character of the coastal environment Preserve or enhance the outstanding natural character of the coastal environment, by all of the following:</p> <p>a) Avoiding adverse effects on those values which contribute to the outstanding natural character of an area; b) Avoiding, remedying or mitigating other adverse effects; c) Recognising and providing for the contribution of existing introduced species to the natural character of the coastal environment; d) Encouraging enhancement of those values which contribute to the outstanding natural character of an area; e) Controlling the adverse effects of pest species, prevent their introduction and reduce their spread.</p>
Chapter 5 People are able to use and enjoy Otago's natural and built environment	
Objective	5.1 Public access to areas of value to the community is maintained or enhanced
Policies	5.1.1 Public access Maintain and enhance public access to the natural environment, including to the coast, lakes, rivers and their margins and where possible areas of cultural or

	<p><i>historic significance, unless restricting access is necessary for one or more of the following:</i></p> <ul style="list-style-type: none"> <i>a) Protecting public health and safety;</i> <i>b) Protecting the natural heritage and ecosystem values of sensitive natural areas or habitats;</i> <i>c) Protecting identified sites and values associated with historic heritage or cultural significance to Kāi Tahu;</i> <i>d) Ensuring a level of security consistent with the operational requirements of a lawfully established activity.</i>
Objective	5.2 Adverse effects of using and enjoying Otago's natural and physical resources are minimised
Policies	<p>5.4.5 Pest plants and animals <i>Control the adverse effects of pest species, prevent their introduction and reduce their spread, to safeguard all of the following:</i></p> <ul style="list-style-type: none"> <i>a) The viability of indigenous species and habitats for indigenous species;</i> <i>b) Ecosystem services that support economic activities;</i> <i>c) Water quality and water quantity;</i> <i>d) Soil quality;</i> <i>e) Human and animal health;</i> <i>f) Recreation values;</i> <i>g) Landscapes, seascapes and natural character.</i> <p>5.4.6 Offsetting for indigenous biological diversity <i>Consider the offsetting of indigenous biological diversity, when:</i></p> <ul style="list-style-type: none"> <i>a) Adverse effects of activities cannot be avoided, remedied or mitigated;</i> <i>b) The offset achieves no net loss and preferably a net gain in indigenous biological diversity;</i> <i>c) The offset ensures there is no loss of rare or vulnerable species;</i> <i>d) The offset is undertaken close to the location of development, where this will result in the best ecological outcome;</i> <i>e) The offset is applied so that the ecological values being achieved are the same or similar to those being lost;</i> <i>f) The positive ecological outcomes of the offset last at least as long as the impact of the activity.</i> <p>5.4.8 Adverse effects from mineral and petroleum exploration, extraction and processing <i>Minimise adverse effects from the exploration, extraction and processing of minerals and petroleum, by all of the following:</i></p> <ul style="list-style-type: none"> <i>a) Giving preference to avoiding their location in all of the following:</i> <ul style="list-style-type: none"> <i>i. Areas of significant indigenous vegetation and significant habitats of indigenous fauna;</i> <i>ii. Outstanding natural features, landscapes and seascapes;</i> <i>iii. Areas of outstanding natural character;</i> <i>iv. Outstanding water bodies;</i> <i>v. Areas subject to significant natural hazard risk;</i> <i>vi. Places or areas containing significant historic heritage.</i> <i>b) Where it is not possible to avoid locating in the areas listed in a) above, avoiding significant adverse effects of the activity on those values that contribute to the significant or outstanding nature of those areas;</i> <i>c) Avoiding adverse effects on the health and safety of the community;</i> <i>d) Avoiding, remedying, or mitigating adverse effects on other values;</i> <i>e) Reducing unavoidable adverse effects by</i> <ul style="list-style-type: none"> <i>i. Staging development for longer term activities; and</i> <i>ii. Progressively rehabilitating the site, where possible.</i> <i>f) Considering offsetting for residual adverse effects;</i> <i>g) Applying a precautionary approach to assessing the effects of the activity, where there is scientific uncertainty, and potentially significant or irreversible adverse effects.</i>

75. I consider the proposed provisions (including any relevant amendments recommended) discussed in this report both give effect to the operative RPS and have regard to the pORPS-dv.

3.4 Kai Tahu ki Otago Natural Resource Management Plan

76. The Kai Tahu Ki Otago Natural Resource Management Plan is a relevant planning document recognised by an iwi authority and must be taken into account under section 72(2A) of the RMA. The Plan is structured into 'catchments' with Otago Harbour, East Otago and Taieri catchments overlapping with the Dunedin City area. Provisions are focused on management and protection of water, wāhi tapu, mahika kai and biodiversity, cultural landscapes, air and atmosphere, and coastal environment.
77. I have had regard to the Kai Tahu ki Otago Natural Resource Management Plan in developing provisions for areas of indigenous vegetation and the habitats of indigenous fauna, the biodiversity values and natural character of the coast and riparian margins, maintaining and enhancing access to coastlines and water bodies for mahika kai and for the maintenance and enhancement of significant and outstanding landscapes and features.

3.5 New Zealand Biodiversity Strategy and Action Plan

78. The New Zealand Biodiversity Strategy (2000) was developed as part of New Zealand's commitment to implementing the international Convention on Biological Diversity, and establishes a strategic framework for conserving and sustainably managing biodiversity. There are several provisions of direct relevance to the Natural Environment section, as set out in Table 5.

Table 5: Relevant Provisions within the New Zealand Biodiversity Strategy

Objectives	Relevant Actions
<p>Objective 1.1 Protecting indigenous habitats and ecosystems</p> <p>a) Enhance the existing network of protected areas to secure a full range²⁰ of remaining indigenous habitats and ecosystems.</p> <p>b) Promote and encourage initiatives to protect, maintain and restore habitats and ecosystems that are important for indigenous biodiversity on land outside of protected areas.</p>	<p>b) Add to public conservation lands those habitats and ecosystems important for indigenous biodiversity that are not represented within the existing protected area network or that are at significant risk of irreversible loss or decline, or in situations where public ownership is needed for effective management.</p> <p>c) Encourage and support initiatives to protect and maintain habitats and ecosystems important for indigenous biodiversity on private land using a mixture of mechanisms, recognising the rights, responsibilities and interests of landowners and society, including information, education, voluntary mechanisms, economic incentives, property rights and regulation.</p> <p>h) Promote landowner and community awareness of opportunities to conserve and sustainably use indigenous biodiversity, and to protect and</p>

	maintain habitats and ecosystems of importance to indigenous biodiversity on private land.
Objective 3.3 Sustainable Coastal Management Protect biodiversity in coastal waters from the adverse effects of human activities on land and in the coastal zone	c) Maintain or restore the biodiversity of priority sites in the coastal environment.
Objective 7.2 Mātauranga Māori Recognise and respect the role of mātauranga Māori in biodiversity management and provide for its retention and protection.	b) Recognise the knowledge and role of Māori as kaitiaki in the conservation and sustainable use of biodiversity, including the cooperative management of public conservation areas and local authority resource management processes.
Objective 9.2 Use ecosystem-based methods to map our indigenous biodiversity. Develop and implement effective approaches to map indigenous biodiversity at ecosystem scales and inform management actions and research.	b) Accelerate biodiversity survey, identification and assessment of threats to key ecosystems. (See also Actions 1.1a, 2.1b and 3.1b).

79. The New Zealand Biodiversity Action Plan is an update of the strategy. National Target 3 of the strategy is "Biodiversity is integrated into national and local strategies, policies, plans and reporting" and Action 3.6 is "New Zealand will continue to incorporate biodiversity considerations into resource management plans and policies (local authorities).
80. In developing provisions for indigenous biodiversity I have had regard to both the Strategy and Action plan.

3.6 Guidance on Good Practice Biodiversity Offsetting in New Zealand

81. The Guidance on Good Practice Biodiversity Offsetting (2014) was published by the New Zealand Government to provide guidance and information about the use of biodiversity offsets in managing biodiversity. The Guidance sets out key principles and a framework for implementation of offsetting in a New Zealand context, drawing from the international Business and Biodiversity Offsets Programme (BBOP).
82. I have had regard to the Guidance in developing recommendations around the potential use of biodiversity offsets in managing indigenous biodiversity values.

3.7 Dunedin Spatial Plan (September 2012)

83. The Spatial Plan sets the strategic directions for Dunedin's growth and development for the next 30+ years. The provisions of the Spatial Plan that are relevant to the natural environment topic are set out in Table 6 below.

Table 6: Relevant Provisions within the Dunedin Spatial Plan

Objectives	Policies
ESR 2. Ecosystem resilience is maintained and enhanced	a) Encourage good land management that utilises a catchment perspective to enhance productive capacity and protects or restores the natural environment b) Prevent development which might threaten areas of high biodiversity or ecological value c) Protect areas of significant indigenous

	<p>vegetation and significant habitats of indigenous fauna</p> <p>d) Encourage and support environmental restoration through restoration planting, corridor planting, riparian planting and fencing of waterways</p>
<p>ESR 3. A network of green and blue corridors runs throughout urban and rural Dunedin, connecting the diverse ecosystems, including the coast and Harbour, and contributes to biodiversity enhancement and restoration of natural ecosystems across the city</p>	<p>a) Encourage and support the development of networks of open space, including green and blue networks, which connect vegetation remnants, protect waterways, and regenerate the natural environment</p> <p>b) Improve the water quality of waterways through restoration measures such as riparian planting and improving the quality of stormwater discharges where required</p> <p>c) Work with developers to identify opportunities for open space in new subdivisions to be used as part of creating a network of existing and potential green and blue corridors</p>
<p>MEM 1. The diverse character of Dunedin's rural and coastal environment is maintained and enhanced</p>	<p>a) Manage the location and design of development in the coastal environment to protect the natural character and landscape values of the coastal environment</p> <p>b) Protect the character and identity of the distinct rural and coastal communities by preventing urban development in defined inter-urban breaks (rural or natural areas between settlements)</p> <p>c) Manage the location and design of development in the rural environment to protect character and landscape values of the rural environment</p>
<p>MEM 3. The identity, character, and history of the diverse communities that make up Dunedin are protected and celebrated</p>	<p>a) Ensure all new development respects and enhances the distinct built and natural environmental context in which it is located, including land form, natural features, local character and identity.</p>
<p>LIV 1. Dunedin has a resilient and safe water supply</p>	<p>b) Protect and manage water catchments, including wetlands and tussock grasslands, to provide high water quality</p>

84. I have had regard to the Spatial Plan as a key strategy prepared under the Local Government Act in accordance with RMA s74(2)(b)(i).

3.8 Te Ao Tūroa – The Natural World

85. Te Ao Tūroa – The Natural World, Dunedin's Environment Strategy 2016-2026, was approved in May 2016. The strategy has three goals: Dunedin is resilient and carbon zero, Dunedin has a healthy environment, and Dunedin people care for the natural world. To achieve the second goal of a healthy environment, the objectives are to sustain ecosystem services; increase indigenous biodiversity; and restore areas of ecological value. This is to be achieved through, among other means, safeguarding the life-supporting capacity (mauri) of indigenous and taoka species' habitats, protecting important ecological areas and taking a landscape-scale approach to protecting ecosystems and increasing biodiversity.

86. I have had regard to the Environment Strategy in developing recommendations on provisions of the Natural Environment section, particularly in relation to the biodiversity provisions.

3.9 Biodiversity Strategy for Dunedin City 2007

87. The Biodiversity Strategy for Dunedin City 2007 sets out the vision and goals for the sustainable management of Dunedin's biodiversity (this strategy sits under Te Ao Tūroa). The goals of the strategy are to increase community involvement and responsibility in biodiversity conservation; establish and monitor the state of biodiversity in Dunedin; and reverse the decline and enhance Dunedin's unique indigenous biodiversity. One of the actions to achieve the third goal is to enhance the ASCV schedule to include a full range of representative habitats across the city.
88. I have had regard to the Biodiversity Strategy in developing provisions and recommendations for the Natural Environment section.

4.0 Overview of Submissions Received

89. Some 836 original submission and 852 further submission points were received relating to the Natural Environment topic. Of these, 108 original submission points were in support, and 728 either sought an amendment or opposed the provisions.
90. A summary of recommended amendments in response to these submissions will be made available prior to the commencement of the hearing.

5.0 Provision by Provision assessment and recommendations

Please note the following abbreviations used in this section:

OS	Original Submitter
FS	Further Submitter
ASCV	Area of Significant Conservation Value
ONF	Outstanding Natural Feature overlay zone
ONL	Outstanding Natural Landscape overlay zone
SNL	Significant Natural Landscape overlay zone
ONCC	Outstanding Natural Coastal Character overlay zone
HNCC	High Natural Coastal Character overlay zone
NCC	Natural Coastal Character overlay zone
UCMA	Urban Conservation Mapped Area
pORPs-dv	proposed Otago Regional Policy Statement – decisions version
FFNZ	Federated Farmers of New Zealand
HPPC	Harboursides and Peninsula Preservation Coalition
STOP	Save The Otago Peninsula (STOP) Inc Soc

Also note that sometimes a version of a provision (objective, policy or rule) that is discussed may be one that appears different to the notified version of the 2GP. This will occur where it is the recommended amendments version of the provision – i.e. the provision has been recommended to be altered as a result of previous hearings. I have endeavoured to highlight this where it occurs.

5.1 Definitions

5.1.1 Definition of Conservation

Sub pt #	Submitter Name	Support/Oppose/ Seek Amend	Summary Of Submission	Accept/Reject/ Accept in part	Staff Recommendation
OS919.155	Federated Farmers of New Zealand	I support the provision	Retain definition of Conservation.	Accept	Retain definition of conservation
OS1088.4	Oceana Gold (New Zealand) Limited	I support the provision	Retain definition of Conservation	Accept	Retain definition of conservation
OS690.1	Yellow-eyed Penguin Trust	I seek to have the above provision amended	Retain definition of Conservation with the addition of the following: <u>This includes other activities such as grazing and vegetation clearance where undertaken in order to meet conservation requirements.</u>	Reject	Retain definition of conservation
OS853.5	Dunedin Rural Development Inc.	I seek to have the above provision amended	Amend definition of Conservation to align with the Otago Regional Council Regional Policy Statement	Reject	Retain definition of conservation
OS900.1	Save The Otago Peninsula (STOP) Inc Soc	I seek to have the above provision amended	Amend definition of Conservation by amending the following example as follows: " <u>• restoration planting using eco sourced indigenous species local to the area</u> "	Reject	Retain definition of conservation
FS2391.123	Geoff Scurr Contracting Limited	I oppose the submission	Oppose OS900.1. Disallow submission.	Accept	Retain definition of conservation
OS908.95	Otago Regional Council	I seek to have the above provision amended	Add new definition of Conservation Activity (in relation to Rule 11.3.2 - vegetation clearance) stating whether the activity requires authorisation, and if so by whom.	Reject	No amendment required
FS2391.35	Geoff Scurr Contracting Limited	I support the submission	Support OS908.95. Allow submission.	Accept in part	Amend Rule 11.3.2 as shown below

OS958.1	Forest and Bird NZ	I seek to have the above provision amended	<p>Amend definition of Conservation as follows: The use of land for the establishment, maintenance or enhancement of indigenous vegetation and/or habitat for indigenous fauna. Examples of component activities of conservation are:</p> <ul style="list-style-type: none"> • restoration planting <u>using eco sourced indigenous species local to the area</u>. • pest and weed control • track construction and maintenance; • fencing. 	Reject	Retain definition of conservation
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Background

The definition of Conservation is:

The use of land for the establishment, maintenance or enhancement of indigenous vegetation and/or habitat for indigenous fauna.

Examples of component activities of conservation are:

- *restoration planting*
- *pest and weed control*
- *track construction and maintenance;*
- *fencing.*

Submissions in support

Federated Farmers of New Zealand (OS919.155) supports the definition of Conservation, including the specific inclusion of restoration planting, pest and weed control, track construction and maintenance and fencing as examples of component activities of conservation.

Oceana Gold (New Zealand) Limited (OS1088.4) supports the definition and notes that the activities contained in the definition are often proposed as part of development activities by way of mitigation or compensation.

Requests to amend definition to include other activities

The Yellow-eyed Penguin Trust (YPT) (OS690.1) seeks to add the following clause to the definition of Conservation "This includes other activities such as grazing and vegetation clearance where undertaken in order to meet conservation requirements." The reason is as YPT believe it may conflict with other provisions of the 2GP, and should be as general as possible so that a wide range of conservation activities are supported and enabled by the Plan.

Recommendation

I do not support the expansion of the definition as proposed by the Yellow-eyed Penguin Trust, as including them in this definition would likely cause conflict with the rules and policies and how conservation activity is intended to be considered in light of these rules, especially given the fairly loose nature of the wording proposed.

I note grazing is permitted in rural, rural residential and residential zones, with the only restriction being in Areas of Significant Conservation Value where it is non-complying, but where conservation activity is permitted. I note also that there are already exemptions for vegetation clearance conducted as part of conservation activity in the vegetation clearance rule 10.3.2 and in the definition of indigenous vegetation clearance.

Request to amend definition to align with the RPS

Dunedin Rural Development Inc. (OS853.5) request to amend the definition of Conservation to align closely with the Otago Regional Council Regional Policy Statement so the public have a clear understanding on the areas they apply to. I note that there is no definition of 'conservation' in either the operative or proposed Regional Policy Statement.

Recommendation

As there is no definition of 'conservation' in either the operative or decisions version of the proposed Regional Policy Statement (pORPS-dv), I do not consider the definition should be amended in response to the Dunedin Rural Development submission.

Requests to require restoration planting to use eco-sourced indigenous species

STOP (OS900.1) and Forest and Bird NZ (OS958.1) seek to amend the definition of Conservation by adding a limitation to what restoration planting means: "• restoration planting using eco-sourced indigenous species local to the area". They believe restoration should be confined to use of local ecosourced species that occur or occurred naturally in the vicinity of the site. Note these submitters made similar submissions to Policy 2.2.3.3 in section 5.2.4 below.

Geoff Scurr Contracting Limited (FS2391.123) opposes STOP (OS900.1) because of concern about the implications of the term "ecosourced" in the context of the plan and the need for definitions if the term is used.

Recommendation

I do not support the STOP and Forest and Bird submissions, as I consider this to be too restrictive an imposition on landowners and people

seeking to undertake restoration planting, as well as being difficult to monitor. I consider this requirement may have a negative impact, in terms of the cost and effort required, on the willingness of people to undertake conservation activities.

Request to clarify whether conservation activity in Rule 11.3.2 requires authorisation

Otago Regional Council (OS908.95) seeks to clarify whether conservation activity referred to in relation to Rule 11.3.2.2.a (vegetation clearance – dune system mapped area) is defined, whether it needs to be authorised, and by whom. This submission is supported by Geoff Scurr Contracting Limited (FS2391.35) who considers that the definition of 'conservation activity' requires clarification.

Rule 11.3.2.2 states:

"2. Vegetation clearance must not occur in a dune system mapped area, except vegetation clearance ~~as part of~~ necessary for {NH 908.46} any of the following, is exempt from this standard:

- a. planting of indigenous species that is part of conservation activity;
- b. the maintenance or alteration of fences (including gates);
- c. the maintenance (but not extension) of existing network {NH 457.59} utilities, tracks, drains, structures, or roads; ~~or~~
- d. vegetation clearance that is provided for as part of a conservation management strategy, conservation management plan, reserve management d. plan or covenant established under the Conservation Act 1987 or any other Act specified in the First Schedule of the Conservation Act 1987; or
- e. removal of non-indigenous or pest plant species provided that the area is replanted within 3 months with plants that contribute to dune stabilisation." {NH 951.60}

Recommendation

I do not consider that the intent of Rule 11.3.2.2.a is that the conservation activity requires authorisation by any authority. As with the use of conservation activity in exemptions to other vegetation clearance rules, or when used as activity elsewhere in the 2GP, compliance with the rules relies on the activity itself meeting the definition of conservation. I do not see any need to alter this approach for Rule 11.3.2.2.

Recommended amendment:

None.

5.1.2 Suggested new definition of biodiversity

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
OS690.2	Yellow-eyed Penguin Trust	I seek to have the above provision amended	Add new definition of 'biodiversity'	Accept	Add new definition of biodiversity as shown below.
FS2439.69	Oceana Gold (New Zealand) Limited	I oppose the submission	Oppose OS690.2. Disallow submission.	Reject	Add new definition of biodiversity as shown below.

Submissions

Yellow-eyed Penguin Trust (OS690.2) seek to either add a definition of biodiversity as it is used extensively throughout the Proposed Plan, but is not defined, and is not defined in the Act; or reference that it is equivalent to "biological diversity" as defined in the Act. Oceana Gold (FS2439.69) opposes this submission as there is no proposed wording for a new definition provided by the submitter.

Recommendations

The RMA defines biological diversity as "the variability among living organisms, and the ecological complexes of which they are a part, including diversity within species, between species, and of ecosystems."

I note that the operative Otago Regional Policy Statement includes a lengthier version of the RMA definition for biodiversity: "the variability among living organisms from all sources including, among other things, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are a part; this includes diversity within species, between species and of ecosystems."

In contrast, the pORPS-dv uses the term biological diversity in full and does not include a definition; instead the introduction to the glossary states that if a word or phrase is not defined then the meaning should be taken to be the same as found in section 2 of the RMA, (or NPS or NES).

In a review of other district plans, I note that some provide a definition, in some cases using the RMA version, while others refer to the Act for terms that are not defined within the plan. I consider that it is appropriate that the term biodiversity used in the 2GP has the meaning of biological diversity as defined in the Act and recommend that a definition be added as shown below. While noting that the Act and the PORPS-dv use the term biological diversity in full, as its abbreviated form 'biodiversity' is in common usage and is understood to have the same meaning, I recommend that the latter word is retained.

Recommended amendment:

Add new definition of biodiversity as follows:

The variability among living organisms, and the ecological complexes of which they are a part, including diversity within species, between species, and of ecosystems {NatEnv690.2}

5.1.3 Suggested new definition and framework for biodiversity offsets

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
OS949.1	Department of Conservation	I seek to have the above provision amended	Add new definition of biodiversity offsets as follows: <u>Measurable conservation outcomes resulting from actions designed to compensate for significant residual adverse biodiversity impacts arising from project development after appropriate avoidance, minimisation, remediation and mitigation measures have been taken. The goal of biodiversity offsets is to achieve no net loss and preferably a net gain of biodiversity on the ground.</u>	Accept in part	Add new definition of biodiversity offsets as shown below.
FS2439.37	Oceana Gold (New Zealand) Limited	I support the submission	Support OS949.1 (conditionally). Allow submission provided definition is approached with caution, in order to ensure good biodiversity outcomes are achieved in each situation.	Accept in part	Add new definition of biodiversity offsets as shown below.
FS2482.36	Forest and Bird NZ	I support the submission	Support OS949.1. Allow submission.	Accept in part	Add new definition of biodiversity offsets as shown below.
OS949.2	Department of Conservation	I seek to have the above provision amended	Add new definition of 'no net loss' as follows: <u>No-net-loss means, in relation to effects on indigenous biodiversity, no overall reduction biodiversity, as measured by type, amount and condition.</u>	Accept in part	Add new definition of no net loss as shown below.
FS2482.37	Forest and Bird NZ	I support the	Support OS949.2. Allow submission.	Accept in part	Add new definition of

		submission			no net loss as shown below.
OS949.4	Department of Conservation	I oppose the provision	Replace Policy 10.2.1.3 with the following: <u>Indigenous biodiversity values are maintained or enhanced by controlling land use and development activities involving the clearance of indigenous vegetation not determined to be significant, so that adverse effects on these values are avoided, remedied, mitigated, or offset to be no more than minor.</u>	Accept in part	Do not amend Policy 10.2.1.3 as requested; amend Rule 10.4.3.3 as shown below.
FS2439.16	Oceana Gold (New Zealand) Limited	I support the submission	Support OS949.4 (part). Allow submission, subject to amendment as requested by further submitter.	Accept in part	Do not amend Policy 10.2.1.3 as requested; amend Rule 10.4.3.3 as shown below.
FS2449.81	Federated Farmers of New Zealand	I oppose the submission	Oppose OS949.4. Disallow submission.	Accept	Do not amend Policy 10.2.1.3 as requested.
OS1088.33	Oceana Gold (New Zealand) Limited	I seek to have the above provision amended	Amend Policy 10.2.1.3 as follow: 'Limit indigenous vegetation clearance in the rural and rural residential zones to a size that avoids any adverse effects on the biodiversity values of the area of indigenous vegetation or, if avoidance is not possible, ensures that adverse effects are no more than minor <u>after mitigation, offsetting or compensation</u> '; and make consequential changes to assessment rules	Accept in part	Do not amend Policy 10.2.1.3 as requested; amend Rule 10.4.3.3 as shown below.
OS796.18	Waste Management (NZ) Limited	I seek to have the above provision amended	Amend Policy 10.2.1.8 as follows: Only allow mining and landfills <u>where removal of there is certainty that indigenous vegetation will be restored on land where it existed before the activity commenced and has been cleared as part of</u>	Accept in part	Amend Policy 10.2.1.8 as shown below.

			<u>the mining or landfill activity as part of establishing the activity is able to be mitigated through replacement planting in an appropriate location.</u>		
OS949.29	Department of Conservation	I seek to have the above provision amended	Add a new appendix setting out the framework for biodiversity offsets as set out in submission	Accept in part	Refer to Guidance on Good Practice Biodiversity Offsetting in New Zealand (New Zealand Government, 2014) in assessment guidance as shown below and in section 5.4.5.
FS2439.39	Oceana Gold (New Zealand) Limited	I oppose the submission	Oppose OS949.29. Disallow submission.	Accept in part	Refer to Guidance on Good Practice Biodiversity Offsetting in New Zealand (New Zealand Government, 2014) in assessment guidance as shown below and in section 5.4.5.
OS1088.15	Oceana Gold (New Zealand) Limited	I seek to have the above provision amended	Amend Policy 2.2.3.2 as follows: 'Maintain or enhance indigenous biodiversity in the rural environment through rules that: ...f. allow for remediation, mitigation, and compensation for adverse effects as a result of other land use activities.'	Reject	Do not amend policy as requested.

Background

Biodiversity offsetting and more broadly, environmental compensation, are not currently explicitly provided for in the 2GP. However, as potential management tools they fit under Strategic Objective 2.2.3 "Dunedin's indigenous biodiversity is retained, enhanced and restored, with improved connections and resilience" and Strategic Policy 2.2.3.3 which states "Encourage conservation activity in all zones through: a. rules that enable conservation activity; and b. assessment rules that encourage the consideration of the positive effects of conservation (protection or enhancement of indigenous biodiversity) as part of consent applications."

While the Natural Environment section does not currently consider offsets within its objectives, policies or rules, an amendment recommended in the Mining Section 42A report to assessment rules for mining and landfills (16.11.2.4) was that "Council will consider the positive effects of any environmental compensation measures proposed as part of the application" {CP 458.24}. This recommended amendment was in response to submissions requesting that offsetting and compensation measures be included in an objective and policy to address residual environmental effects of mining. The Mining Section 42A report notes that the detail of compensation or offsetting is better provided for in assessment rules and recommends environmental compensation form part of the assessment rules for mining and landfills, while the discussion regarding offsetting was deferred to the current report because it relates more specifically to the removal of areas of indigenous vegetation and the habitats of indigenous fauna.

Although not defined in the RMA 1991, environmental compensation has been used in practice in New Zealand and the concept has been defined in some planning documents. For instance, the Clutha District Plan defines environmental compensation as "any action (work, services, financial contribution or restrictive covenants) to compensate for the environmental effects of activities that cannot be avoided, remedied or mitigated. It provides positive measures to correct, balance or otherwise atone for the loss of the resource or value affected." In contrast, biodiversity offsetting is more specifically defined and has been the subject of recent policy development in New Zealand.

In 2014 the NZ Government released a non-statutory guidance document "*Guidance on Good Practice Biodiversity Offsetting in New Zealand*". This document provides a framework for biodiversity offsetting adapted from 10 principles developed by the international Business and Biodiversity Offsets Programme (BBOP). The BBOP is a multi-sector collaboration to develop best practice in using the 'mitigation hierarchy' with the aim of achieving a 'no net loss' of biodiversity. The mitigation hierarchy requires that offsetting of any 'residual' effects only applies after avoidance of adverse effects and any on site rehabilitation (remediation) or mitigation has been undertaken.

Offsetting involves measuring residual effects (both positive and negative) of development on biodiversity (including aspects such as species composition, habitat structure, ecosystem function and social and cultural values) so that losses and gains can be balanced, with a goal of 'no net loss' or, preferably, a 'net gain', which can be "reasonably demonstrated and then achieved on the ground" (New Zealand Government, 2014, p. 3). As outlined in the BBOP Standard on Biodiversity offsets (BBOP, 2012), biodiversity offsetting is a subset of environmental compensation, with an offset being required to achieve no net loss or better, while adhering to specific requirements around location, improvement (additionality) and the biodiversity values involved (e.g. 'like for like'). In effect, therefore, offsetting is essentially the most comprehensive form of biodiversity compensation, illustrated as being at one end of a 'compensation spectrum', with other forms of compensation including partial offsets or more limited investments in conservation (see BBOP, 2012).

The BBOP definition has been largely adopted by DoC and requires that offsetting be 'measurable', that it is 'significant' residual impacts that are of concern, and that the aim of offsetting is to achieve at least no net loss and preferably a net gain. Although offsetting/no net loss is not currently a requirement of the RMA, district or regional plans may contain provisions relating to them, an operative example being the Manawatu Wanganui Regional Council Horizons One Plan. Alternatively, offsetting is sometimes proposed by an applicant to address the effects of a proposal. As there is no statutory directive, offsets would need to be considered as part of the balancing of effects under the RMA (see NZ Govt, 2014).

The pORPS-dv includes a policy for offsetting for indigenous biological diversity:

"Policy 5.4.6 Offsetting for indigenous biological diversity

Consider the offsetting of indigenous biological diversity, when:

- a) Adverse effects of activities cannot be avoided, remedied or mitigated;
- b) The offset achieves no net loss and preferably a net gain in indigenous biological diversity;
- c) The offset ensures there is no loss of rare or vulnerable species;
- d) The offset is undertaken close to the location of development, where this will result in the best ecological outcome;
- e) The offset is applied so that the ecological values being achieved are the same or similar to those being lost;
- f) The positive ecological outcomes of the offset last at least as long as the impact of the activity."

Methods to implement this policy include Regional Plans and City and District Plans

Request to add new definitions of 'biodiversity offsets' and 'no net loss'

The Department of Conservation (OS949.1, OS949.2) seeks to add new definitions of 'biodiversity offsets' and 'no net loss' to provide consistency with the Guidance on Good Practice Biodiversity Offsetting in New Zealand (New Zealand Government, 2014). Their suggested definitions are as follows:

Biodiversity offsets (OS949.1): "Measureable conservation outcomes resulting from actions designed to compensate for significant residual adverse biodiversity impacts arising from project development after appropriate avoidance, minimisation, remediation and mitigation measures have been taken. The goal of biodiversity offsets is to achieve no net loss and preferably a gain of biodiversity on the ground."

No net loss (OS949.2): "No-net-loss means, in relation to effects on indigenous biodiversity, no overall reduction in biodiversity, as measured by type, amount and condition."

The Department of Conservation's submissions to add definitions are supported by Forest and Bird NZ (FS2482.36, FS2482.37) because the definitions would "add clarity to the plan". The definition of biodiversity offsets is conditionally supported by Oceana Gold (New Zealand) Limited (FS2439.37) who state that offsetting is an approach with potential but the definition "needs to be approached with caution" because of "difficulties with the application of complete ("no net loss") offsetting as an exclusive means of addressing adverse effects..."

Recommendations– Amendment 1 and 2

I consider that, in principle, biodiversity offsetting may be a useful tool for helping to achieve the 2GP's biodiversity outcomes because it may provide alternative opportunities for maintaining or enhancing biodiversity where it is not possible to avoid more than minor adverse effects on indigenous biodiversity arising through vegetation clearance, or to carry out complete restoration on site. Providing for biodiversity offsetting in the 2GP would have regard to the pORPS-dv Policy 5.4.6 Offsetting for indigenous biological diversity as well as the New Zealand Government's 'Guidance on Good Practice Biodiversity Offsetting'. Therefore, I consider that it would be useful to add a definition of biodiversity offsets to the

2GP to clarify its meaning, as shown below alongside specifically providing for offsets (addressed in response to the submissions discussed below).

I consider that the wording proposed by DOC and used in the BBOP definition could be simplified for the purposes of provided of the 2GP as the definition by BBOP is quite complex and wordy, and seems to focus more on the goals of offsetting and when it is appropriate then providing an easy to understand description of what it is and how it works that a layperson might understand. Therefore, along with considering their proposed definition I have also reviewed the other BBOP background material to find a set of words that focus on what it is and how it is done, while still keep the measurable outcome of no net loss as critical to the definition.

I also consider that the definition of no net loss as suggested by DOC adds clarity by indicating that biodiversity type, amount and condition need to be assessed in measuring offsets and recommend adding the definition as shown below (note that the start of the definition has been modified as the definitions drafting protocol seeks to avoid unnecessary words by not repeating the defined term and including "means" in definitions as this is self-evident).

In response to Oceana Gold (New Zealand) Limited's (FS2439.37) concern that the definition "needs to be approached with caution" because of "difficulties with the application of complete ("no net loss") offsetting as an exclusive means of addressing adverse effects...", I consider that the requirement of no net loss sets an appropriate best practice/aspirational goal which can be considered as a way of managing any significant residual adverse effects on biodiversity, as part of the assessment of resource consent applications.

Requests to amend Policy 10.2.1.3 and Policy 2.2.3.2 to refer to offsetting or compensation

Two submitters, the Department of Conservation and Oceana Gold, seek to amend Policy 10.2.1.3, in effect seeking to introduce options for mitigation or offsetting to mitigate adverse effects of indigenous vegetation clearance. These submissions are addressed here rather than with other submissions on Policy 10.2.1.3 discussed in 5.8.6.1 because the suggested amendments potentially provide a policy framework for biodiversity offsetting.

The Department of Conservation (OS949.4) seeks to replace Policy 10.2.1.3 as currently worded to "Indigenous biodiversity values are maintained or enhanced by controlling land use and development activities involving the clearance of indigenous vegetation not determined to be significant, so that adverse effects on these values are avoided, remedied, mitigated, or offset to be no more than minor." The reason provided by the submitter is that the policy should be reworded so that it applies to all areas that are not considered to be an ASCV as determined under Policy 10.2.1.2 (the submission should also be read in conjunction with the submitter's request to delete Policy 10.2.1.8 discussed in 5.4.6).

The submission is supported in part by Oceana Gold (New Zealand) Limited (FS2439.16) which agrees that there should be flexibility to allow for offsetting, mitigation or compensation. However, Oceana Gold "does not support the concept that only vegetation that is 'not determined to be significant' can be cleared" because "locationally constrained activities such as mining, may unavoidably impact significant indigenous vegetation and there will be circumstances where it is not possible to achieve 'no more than minor' effects (or no net loss) for every species, yet good

biodiversity outcomes can still be achieved using offset and/or compensation methods." FFNZ (FS2449.81) opposes DOC's submission because the submitter believes the change is unnecessary and appropriately addressed and covered elsewhere within the 2GP.

Oceana Gold (New Zealand) Limited (OS1088.33) seeks to amend Policy 10.2.1.3 so that it reads 'Limit indigenous vegetation clearance in the rural and rural residential zones to a size that avoids any adverse effects on the biodiversity values of the area of indigenous vegetation or, if avoidance is not possible, ensures that adverse effects are no more than minor after mitigation, offsetting or compensation'; and make consequential changes to assessment rules. The submitter seeks this amendment because it believes that the policy does not currently allow for mitigation, offsetting or compensation in situations where adverse effects are more than minor and cannot be remedied. Oceana Gold considers that there is a need for flexibility to provide for vegetation clearance in situations "where sometimes clearance is justified despite resulting in adverse effects which are more than minor."

Oceana Gold (New Zealand) Limited (OS1088.15) also seeks to amend Strategic Policy 2.2.3.2 to allow for remediation, mitigation and compensation, and to recognise that some appropriate activities unavoidably result in some loss of or change to indigenous biodiversity. This submission is addressed here rather than along with other submissions on the strategic policy covered in 5.2.3 because it is relevant to how the 2GP provides for offsetting.

Recommendations – Amendment 3

I do not consider that it is appropriate to amend Policy 10.2.1.3 as requested by DOC or Oceana Gold because the wording suggested by DOC does not reflect the drafting protocol of the 2GP and adds a lot of complexity and wordiness, and ultimately removes the preference for the avoidance of effects but retains the backstop policy test of no more than minor. It also refers to land use and development activities which are not the subject of this policy, which is linked to performance standards on vegetation clearance. Instead, I consider that it would be appropriate for biodiversity offsets to be referred to under Rule 10.4.3.3 which assesses performance standard contraventions of the maximum vegetation clearance rule set up by 10.2.1.3 and have recommended an amendment to the rule as shown below.

With regard to adding consideration of environmental compensation as suggested by Oceana Gold in its submissions on Policy 10.2.1.3 and Strategic Policy 2.2.3.2, I note that compensation is more broadly defined and can range from partial offsetting to financial compensation and does not require 'no net loss' or 'like for like' restoration of biodiversity values. Nonetheless, I note that there was an amendment recommended in the Mining Section 42A report that Council will consider the positive effects of any environmental compensation measure proposed as part of applications. However, in light of the changes proposed here the Panel may wish to review the proposed amendment to allow for environmental compensation; this is discussed immediately below with regard to a submission to amend Policy 10.2.1.8.

However, I also consider that more broadly, biodiversity offsets should be better recognised in the plan. Rather than adding offsets to Policy 2.2.3.2 which relates to the rural environment, I consider that this could be achieved at a high level by adding a further policy to Strategic Objective 2.2.3 to reflect the policy direction provided on biodiversity offsets by the pORPS-dv, and to apply more widely to other areas. If the Panel is of a mind to direct this work to be carried out, I propose that the exact wording be determined at the hearing through expert caucusing and the policy be referred to in consequential assessment rules, as shown below for Rule 10.4.3.3. Note that as Oceana Gold (New Zealand) Limited (OS1088.15) requested an amendment to Policy 2.2.3.2, I have recommended rejecting the submission. However, if a new strategic

policy for biodiversity offsetting is introduced then I instead recommend accepting the submission in part.

I note that there is a change recommended as a result of other submissions on Policy 10.2.1.3 (see section 5.8.6) that will also provide better scope for offsetting to be considered as an assessment matter. In addition, a change is recommended to Policy 10.2.1.4, discussed in 5.8.7.1, to allow for the use of offsetting.

Request to amend Policy 10.2.1.8 to refer to 'mitigation planting'

Waste Management (NZ) Limited (OS796.18) seeks to amend Policy 10.2.1.8 because the submitter believes that the definition of indigenous vegetation is "somewhat unclear and difficult to interpret" and the submitter does not consider it to be good landfill management practice to replant trees on a landfill after it has been capped and "normally only small shrubs or grasses are appropriate". This submission is considered separately to other submissions on Policy 10.2.1.8 because WMNZ suggests 'mitigation planting' nearby as an alternative to restoration of indigenous vegetation on site.

Recommendation – Amendments 4, 5 and 6

I do not agree that Policy 10.2.1.8 should be amended because Waste Management NZ considers that the definition of indigenous vegetation is unclear. I note that the definition of indigenous vegetation is discussed in section 5.8.1 of this report where the rationale behind the definition is explained. However, I acknowledge that it may not be possible to restore indigenous vegetation in the short to medium term on exactly the same area of land as where it existed prior to the landfill. As discussed in the Rural Section 42 Report, grass is usually considered to be the most appropriate vegetation to be planted over the cap of a landfill immediately following closure and that it may not be feasible to plant shrubs or trees with deeper root structures for decades. Depending on the nature of the indigenous vegetation that has been removed, it may not be possible for the landfill operator to restore vegetation it where it existed before the activity commenced.

Therefore, I consider that Policy 10.2.1.8 should be amended to recognise that it may not always be possible to restore vegetation on land where it previously existed prior to mining and landfill activity and that the use of biodiversity offsets may be considered as an alternative. However, in line with the guidance provided by DOC and the BBOP, as well as Policy 5.4.6 of the pORPS-dv, I consider that the wording should make it clear that restoration should be given preference over offsetting and I recommend amending Policy 10.2.1.8 as shown below. A consequential change will be required for Rule 10.6.2.3 and Rural Rule 16.11.2.4 (Assessment of Mining and Landfills) also as shown below. As noted, the latter rule is already subject to a proposed amendment from the Mining Activities section 42A report, to allow for environmental compensation to be considered. In my opinion Rule 16.11.2.4 should be further amended to provide for biodiversity offsetting to be considered instead of environmental compensation as it better provides for the maintenance and enhancement of Dunedin's indigenous biodiversity. Note that, as there were changes recommended to Rule 16.11.2.4 in the Mining Section 42A report, the new recommended changes are double lined.

Request to add a new appendix setting out a framework for biodiversity offsetting

The Department of Conservation (OS949.29) seeks to add a new appendix setting out a framework for biodiversity offsets, which "should be read in conjunction with" the Good Practice Guide on Biodiversity Offsetting (New Zealand Government, 2014):

1. Restoration, enhancement and protection actions will only be considered a biodiversity offset where they are used to offset the anticipated residual effects of activities after appropriate avoidance, minimisation, remediation and mitigation actions have occurred as per policy XX(a) and XX(b), i.e. not in situations where they are used to mitigate the adverse effects of activities.
2. A proposed biodiversity offset should contain an explicit loss and gain calculation and should demonstrate the manner in which no net loss or preferably a net gain in biodiversity can be achieved on the ground.
3. A biodiversity offset should recognise the limits to offsets due to irreplaceable and vulnerable biodiversity and its design and implementation should include provisions for addressing sources of uncertainty and risk of failure the delivery of no net loss.
4. Restoration, enhancement and protection actions undertaken as a biodiversity offset are demonstrably additional to what otherwise would occur, including that they are additional to any remediation or mitigation undertaken in relation to the adverse effects of the activity.
5. Offset actions should be undertaken close to the location of development, where this will result in the best ecological outcome.
6. The values to be lost through the activity to which the offset applies are counterbalanced by the proposed offsetting activity which is at least commensurate with the adverse effects on indigenous biodiversity, so that the overall result is no net loss, and preferably a net gain in ecological values.
7. The offset is applied so that the ecological values being achieved through the offset are the same or similar to those being lost.
8. As far as practicable, the positive ecological outcomes of the offset last at least as long as the impact of the activity, and preferably in perpetuity. Adaptive management responses should be incorporated into the design of the offset, as required to ensure that the positive ecological outcomes are maintained over time.
9. The biodiversity offset should be designed and implemented in a landscape context – i.e. with an understanding of both the donor and recipient sites role, or potential role in the ecological context of the area.
10. The consent application identifies the intention to utilise an offset, and includes a biodiversity offset management plan that:
 - a. sets out baseline information on indigenous biodiversity that is potentially impacted by the proposal at both the donor and recipient sites.
 - b. demonstrates how the requirements set out in this appendix will be addressed.
 - c. identifies the monitoring approach that will be used to demonstrate how the matters set out in this appendix have been addressed, over an appropriate timeframe.

The Department's submission also notes that "While this Appendix sets out a framework for the use of biodiversity offsets in the Dunedin City Plan, many of the concepts are also applicable to environmental compensation where an overall outcome of no net loss (and preferably a net gain) in biodiversity values cannot be ensured but restoration and protection actions will be undertaken)."

Oceana Gold (New Zealand) Limited (FS2439.39) opposes the inclusion in the plan of the new appendix proposed by DOC because it considers that guidance for biodiversity offsetting should come from the government's "Guidance on Good Practice Biodiversity Offsetting in NZ".

Recommendations – Amendment 7

I consider that rather than including a new appendix as requested that it would be more effective and efficient to:

1. As discussed above in relation to DoC's submission to include reference to offsetting in Policy 10.2.1.3, to instead include a strategic direction policy under 2.2 similar to the pORPS-dv policy for biodiversity offsetting, that provides the broad framework for when biodiversity offsets should be considered appropriate as well as:
2. Refer to the guidance in assessment rules

Specifically, I recommend that reference to the guidance is added to Rule 10.4.3.3 as well as the assessment rule for mining and landfills in the Natural Environment section (Rule 10.6.2.3) and the Rural section (Rule 16.11.2.4), as shown below, as well as to the site restoration performance standard contravention assessment matters for mineral exploration and prospecting as discussed in section 5.4.5.

I recommend amending the general assessment rules for all discretionary activities (Rule 10.6.2.1) to refer to the offsetting guidance as shown below as well as for all non-complying activities (Rule 10.7.2.1) and that Rule 10.5.2 is amended to include a new assessment for all restricted discretionary activities.

I also note that mining is also a discretionary activity in the recreation zone and the associated assessment rule 20.11.2.3 links to the Natural Environment chapter for guidance on the assessment of resource consents in relation to Objective 10.2.1 and effects on biodiversity. A minor amendment is needed because it currently refers to the wrong Natural Environment section (10.4 instead of 10.6). This amendment is included in the minor and inconsequential amendments table in section 6.0.

Recommended amendment:

Amendment 1

Add a new definition of biodiversity offsets as follows:

A type of environmental compensation that involves measuring biodiversity (including aspects such as species composition, habitat structure,

ecosystem function and social and cultural values) and compensating for any loss in biodiversity with an equivalent ('no net loss') or greater gain in biodiversity elsewhere that can be reasonably demonstrated and then achieved on the ground.

{NatEnv949.1}

Amendment 2

Add a new definition of no net loss as follows:

No overall reduction in indigenous biodiversity, as measured by type, amount and condition. {NatEnv949.2}

Amendment 3

Amend Rule 10.4.3.3 as follows:

3	Vegetation clearance (Maximum areas of indigenous vegetation clearance)	Effects on biodiversity	<p><i>Relevant objectives and policies:</i></p> <ul style="list-style-type: none"> i. Objective 10.2.1. ii. Indigenous vegetation clearance avoids adverse effects on the biodiversity values of areas of indigenous vegetation, or ensures adverse effects are no more than minor (Policy 10.2.1.3). iii. Add new SD Policy biodiversity offsets <p><i>Potential circumstances or mitigation measures that may support a consent application:</i></p> <ul style="list-style-type: none"> iv. The clearance is of a non-local indigenous species that has extended beyond its range. v. The clearance is part of conservation activity involving the clearance of indigenous species and replacement by other indigenous species. vi. The clearance is of indigenous vegetation that is diseased and unlikely to regain health and viability. <p><i>General assessment guidance:</i></p>
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			In assessing the appropriateness of any proposed biodiversity offsets, in addition to the guidance in Policy 2.2.3.5, Council will consider the <u>Guidance on Good Practice Biodiversity Offsetting in New Zealand (NZ Government, 2014). { NatEnv949.29, NatEnv1088.33}</u>
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Amendment 4

Amend Policy 10.2.1.8 as follows:

10.2.1.8

~~"Only allow mining and landfills where there is certainty that indigenous vegetation will be restored on land where it existed before the activity commenced and has been cleared as part of the mining or landfill activity~~ adverse effects on biodiversity values are avoided or, where avoidance is not possible, minimised as far as practicable, with a preference given to restoration of indigenous vegetation and other biodiversity values on land where it existed before, but enabling the use of biodiversity offsets where in accordance with Policy 2.2.3.5" { NatEnv796.18}

And make consequential changes to assessment rules that refer to this policy.

Amendment 5

Amend Rule 10.6.2.3 as follows:

3	Mining Landfills	Relevant objectives and policies (priority considerations) a. Objective 10.2.1 b. that indigenous vegetation will be restored on land where it existed before the activity commenced and has been cleared as part of the mining or landfill activity <u>Adverse effects on biodiversity values are avoided or, where avoidance is not possible, minimised as far as practicable, with a preference given to restoration of indigenous vegetation and other biodiversity values on land where it existed before, but enabling the use of biodiversity offsets where in accordance with Policy 2.2.3.5</u> { NatEnv796.18}.
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Amendment 6

Amend Rule 16.11.2.4 as follows:

16.11.2.4

General assessment guidance:

u. In assessing effects on amenity, Council will consider the effects of vehicle movements on the site as well as any significant changes to the number or nature of vehicle movements on the adjoining road.

v. In assessing an application for mining, Council will consider the constraints imposed by the location of the mineral resource and any logistical or technical requirements to access the resource. {CP 458.24 and others}

w. In assessing effects on rural character values and amenity, Council will consider whether any proposed rehabilitation measures will ensure that: {CP 458.24}

i. Final mine / quarry landforms: {CP 458.24}

1. provide effective screening of excavated faces from public and residential viewpoints surrounding; and/or {CP 458.24 and others}

2. minimise evidence of mining activity by, blending final contours with surrounding landforms to achieve as natural an appearance as possible, and by providing for the establishment of vegetation cover. {CP 458.24 and others}

ii. Final landfill landforms blend seamlessly with the surrounding landforms and are in sympathy with local character and scale. {CP 458.24 and others}

iii. Vegetation cover appropriate to the local character is established. {CP 458.24 and others}

x. In assessing an application for mining the appropriateness of any proposed biodiversity offsets, in addition to the guidance in Policy 2.2.3.5 {NatEnv796.18 and others} Council will consider the positive effects of any environmental compensation measures proposed as part of the application {CP458.24 and others} Guidance on Good Practice Biodiversity Offsetting in New Zealand (NZ Government, 2014). {NatEnv796.18 and others}

Amendment 7

Amend Rule 10.6.2.1 as follows:

General assessment guidance by adding:

"g. In assessing the appropriateness of any proposed biodiversity offsets, in addition to the guidance in Policy 2.2.3.5, Council will consider the Guidance on Good Practice Biodiversity Offsetting in New Zealand (NZ Government, 2014)." {NatEnv949.29}

Make the same addition to rules 10.7.2.1 and 10.5.2 (which requires a new row added for "all restricted discretionary activities")

5.2 Strategic Directions

5.2.1 Objective 2.2.3: Indigenous biodiversity

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
OS308.39	University of Otago	I support the provision	Retain Objective 2.2.3 and associated policies 2.2.3.1-2.2.3.4.	Accept	No amendment required
OS690.3	Yellow-eyed Penguin Trust	I support the provision	Retain Objective 2.2.3	Accept	No amendment required
OS818.2	Urban Cohousing Otepoti Ltd	I support the provision	Retain Objective 2.2.3: Indigenous biodiversity.	Accept	No amendment required
OS908.21	Otago Regional Council	I support the provision	Retain Objective 2.2.3 and associated Policies 2.2.3.1, 2.2.3.2 and 2.2.3.4.	Accept	No amendment required
OS1071.133	Kati Huirapa Runaka ki Puketeraki and Te Runanga o Otakou	I support the provision	Retain Objective 2.2.3 that provides for retaining, enhancing and restoring indigenous biodiversity.	Accept	No amendment required
OS958.7	Forest and Bird NZ	I seek to have the above provision amended	Amend Objective 2.2.3 to read as follows: Dunedin's indigenous biodiversity is <u>identified, protected, retained</u> , enhanced and restored, with improved connections and resilience	Reject	Do not amend Objective 2.2.3 as requested
FS2449.36	Federated Farmers of New Zealand	I oppose the submission	Oppose OS958.7. Disallow submission.	Accept	Do not amend Objective 2.2.3 as requested
OS1088.13	Oceana Gold (New Zealand) Limited	I seek to have the above provision amended	Amend Objective 2.2.3 as follows: 'Dunedin's indigenous biodiversity is <u>managed so that it is retained</u> , enhanced and restored, <u>or when adversely affected by other land use activities, those adverse</u>	Accept in part	Amend Objective 2.2.3 as shown below

			effects are remedied, mitigated or compensated so that overall Dunedin's indigenous biodiversity has with improved connections and <u>greater</u> resilience.'		
<p><u>Background</u> Objective 2.2.3 states "Dunedin's indigenous biodiversity is retained, enhanced and restored, with improved connections and resilience". This is the key strategic objective in the 2GP that deals with indigenous biodiversity.</p> <p><u>Submissions in support</u> University of Otago (OS308.39) seeks to retain Objective 2.2.3 and associated policies 2.2.3.1-2.2.3.4. They believe that protection of indigenous biodiversity is an appropriate requirement under the Act.</p> <p>Yellow-eyed Penguin Trust (OS690.3) seeks to retain Objective 2.2.3 because they believe that protection of indigenous biodiversity is an appropriate requirement under the Act.</p> <p>Urban Cohousing Otepoti Ltd (OS818.2) seeks to retain Objective 2.2.3: Indigenous biodiversity. They would like to see a return to native vegetation and a removal of pestilent vegetation such as gorse, groom, old man's beard, passion fruit vines etc., which they believe are flourishing on DCC reserve land presently.</p> <p>Otago Regional Council (OS908.21) seeks to retain Objective 2.2.3 and associated Policies 2.2.3.1, 2.2.3.2 and 2.2.3.4. They consider that, overall, the strategic direction objective and policies of the proposed district plan recognise the importance of biodiversity and ecosystem services and give effect to the Proposed RPS.</p> <p>Kati Huirapa Runaka ki Puketeraki and Te Runanga o Otakou (OS1071.133) seeks to retain Objective 2.2.3 that provides for retaining, enhancing and restoring indigenous biodiversity, because these objectives and policies are consistent with the Kai Tahu ki Otago Natural Resource Management Plan 2005.</p> <p><u>Request to add "identified, protected"</u> Forest and Bird NZ (OS958.7) seeks to amend Objective 2.2.3 to read "Dunedin's indigenous biodiversity is <u>identified, protected, retained, enhanced and restored, with improved connections and resilience</u>". The submitter believes this is the high level objective implementing Council's overall responsibilities for indigenous vegetation and so needs to also provide for Section 6(c) which requires objectives provide for the "protection" of areas of significant indigenous vegetation and significant habitats of indigenous fauna.</p> <p>Federated Farmers of New Zealand (FS2449.36) opposes Forest and Bird NZ (OS958.7) because they believe that "Matters relating identification are adequately covered elsewhere in the plan and that protecting indigenous biodiversity will not be, and is not always necessary and</p>					

appropriate”.

Recommendation

I acknowledge that Objective 2.2.3 is the overarching strategic objective in relation to biodiversity and, as such, encompasses the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna as set out under section 6(b) of the RMA. However, Objective 2.2.3 also encompasses the management of other areas of indigenous biodiversity that may not be considered ‘significant’ according to the criteria set out in Policy 2.2.3.1.

The outcome sought by Objective 2.2.3 is retention, enhancement or restoration of indigenous biodiversity, along with better connectivity between areas of indigenous biodiversity and better resilience. I consider that identification and protection are important methods in achieving this outcome, but sit better at the policy level as they do necessarily apply to all indigenous vegetation managed by the 2GP. I note that the policies under Objective 2.2.3 already include these terms.

While noting that there are appeals in relation to these, the decisions version of the Proposed Regional Policy Statement for Otago (PORPS-dv) contains the following objectives:

Objective 3.1 The values of Otago’s natural resources are recognised, maintained and enhanced;

Objective 3.2 Otago’s significant and highly-valued natural resources are identified, and protected or enhanced.

PORPS-dv Objective 3.2 relates more closely to RMA section 6 matters and employs the terminology of “identified, and protected”, with these particular words not under challenge. Objective 3.1 relates more broadly to the values of natural resources being recognised, maintained and enhanced, with some challenge to this wording. I consider the requirement to “recognise” the values of natural resources to be a different and less stringent requirement to “identifying” significant or highly-valued indigenous biodiversity.

For these reasons, I do not recommend amending Objective 2.2.3 as requested. I consider identification and protection to be important methods in managing indigenous biodiversity, particularly biodiversity which is assessed as being significant, but do not think they should necessarily be applied to all indigenous biodiversity in Dunedin.

Request to provide for remediation, mitigation or compensation

Oceana Gold (New Zealand) Limited (OS1088.13) seeks to amend Objective 2.2.3 to read “‘Dunedin’s indigenous biodiversity is managed so that it is retained, enhanced and restored, or when adversely affected by other land use activities, those adverse effects are remedied, mitigated or compensated so that overall Dunedin’s indigenous biodiversity has ~~with~~-improved connections and greater resilience.” The submitter seeks to recognise that some appropriate activities unavoidably result in some loss of or change to indigenous biodiversity, and to provide for remedying, mitigating or compensating any such loss.

Recommendations – Amendment 1

In terms of the addition of “managed so that it is”, in my opinion “management” should not be an objective in itself and does not reflect the general drafting protocol which presents objectives in terms of desirable end states, that may be aspirational.

In response to the submitter's concerns that indigenous biodiversity cannot always be retained, enhanced and restored, I acknowledge this is the case, but note that, as this is a strategic objective, it is seeking these outcomes at an overall or city-wide level rather than suggesting that it applies to indigenous biodiversity on a specific site affected by a particular proposal.

In terms of the request to add "or when adversely affected by other land use activities, those adverse effects are remedied, mitigated or compensated so that overall Dunedin's indigenous biodiversity has", I consider this addition is expanding the objective to include elements which are more appropriately addressed through policies which explain how the objective should be achieved. I note that, in relation to biodiversity offsetting as a form of compensation, I have considered a similar submission by the same submitter in section 5.2.3 to amend Policy 2.2.3.2. I have recommended that rather than adding offsets to Policy 2.2.3.2, that a further policy could be added to Objective 2.2.3 to provide a framework for offsetting.

In terms of the request to add the word "greater" before resilience, I note that the way the sentence is constructed the word "improved" is intended to apply to both connections and resilience, and "improved" could be considered a close synonym to "greater". However, I consider the inclusion of the word "greater" might improve the clarity of the objective and emphasis around increased resilience. I recommend that this part of the submission of Oceana Gold is accepted.

Recommended amendment:

Amendment 1

Amend Objective 2.2.3 as follows:

"Dunedin's indigenous biodiversity is retained, enhanced and restored, with improved connections and greater {NatEnv1088.13} resilience".

5.2.2 Policy 2.2.3.1

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
OS690.4	Yellow-eyed Penguin Trust	I support the provision	Retain Policy 2.2.3.1	Reject	Amend Policy 2.2.3.1 as shown below
OS949.22	Department of Conservation	I seek to have the above provision amended	Amend Policy 2.2.3.1 or insert a new Appendix setting out criteria to determine whether a site is an Area of Significant Conservation Value using criteria that are consistent with the proposed Otago	Accept	Amend Policy 2.2.3.1 as shown below

			Regional Policy Statement criteria		
OS900.9	Save The Otago Peninsula (STOP) Inc Soc	I seek to have the above provision amended	<p>Amend Policy 2.2.3.1 as follows:</p> <p>Identify <u>and protect</u> areas of significant indigenous vegetation and/or significant habitats of indigenous fauna <u>through resource consent processes</u>, and promote the protection of these as Scheduled Areas of Significant Conservation Value (ASCVs) and/or through QEII <u>or other legislative covenants</u>. Identify areas which have all or a number <u>one or more</u> of the following criteria:</p> <p>a. existing protected areas set aside by statute or covenant or listed in an operative Otago Regional Council Regional Plan as having significant indigenous biodiversity value;</p> <p><u>b. indigenous vegetation associated with land environments, (defined by Land Environments of New Zealand at Level IV), that have 20 percent or less remaining in indigenous cover</u></p> <p>bc. habitats for indigenous species that are nationally threatened, at risk, or uncommon;</p> <p>ed. indigenous vegetation and/or fauna habitat types that are rare, acutely or chronically threatened;</p> <p><u>e. Indigenous vegetation associated with originally rare ecosystems, such as salt</u></p>	Accept in part	Amend Policy 2.2.3.1 as shown below

			<p><u>pans and dune lands</u></p> <p>ef. indigenous vegetation or indigenous fauna that is distinctive....</p>		
FS2391.66	Geoff Scurr Contracting Limited	I oppose the submission	Oppose OS900.9. Disallow submission.	Reject	Amend Policy 2.2.3.1 as shown below
FS2449.37	Federated Farmers of New Zealand	I oppose the submission	Oppose OS900.9. Disallow submission.	Reject	Amend Policy 2.2.3.1 as shown below
OS958.8	Forest and Bird NZ	I seek to have the above provision amended	<p>Amend Policy 2.2.3.1 as follows: Identify <u>and protect</u> areas of significant indigenous vegetation and/or significant habitats of indigenous fauna <u>through resource consent processes</u>, and promote the protection of these as Scheduled Areas of Significant Conservation Value (ASCVs) and/or through QEII <u>or other legislative</u> covenants. Identify areas which have all or a number <u>one or more</u> of the criteria in schedule xxx , or are recognised as Important bird areas in schedule xxx (as provided by this submission) – a. existing protected areas set aside by statute or covenant or listed in an operative Otago Regional Council Regional Plan as having significant indigenous biodiversity value; b. indigenous vegetation associated with land environments, (defined by Land Environments of New Zealand at Level IV), that have 20 percent or less remaining in indigenous cover c. habitats for indigenous species that are nationally threatened, at risk, or uncommon; d. indigenous vegetation and/or fauna habitat types that are rare, acutely or chronically threatened; e. Indigenous vegetation associated with originally rare ecosystems, such as salt pans and dune lands f.</p>	Accept in part	Amend Policy 2.2.3.1 as shown below

			indigenous vegetation or indigenous fauna that is distinctive. g. Indigenous vegetation or indigenous fauna that is or representative, typical or characteristic of the natural diversity of the relevant ecological district; h. areas important for their ecological context as an ecological buffer, connection or as a habitat for indigenous fauna; i. areas with a relatively high indigenous diversity and pattern; and/or j. areas of indigenous vegetation or habitats of indigenous fauna that are of a size to make them significant. (refer Appendices One and Two of submission)		
FS2140.21	John Scott	I oppose the submission	Oppose OS958.8. Disallow submission and do not make changes as requested by submitter.	Reject	Amend Policy 2.2.3.1 as shown below
FS2279.21	Ben Graham	I oppose the submission	Oppose OS958.8. Disallow submission and do not make changes as requested by submitter.	Reject	Amend Policy 2.2.3.1 as shown below
FS2300.21	Mathew O'Connell	I oppose the submission	Oppose OS958.8. Disallow submission and do not make changes as requested by submitter.	Reject	Amend Policy 2.2.3.1 as shown below
FS2391.96	Geoff Scurr Contracting Limited	I oppose the submission	Oppose OS958.8. Disallow submission.	Reject	Amend Policy 2.2.3.1 as shown below
FS2416.54	Alan Brown, Carrowmore Properties Limited, Robyn and Stephan Smith and Rick and Jill Clarke ("Pigeon Flat Road Group")	I oppose the submission	Oppose OS958.8 Disallow submission.	Reject	Amend Policy 2.2.3.1 as shown below
FS2449.38	Federated Farmers of New Zealand	I oppose the submission	Oppose OS958.8. Disallow submission.	Reject	Amend Policy 2.2.3.1 as shown below

OS919.8	Federated Farmers of New Zealand	I seek to have the above provision amended	Amend Policy 2.2.3.1 as follows: 'Identify areas of significant indigenous vegetation and/or significant habitats of indigenous fauna and promote the protection of these as Scheduled Areas of Significant Conservation Value (ASCVs) and/or through QEII covenants. Identify areas which have all or a number of the following criteria: ... e. areas important for their ecological context as an ecological buffer, connection or as a habitat for indigenous fauna; f. areas with a relatively high indigenous diversity and pattern; and/or g. areas that are of a size to make them significant.'	Reject	Do not amend Policy 2.2.3.1 as requested
FS2482.10	Forest and Bird NZ	I oppose the submission	Oppose OS919.8. Disallow submission.	Accept	Do not amend Policy 2.2.3.1 as requested
OS1088.14	Oceana Gold (New Zealand) Limited	I seek to have the above provision amended	Amend Policy 2.2.3.1 to clarify what is intended, and as follows: 'Identify areas of significant indigenous vegetation and/or significant habitats of indigenous fauna...and/or through QEII covenants. Identify areas which have all or a number of the following criteria: a. existing protected areas set aside by statute or covenant or listed in an operative Otago Regional Council Regional Plan as having significant indigenous biodiversity value; b. habitats for indigenous species that are nationally threatened, at risk, or uncommon; c. indigenous vegetation and/or fauna habitat types that are rare, acutely or chronically threatened; d. indigenous	Reject	Do not amend Policy 2.2.3.1 as requested

			vegetation or indigenous fauna that is distinctive or representative of the natural diversity of the ecological district; e. areas important for their ecological context as an ecological buffer, connection or as a habitat for indigenous fauna; f. areas with a relatively high indigenous diversity and pattern; and/or g. areas that are of a size to make them significant.'		
OS949.3	Department of Conservation	I seek to have the above provision amended	Replace Policy 10.2.1.2 with the following: <u>Identify the District's Areas of Significant Conservation Value (ASCV) and schedule them in the District Plan, including the ongoing identification of Significant Natural Areas through resource consent applications, using the criteria set out in Schedule XX (new schedule), the list of Protected species in Appendix 10.A, and avoid the clearance of indigenous vegetation within ASCV's that would reduce significant indigenous biodiversity values.</u>	Reject	Do not replace Policy 10.2.1.2 as requested
FS2449.74	Federated Farmers of New Zealand	I oppose the submission	Oppose OS949.3. Disallow submission.	Accept	Do not replace Policy 10.2.1.2 as requested

Background

Policy 2.2.3.1 sets the criteria for identifying areas of significant indigenous vegetation and significant habitats of indigenous fauna. It states:

"Identify areas of significant indigenous vegetation and/or significant habitats of indigenous fauna and promote the protection of these as Scheduled Areas of Significant Conservation Value (ASCVs) and/or through QEII covenants. Identify areas which have all or a number of the following criteria:

- a. existing protected areas set aside by statute or covenant or listed in an operative Otago Regional Council Regional Plan as having significant indigenous biodiversity value;
- b. habitats for indigenous species that are nationally threatened, at risk, or uncommon;
- c. indigenous vegetation and/or fauna habitat types that are rare, acutely or chronically threatened;
- d. indigenous vegetation or indigenous fauna that is distinctive or representative of the natural diversity of the ecological district;
- e. areas important for their ecological context as an ecological buffer, connection or as a habitat for indigenous fauna;
- f. areas with a relatively high indigenous diversity and pattern; and/or

g. areas that are of a size to make them significant.”

Policy 10.2.1.2 states: “Only allow land use and development activities in a Scheduled Area of Significant Conservation Value (ASCV) where these activities will have net positive effects on the protection and enhancement of the biodiversity values of the Scheduled ASCV.” This policy is linked to rules that determine the activity statuses of different land use and development activities in ASCVs.

Submission in support

The Yellow-eyed Penguin Trust (OS690.4) seeks to retain Policy 2.2.3.1 because it believes that identifying and protecting key areas through the District Plan is an important element of protecting indigenous biodiversity.

Requests to amend Policy 2.2.3.1 criteria

The Department of Conservation (OS949.22) seeks to amend Policy 2.2.3.1 or insert a new Appendix setting out criteria to determine whether a site is an Area of Significant Conservation Value using criteria that are consistent with the proposed Otago Regional Policy Statement criteria.

STOP (OS900.9) and Forest and Bird (OS958.8) seek to amend Policy 2.2.3.1 as follows:

“Identify and protect areas of significant indigenous vegetation and/or significant habitats of indigenous fauna through resource consent processes, and promote the protection of these as Scheduled Areas of Significant Conservation Value (ASCVs) and/or through QEII or other legislative covenants. Identify areas which have ~~all or a number~~ one or more of the following criteria: ...”

Forest and Bird (OS958.8) also seeks to replace the criteria in Policy 2.2.3.1 with those in the proposed RPS (which Forest and Bird have provided in Appendix One of their submission) which they consider are those that have generally been accepted by the Environment Court. Forest and Bird also provide a schedule of Important Bird Areas in Appendix Two of their submission, which the submitter considers should also be directly referenced in Policy 2.2.3.1. I note that Important Bird Areas (IBAs) are areas identified using an internationally agreed set of criteria as being globally important for the conservation of bird populations, with the IBA programme developed by Birdlife International.

STOP (OS900.9) also seeks to amend the policy by adding the following criteria:

- “a. existing protected areas set aside by statute or covenant or listed in an operative Otago Regional Council Regional Plan as having significant indigenous biodiversity value;
- b. indigenous vegetation associated with land environments, (defined by Land Environments of New Zealand at Level IV), that have 20 percent or less remaining in indigenous cover
- ~~b~~c. habitats for indigenous species that are nationally threatened, at risk, or uncommon;
- ed. indigenous vegetation and/or fauna habitat types that are rare, acutely or chronically threatened;
- e. Indigenous vegetation associated with originally rare ecosystems, such as salt pans and dune lands
- ~~df~~f. indigenous vegetation or indigenous fauna that is distinctive....”

Both STOP and Forest and Bird believe that Schedule A1.2 does not include all significant sites; that any process of adding sites to the schedule

is complex and uncertain; and the resource consent process should be used to identify and protect areas that meet the criteria. STOP also believes that the proposed criteria are incomplete and do not include all the national priorities for areas to protect. Forest and Bird considers that the 2GP does not have a process for identifying and protecting significant areas that have not already been identified and scheduled, other than encouraging voluntary scheduling or covenanting.

Geoff Scurr Contracting Limited (FS2391.66) and Federated Farmers of New Zealand (FS2449.37) oppose STOP (OS900.9). They believe that "protection of indigenous biodiversity will not be, and is not always necessary and appropriate. Resource consent is not always required or appropriate, nor should it be". John Scott (FS2140.21), Ben Graham (FS2279.21), Mathew O'Connell (FS2300.21), Geoff Scurr Contracting Limited (FS2391.96), and Pigeon Flat Road Group (FS2416.54) oppose Forest and Bird NZ (OS958.8) because they believe the amendments are too restrictive and unhelpfully narrow down the definitions. FFNZ (FS2449.38) opposes Forest and Bird NZ (OS958.8) stating that "protection of indigenous biodiversity will not be, and is not always necessary and appropriate. The proposed additions are unnecessary and overly complicate the Policy by requiring a new Schedule and approach."

Recommendations - policy amendments and new criteria – Amendment 1

"Identify and protect areas" – I do not recommend the addition of these words, as "promote the protection of these" is mentioned later in the same sentence. The use of "promote the protection" aligns with the approach taken to date of not requiring mandatory scheduling of ASCVs where an area meets one or more of the criteria for significance. It also signals that the 2GP cannot direct whether an area becomes protected under a QEII covenant. The approach to scheduling ASCVs is discussed in more detail in this section below, in response to OS949.3.

"through resource consent processes" – I do not consider this phrase is appropriate as the purpose of this policy is to set up the ASCVs as a method (identify and protect through inclusion in the plan as ASCVs). Protection of areas through resource consents is covered through the substantive policies in Section 10 of the plan that relate to activities that require consent and how they are assessed. I note that the submitters have also submitted on a number of these policies.

"or other legislative covenants" – I support the intent of this phrase, as there are other alternative legal conservation covenants besides QEII covenants that are available, and have recommended an amendment to the policy below.

"one or more" – I support this amendment as being consistent with the wording used in Schedule 4 of the pORPS-dv. I note the comment of Dr Lloyd in paragraph 108 of his evidence that "a number of" may be generally interpreted as more than one. While the intention is that an area will be assessed against all of the criteria, there may be circumstances where an area that meets only one of the criteria is considered significant. For example, meeting criterion (a) would be sufficient in itself to make an area worthy of promotion for protection.

"indigenous vegetation associated with land environments, (defined by Land Environments of New Zealand at Level IV), that have 20 percent or less remaining in indigenous cover" – Dr Kelvin Lloyd (the DCC expert ecologist) has provided evidence on this suggested criterion (refer paras 109-111). Dr Lloyd considers this too blunt and with the potential to identify areas that are not significant. Dr Lloyd prefers the approach taken by pORPS-dv criterion 2b which has been recommended for inclusion in Policy 2.2.3.1 in a new clause (c)(i) in response to the DOC submission. For this reason, I do not recommend addition of this new criterion proposed by STOP.

"Indigenous vegetation associated with originally rare ecosystems, such as salt pans and dune lands" - Kelvin Lloyd has also provided evidence on this suggested criterion (refer paragraph 112). Dr Lloyd suggests that if pORPS-dv criterion 2c is adopted, this would address the same matter. As I am recommending the addition of this as a new clause (c)(ii) in response to the DOC submission, I do not recommend addition of this new criterion proposed by STOP as I consider this relief has already been provided.

Recommendations – use of proposed RPS criteria – Amendment 2

In terms of the DoC and Forest and Bird requests to ensure the criteria are consistent with the proposed Otago Regional Policy Statement criteria, I note the criteria in Schedule 4 of the pORPS-dv are currently under appeal. However, I asked Dr Kelvin Lloyd to evaluate the criteria in Policy 2.2.3.1 in comparison to those in the pORPS-dv (refer paragraphs 81-113). Dr Lloyd's evidence finds the following in relation to the respective Policy 2.2.3.1 criteria:

- a. Relates to existing protected areas and has no analogue in the proposed RPS (Reporting officer's note: criterion (a) includes any areas listed in an operative RPS as having significant indigenous biodiversity value).
- b. Differs from corresponding proposed RPS criterion 2A as does not specify the scale of assessment and could be amended to specify national and ecological district scales. Dr Lloyd also states that both criteria (2GP and RPS) suffer from failing to address mobile fauna that use sites only briefly, and should be modified accordingly.
- c. Acutely or chronically threatened are categories historically used to describe species threat, rather than indigenous vegetation or fauna habitat. The proposed RPS criterion 2b is an improvement as it specifies a percentage threshold rather than a qualitative label, along with various scales of assessment which Policy 2.2.3.1.c does not contain. Dr Lloyd also considers that proposed RPS criterion 2c would also provide an improvement as it specifically references "originally rare ecosystems".
- d. Proposed RPS criteria 4 and 1 are much more explicit than the references to distinctiveness and representativeness in Policy 2.2.3.1.d and would better capture areas of representative and distinctive indigenous vegetation and habitats.
- e. Proposed RPS criterion 5 refers to similar matters regarding ecological context as Policy 2.2.3.1.e, but stresses that examples of habitat may be used regularly or irregularly as part of fauna life cycle. The criteria in Policy 2.2.3.1 need to more comprehensively capture sites that comprise important indigenous fauna habitats and a new criterion is suggested to provide for this.
- f. Proposed RPS criterion 3 provides a more comprehensive definition of diversity and ensures that diversity is compared within the same type of vegetation and habitat.
- g. Policy 2.2.3.1.g has no analogue in the proposed RPS but, as large examples of indigenous vegetation and habitat are almost always significant, it should be retained.

On the basis of these findings by Dr Lloyd, I have recommended amendments to Policy 2.2.3.1 below. I consider that the amendments suggested by Dr Lloyd will clarify Policy 2.2.3.1 and make it more consistent with Schedule 4 of the pORPS-dv. At the same time, the amendments retain two criteria currently in Policy 2.2.3.1, namely (a) and (g), not provided for by the pORPS-dv but found to be relevant by Dr Lloyd.

I note that Schedule 4 of the pORPS-dv utilises subheadings for the criteria, namely: representativeness; rarity; diversity; distinctiveness and

ecological context. I consider this improves the understanding and clarity of the criteria themselves, but have not recommended such an approach for the criteria in Policy 2.2.3.1, as subheadings are not used within a policy unless they form part of the wording of the policy. If the Panel consider this would improve Policy 2.2.3.1 some form of subheading wording could be drafted, noting that the amended version of Policy 2.2.3.1 is quite lengthy.

Recommendation - Important Bird Areas

In terms of the submission by Forest and Bird (OS958.8) related to inclusion of reference to important bird areas, Important Bird Areas (IBAs) are discussed in the evidence of Kelvin Lloyd (paras 91-94). Dr Lloyd notes that the IBAs:

“...were identified according to global IBA criteria, and are sites that are recognised as internationally important for bird conservation and known to support key bird species and other biodiversity. In my opinion the process for identifying these sites, which involved contributions by numerous expert ornithologists, and which documents sources of information, is robust. Indigenous bird populations utilising these areas would meet several of the amended ecological significance criteria (2.2.3.1)...” (Lloyd evidence, para 92)

Dr Lloyd goes on to note that the IBA sites include land in farming use, which may cause a conflict with ASCV rules. Dr Lloyd also states that:

“The process for delineation of IBA boundaries is to an extent subjective, and it is noted that consultation and field work may be required to determine IBA boundaries.” (Lloyd evidence, para 94)

I note that some of the IBA areas identified by Forest and Bird are below MHWS, therefore, outside the jurisdiction of the 2GP. I have done a draft analysis of apparent coverage of IBA areas by ASCV scheduling, as set out in the table below. This should be considered draft as better maps of the IBAs would be needed for a fuller analysis.

Important Bird Area	ASCV coverage of area above MHWS
Taiaroa Head	Appears to be completely within ASCVs C048, C068, C116, C117
Aramoana Otago Harbour	Aramoana - part Aramoana Beach/Heyward Point in C049, eastern extent of Aramoana Beach not covered by ASCV, Aramoana Saltmarsh in ASCV C067 Otago Harbour – area proposed appears to be below MHWS
Otago Peninsula	Penguin Beach – no ASCV Pipikaretu Beach - part covered by C090 Ryans Beach – no ASCV Okia Flat/Victory Beach – covered by C076 Papanui Beach/Cape Saunders/Allans Beach – part covered by C051-C055 Sandymount/Sandfly Bay/Boulder Beach – Sandymount/Sandfly Bay appears fully covered by C056, C057, C062. Boulder Beach appears fully covered by C058, C059 St Clair Cliffs/Tunnel Beach – part coverage at Tunnel Beach end by C038

It appears that in some areas are already reasonably well covered by ASCVs, although it may be that the descriptions and values in the schedule

need to be updated to provide additional information on the IBA sites.

I do not consider that Policy 2.2.3.1 should be expanded to specifically list IBA sites. I note from Dr Lloyd's evidence that these sites will meet more than one of the criteria in Policy 2.2.3.1, including the (recommended amended) criteria:

- (b) habitats of threatened or at risk species – all IBA sites
- (e)(ii) endemic species (Otago shag) – many of the IBA sites
- (f) important habitat for indigenous fauna – all IBA sites
- (g) important breeding, refuge, feeding or resting sites – all IBA sites

I do not favour including reference to Important Bird Areas in Policy 2.2.3.1 as these criteria are already able to capture the sites. In terms of expanding the ASCV schedule to include those IBA areas not included, I consider this should be the work of a future plan change involving field assessment, more refined mapping and consultation with landowners.

Requests to remove criteria from Policy 2.2.3.1

Federated Farmers of New Zealand (OS919.8) seeks to amend Policy 2.2.3.1 by removing (e), (f) and (g). Their reason is that many of the areas which the policy seeks to protect occur on private land for primary production and in these instances it is necessary to balance the overall benefits of indigenous vegetation or indigenous fauna against the benefits provided by primary production activities. They believe that the provisions are so broad as to effectively enable for Council to protect any areas of indigenous vegetation or indigenous fauna, particularly the reference to buffers, connections and habitat. They agree with the overall intention to provide protection to indigenous vegetation or indigenous fauna, but consider policies (e), (f) and (g) expand the scope beyond what is necessary or reasonable, providing no certainty or scale.

Forest and Bird NZ (FS2482.10) opposes FFNZ (OS919.8) because they believe the proposed criteria are incomplete and differ from those that have generally been accepted by the Environment Court. Forest and Bird recommends adopting the criteria in the proposed Regional Policy Statement for Otago as amended by their submission.

Oceana Gold (New Zealand) Limited (OS1088.14) seeks to amend Policy 2.2.3.1, as they are concerned that the present wording means that an area containing one or more of the areas (a)-(g) will be seen as justifying the area for inclusion as ASCVs or within a QEII covenant. They feel this is not appropriate.

Recommendations

I do not support the deletion of all criteria listed in (a) to (g), as requested by Oceana Gold. These criteria provide guidance as to areas that may be considered significant, and in their absence no such guidance would be available. The inclusion of these criteria contributes to plan clarity and comprehension. I note my recommended amendment to change the "all or a number" phrase to the more direct "one or more" in response to the STOP submission. I note that this is an assessment made by an ecologist or similarly qualified person, and that meeting one criteria may be enough in some circumstances but may not be in other circumstances. For example, meeting the size criterion alone may not always be sufficient.

The potential impact of removing each of the three criteria (e), (f) and (g), as requested by FFNZ, is discussed in paragraphs 85-90 of the evidence of Kelvin Lloyd (reference). Dr Lloyd concludes:

“Removal of the criteria for ecological context, diversity and pattern, and large size would have a significant negative effect on the recognition of important habitats for indigenous fauna, and sites that are more likely to have strong ecological functioning. In my opinion, these criteria should be retained.”

I agree with the evidence of Dr Lloyd that these criteria are appropriate in Policy 2.2.3.1. I note that criteria for ecological context and diversity are provided in Schedule 4 of the pORPS-dv which provides criteria for the identification of areas of significant indigenous vegetation and habitat of indigenous fauna. I consider that the inclusion of clauses (e) and (f) in Policy 2.2.3.1 has regard to the pORPS-dv. While criteria (g) is not directly listed in Schedule 4 of the pORPS-dv, I note the following statement from paragraph 89 of Dr Lloyd’s evidence:

“Large areas of indigenous vegetation and habitat are almost always significant, because they allow larger populations of indigenous plants and animals to persist, thus improving the demographic functioning and resilience of populations.”

Request to replace Policy 10.2.1.2 with procedural policy for scheduling ASCVs

The Department of Conservation (OS949.3) seeks to replace Policy 10.2.1.2 with the following policy: “Identify the District’s Areas of Significant Conservation Value (ASCV) and schedule them in the District Plan, including the ongoing identification of Significant Natural Areas through resource consent applications, using the criteria set out in Schedule XX (new schedule), the list of Protected species in Appendix 10.A, and avoid the clearance of indigenous vegetation within ASCV’s that would reduce significant indigenous biodiversity values.” The submitter notes “that the ASCVs scheduled in the Plan are almost exclusively located on public conservation land or on council reserve land. Areas of similar value on non-scheduled land do not receive the same level of protection under the 2GP. The 2GP should provide for further identification of ASCVs through ecological assessments associated with development activities on private land. Assessments should be undertaken considering relevant criteria for determining the significance of a site. The 2GP should not allow for the clearance of indigenous vegetation within ASCVs as a permitted activity, and should only allow for the clearance within ASCVs in exceptional circumstances. Without this the 2GP does not provide for the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna as required by section 6(c) of the RMA.”

Federated Farmers of New Zealand (FS2449.74) opposes Department of Conservation (OS949.3) because the proposed amendments have not been shown to be necessary or appropriate.

Recommendations

I do not consider Policy 10.2.1.2 should be replaced with the new policy proposed by DOC. The suggested policy concerns the process of scheduling ASCVs (it is a procedural policy), whereas Policy 10.2.1.2 is to do with the management of land use and development activities in already-scheduled ASCVs (a substantive policy).

In effect, the policy request by DoC is also a mapping or scheduling request, seeking that any areas that meet the significance criteria in Policy 2.2.3.1 but are not ASCVs are scheduled, including the identification of potential ASCVs through resource consent applications. The proposed

policy wording suggested could be read to mean the identification of ASCVs could be done through the resource consent process. I note, however, that the inclusion of ASCVs in Schedule A1.2 of the 2GP requires a plan change process.

I now consider the 2GP approach towards the scheduling of ASCVs. As discussed in section 2.2.1 above, through the development of the 2GP the scheduling of ASCVs has been undertaken on a voluntary basis, with the DCC paying for ecological assessments of potential ASCVs but relying on landowner willingness to schedule sites that meet the criteria for being an ASCV.

This approach has been questioned by some submitters, particularly when the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna is a matter of national importance under section 6(c) of the RMA. By way of comparison, landowners do not have an 'opt-out' option when their land is identified as being part of an outstanding natural feature or landscape under section 6(b). However, I note that the inclusion of items on other 2GP schedules also operates on a landowner-willingness basis, including heritage (also a section 6 matter) and the tree schedule.

My understanding is that the adoption of this voluntary approach has been to encourage conservation activity and positive outcomes for biodiversity for these significant sites, while avoiding landowner antipathy and the risk of poor outcomes through forced-protection measures. I also understand that it is the continuation of an approach employed under the operative Plan. I note that, where potential ASCVs have been identified but not scheduled, a number of landowners have indicated that they wish to pursue protection through a QEII covenant instead. This is likely to provide similar biodiversity outcomes to that sought by the 2GP, without directly employing the 2GP method of ASCV scheduling. Indeed, Policy 2.2.3.1 provides for QEII covenants as an "and/or" option to ASCV scheduling.

Prior to consideration of whether this voluntary approach should be continued under the 2GP, I note the following (notified or recommended) provisions which I consider are positive in terms of the concerns about significant vegetation and habitats raised by the submitters who have addressed this wider issue (DoC, STOP, Forest and Bird).

- Rule 10.3.2.2 – the maximum thresholds for permitted indigenous vegetation clearance are considerably reduced in comparison to the operative Plan. This more restrictive approach should provide more protection to indigenous biodiversity, including areas that may meet the significance criteria. (Refer section 5.8.6.2 below.)
- Vegetation clearance assessment rules – when assessing applications to clear vegetation, it has been recommended in this report that assessment guidance is added that will consider whether the area meets significance criteria and, if so, assess the significance of effects as if it was an ASCV. (Refer sections 5.8.5.3, 5.8.6.3 and 5.8.7.5.)
- Rule 10.3.2.4 – the threatened plant list has been expanded considerably over the operative Plan, and it is recommended that threatened fauna species are added in a new Appendix. These measures should trigger more frequent requirement for resource consent where threatened species are potentially affected by indigenous vegetation clearance. (Refer section 5.8.7.4.)
- Policy 2.2.3.1 – the recommended amendments to the criteria as set out below will provide for improved assessment and identification of areas that are potentially significant.

If the Panel are of a mind to changing this approach to ASCV scheduling to require mandatory scheduling, I am of the opinion that this would require consideration of the following:

- An amendment to Policy 2.2.3.1 along the lines of that requested by STOP and Forest and Bird, so that the policy is more directive in intent. For example, “identify and protect areas of significant vegetation...”
- The development of a programme of works to liaise with landowners, commission any ecological assessments required on potentially significant sites not yet assessed, and revisit and map sites that are considered significant but are not yet scheduled.
- A review of the adequacy of incentives and other non-regulatory assistance available for landowners with ASCVs (e.g. Biodiversity Fund, rates relief). As will be discussed at the hearing, I consider that it may be that a review of non-regulatory methods should be conducted anyway, due to the more restrictive nature of the recommended vegetation clearance provisions.

If the Panel are of a mind to retain the voluntary approach, it may improve Plan clarity to spell out in Policy 2.2.3.1 that landowner willingness is required to achieve ASCV scheduling. Alternately, the existing drafting could be relied upon with the words “promote the protection of these” indicating a non-mandatory approach.

I consider that the advantages and disadvantages of the two approaches to scheduling to be as set out in the following table.

	Advantages	Disadvantages
Voluntary Scheduling	<ul style="list-style-type: none"> • Lower cost approach which has been largely completed through 2GP development • Landowner willingness more likely to result in better stewardship of significant areas 	<ul style="list-style-type: none"> • Less effective in achieving RMA s6 and Objective 2.2.3
Mandatory Scheduling	<ul style="list-style-type: none"> • More effective in achieving RMA s6 and Objective 2.2.3 	<ul style="list-style-type: none"> • Greater cost through: <ul style="list-style-type: none"> ○ staff time, e.g. more landowner liaison ○ more ecological assessments ○ potential legal challenges • May result in negative impacts for biodiversity through landowner dissatisfaction (e.g. poor stewardship of biodiversity both within ASCVs and in other areas)

I am not making any recommendation in respect of the approach to ASCV scheduling, but defer discussion of this matter to the Natural Environment hearing.

Recommended amendments

Amendment 1

Amend Policy 2.2.3.1 as follows:

"Identify areas of significant indigenous vegetation and/or significant habitats of indigenous fauna and promote the protection of these as Scheduled Areas of Significant Conservation Value (ASCVs) ~~and/or through QEII covenants, and/or other legal covenants.~~ {NatEnv900.9, NatEnv958.8} Identify areas which have ~~all or a number~~ one or more {NatEnv900.9, NatEnv958.8} of the following criteria:..."

Amendment 2

Amend Policy 2.2.3.1 as follows:

"...a. existing protected areas set aside by statute or covenant or listed in an operative Otago Regional Council Regional Plan as having significant indigenous biodiversity value;

b. habitats for indigenous species that are nationally threatened, at risk, or uncommon, nationally or within an ecological district; {NatEnv949.22, NatEnv958.8}

c. ~~indigenous vegetation and/or fauna habitat types that are rare, acutely or chronically threatened~~ areas that support:

- i. Indigenous vegetation or habitat of indigenous fauna that has been reduced to less than 20% of its former extent nationally, regionally or within a relevant land environment, ecological district, or freshwater environment including wetlands;
- ii. Indigenous vegetation and habitats within originally rare ecosystems; {NatEnv949.22, NatEnv958.8}

d. ~~indigenous vegetation or indigenous fauna that is distinctive or representative of the natural diversity of the ecological district~~ areas that are examples of an indigenous vegetation type or habitat that is typical or characteristic of the natural diversity of the relevant ecological district, which may include degraded examples of their type or represent all that remains of indigenous vegetation and habitats of indigenous fauna in some areas; {NatEnv949.22, NatEnv958.8}

e. Areas that support or provide habitat for:

- i. Indigenous species at their distributional limit within Otago or nationally;
- ii. Indigenous species that are endemic to the Otago region;
- iii. Indigenous vegetation or an association of indigenous species that is distinctive, of restricted occurrence, or has developed as a result of an unusual environmental factor or combinations of factors; {NatEnv949.22, NatEnv958.8}

e- f. areas important for their ecological context as an ecological buffer, connection or as a habitat for indigenous fauna;

g. Areas that provide, on a regular or temporary basis, important breeding, refuge, feeding or resting sites for indigenous fauna; {NatEnv949.22, NatEnv958.8}

~~f. areas with a relatively high indigenous diversity and pattern~~ h. Areas that support a high diversity of indigenous vegetation and habitats of indigenous fauna or consist of a diverse range or sequence of interrelated vegetation and habitat types, with the degree of diversity referenced

to specific communities i.e. levels of diversity varying significantly between communities and habitat types; and/or {NatEnv949.22, NatEnv958.8}

g. i. areas that are of a size to make them significant.”

5.2.3 Policy 2.2.3.2

Sub pt #	Submitter Name	Support/Oppose/ Seek Amend	Summary Of Submission	Accept/Reject/ Accept in part	Staff Recommendation
OS690.5	Yellow-eyed Penguin Trust	I seek to have the above provision amended	Amend Policy 2.2.3.2 to include recognition of habitat	Accept	Amend Policy 2.2.3.2 as shown below
OS900.10	Save The Otago Peninsula (STOP) Inc Soc	I seek to have the above provision amended	Amend Policy 2.2.3.2 as follows: Maintain or enhance indigenous biodiversity in the rural environment through rules that: a. restrict-avoid indigenous vegetation clearance along coastal margins, riparian corridors, <u>coastal dunes and turfs</u> and in wetlands; b. protect indigenous vegetation in Scheduled Areas of Significant Conservation Value (ASCVs) <u>and areas that meet the criteria for significance, (Policy 2.2.3.1;</u> c. protect threatened species and mature examples of important native trees, and otherwise limit - <u>minimise</u> the removal of indigenous vegetation...	Accept in part	Amend Policy 2.2.3.2 as shown below
FS2391.74	Geoff Scurr	I oppose the	Oppose OS900.10. Disallow submission.	Reject	Amend Policy 2.2.3.2

	Contracting Limited	submission			as shown below
FS2449.39	Federated Farmers of New Zealand	I oppose the submission	Oppose OS900.10. Disallow submission.	Reject	Amend Policy 2.2.3.2 as shown below
OS958.9	Forest and Bird NZ	I seek to have the above provision amended	Amend Policy 2.2.3.2 as follows: Maintain or enhance indigenous biodiversity in the rural environment through rules that: a. restrict <u>avoid indigenous vegetation clearance along coastal margins, riparian corridors, coastal dunes and turfs</u> and in wetlands; b. protect indigenous vegetation in Scheduled Areas of Significant Conservation Value (ASCVs) <u>and areas that meet the criteria for significance (Schedule xxx)</u> c. protect threatened species and mature examples of important native trees, d. and otherwise limit <u>minimise the removal of indigenous vegetation and provide for the maintenance of indigenous vegetation and habitats of indigenous species</u> ; e. manage the location and scale of development adjacent to the coast and water bodies; and f. require esplanade reserves or esplanade strips when land is subdivided adjacent to the coast and identified water bodies. (refer also Appendix One to submission)	Accept in part	Amend Policy 2.2.3.2 as shown below
FS2449.40	Federated Farmers of New Zealand	I oppose the submission	Oppose OS958.9. Disallow submission.	Reject	Amend Policy 2.2.3.2 as shown below
OS919.9	Federated Farmers of New Zealand	I seek to have the above provision amended	Amend Policy 2.2.3.2 as follows: 'Maintain or enhance indigenous biodiversity in the rural environment through rules that: ... c. protect threatened species and mature examples of important native trees, and otherwise limit the removal of indigenous vegetation; ... '	Reject	Do not amend Policy 2.2.3.2 as requested

FS2267.2	Harboursides and Peninsula Preservation Coalition	I oppose the submission	Oppose OS919.9. Disallow submission and retain Policy 2.2.3.2 as proposed in the 2GP.	Accept	Do not amend Policy 2.2.3.2 as requested
FS2482.11	Forest and Bird NZ	I oppose the submission	Oppose OS919.9. Disallow submission.	Accept	Do not amend Policy 2.2.3.2 as requested
OS900.157	Save The Otago Peninsula (STOP) Inc Soc	I seek to have the above provision amended	<p>Insert new Rule 10.3.2.5 as follows: <u>Potential areas of significant indigenous vegetation and habitats of indigenous Fauna. a. In the rural, rural residential and recreation zones indigenous vegetation clearance must not occur in areas that meet the criteria set out in Policy 2.2.3.1. b. The following instances of indigenous vegetation clearance are exempt from this standard: i. vegetation clearance as part of existing forestry activity where the clearance involves an understorey of indigenous vegetation, or is for the maintenance of forestry access or firebreaks; ii. vegetation clearance provided for as part of a conservation management strategy, conservation management plan, reserve management plan or covenant established under the Conservation Act 1987 or any other Act specified in the First Schedule of the Conservation Act 1987.</u></p> <p>Amend Note 10.3A (other relevant District Plan provision) as follows: "1. See the following rules for the activity status of indigenous vegetation clearance in natural coastal character overlay zones, <u>Potential areas of significant indigenous vegetation and significant habitats of indigenous fauna</u> and ASCVs: ..."</p>	Reject	Do not add new Rule 10.3.2.5 as requested

FS2439.36	Oceana Gold (New Zealand) Limited	I oppose the submission	Oppose OS900.157. Disallow submission.	Accept	Do not add new Rule 10.3.2.5 as requested
FS2449.258	Federated Farmers of New Zealand	I oppose the submission	Oppose OS900.157. Disallow submission.	Accept	Do not add new Rule 10.3.2.5 as requested
OS958.74	Forest and Bird NZ	I seek to have the above provision amended	<p>Add a new rule to control indigenous vegetation clearance in potential areas of significant indigenous vegetation and habitats of indigenous fauna. This new rule should read as follows:</p> <p><u>a. In the rural, rural residential and recreation zones indigenous vegetation clearance must not occur in areas that meet the criteria set out in Schedule xxxx. Criteria for assessing areas of significant indigenous vegetation and significant habitats of indigenous fauna.</u></p> <p><u>b. The following instances of indigenous vegetation clearance are exempt from this standard:</u></p> <p><u>i. vegetation clearance as part of existing forestry activity where the clearance involves an understorey of indigenous vegetation, or is for the maintenance of forestry access or firebreaks;</u></p> <p><u>ii. vegetation clearance provided for as part of a conservation management strategy, conservation management plan, reserve management plan or covenant established under the Conservation Act 1987 or any other Act specified in the First Schedule of the Conservation Act 1987.</u></p> <p><u>The activity status for indigenous vegetation</u></p>	Reject	Do not add new rule as requested

			<u>clearance in potential areas of significant indigenous vegetation and habitats of indigenous fauna should be the same as the activity status for indigenous vegetation clearance in ASCVs.</u>		
FS2439.38	Oceana Gold (New Zealand) Limited	I oppose the submission	Oppose OS958.74. Disallow submission.	Accept	Do not add new rule as requested
FS2449.261	Federated Farmers of New Zealand	I oppose the submission	Oppose OS958.74. Disallow submission.	Accept	Do not add new rule as requested
<p>Background</p> <p>Objective 2.2.3 states “Dunedin's indigenous biodiversity is retained, enhanced and restored, with improved connections and resilience”.</p> <p>Policy 2.2.3.2 states: “Maintain or enhance indigenous biodiversity in the rural environment through rules that:</p> <ul style="list-style-type: none"> a. restrict indigenous vegetation clearance along coastal margins, riparian corridors and in wetlands; b. protect indigenous vegetation in Scheduled Areas of Significant Conservation Value (ASCVs); c. protect threatened species and mature examples of important native trees, and otherwise limit the removal of indigenous vegetation; d. manage the location and scale of development adjacent to the coast and water bodies; and e. require esplanade reserves or esplanade strips when land is subdivided adjacent to the coast and identified water bodies”. <p>This policy sets up several of the methods used to maintain or enhance indigenous biodiversity in the rural environment (which for this purpose may be considered to include the rural and rural residential zones and the recreation zone), including maximum vegetation clearance rules, setbacks from the coast and water bodies, activity status rules in ASCVs, and requirements for taking esplanade reserves or esplanade strips.</p>					

Submission to include habitats of indigenous fauna

Yellow-eyed Penguin Trust (OS690.5) seeks to amend Policy 2.2.3.2 to also reference habitats of indigenous fauna.

Recommendation – Amendment 1

In line with the Objective, Policy 2.2.3.2 discusses the maintenance or enhancement of indigenous biodiversity. I consider that this encompasses the habitats of indigenous fauna as this is a necessary part of indigenous biodiversity. The reference to indigenous vegetation rather than habitats in clauses (a) and (c) of the policy is because these set up one of the main tools to achieve this policy, which is the indigenous vegetation clearance rules.

However, in the case of clause (b) I agree with the submitter that the terminology is too limited. ASCVs are intended to protect both areas of significant indigenous vegetation and significant habitats of indigenous fauna. I have proposed an amendment to clause (b) below to include habitats of indigenous fauna, and to recognise that it is significant vegetation and habitats that are protected in ASCVs.

Submission to change word "restrict" in clause (a) to "avoid"

STOP (OS900.10) and Forest and Bird (OS958.9) seek to amend clause (a) of the policy as follows:

"a. ~~restrict~~avoid indigenous vegetation clearance along coastal margins, riparian corridors, coastal dunes and turfs and in wetlands;"

Forest and Bird believes that indigenous vegetation in coastal margins, riparian corridors, coastal dunes, turfs and wetlands should not be cleared. STOP does not give a specific reason for this request.

Geoff Scurr Contracting Limited (FS2391.74) and Federated Farmers of New Zealand (FS2449.39, FS2449.40) oppose STOP (OS900.10) and Forest and Bird NZ (OS958.9) because they believe, as a result of the NZ King Salmon case, 'avoid' is taken as 'prohibit', and some indigenous vegetation clearance will be appropriate in certain circumstances.

Recommendation

I do not support this amendment, as I agree with the further submitters that avoidance would be too strict and be taken to mean prohibition. There may be some circumstances where indigenous vegetation clearance in these areas may be appropriate (for example, clearance and replanting with more suitable indigenous species) and I consider the wording of "restrict", which leads to a performance standard that restricts indigenous vegetation clearance in the areas described in clause (a), is appropriate.

Request to add reference to "coastal dunes and turfs"

Both STOP (OS900.10) and Forest and Bird (OS958.9) wish to add reference to "coastal dunes and turfs" in clause (a). STOP states that "Indigenous vegetation associated with 'originally rare' terrestrial ecosystem types such as coastal turf, coastal rock stacks are a national priority to protect. Dune lands are a national priority to protect under the NZ Coastal Policy Statement." Forest and Bird believes that indigenous vegetation in coastal dunes and turfs should not be cleared.

Geoff Scurr Contracting Limited (FS2391.74) and Federated Farmers of New Zealand (FS2449.39, FS2449.40) oppose this request.

Recommendation –Amendment 2

Clause (a) leads to performance standard Rule 10.3.2.3 which includes a minimum setback for indigenous vegetation clearance of 20m from mean high water springs required in the rural, rural residential and recreation zones, as well as restricting any indigenous vegetation in any coastal environment mapped area. In addition, there is a restricted discretionary activity status for indigenous vegetation clearance in all natural coastal character overlay zones. I also note that there are other methods used to control vegetation clearance specifically in dune systems for the purposes of natural hazards management, although these relate specifically to Dune Systems Mapped Areas.

I consider that clause (a) provides a broader set of restrictions on indigenous vegetation clearance in coastal areas than is implied by the current wording of clause (a). Rather than the amendment proposed by the submitters, I consider the wording of coastal margins should be changed to the coastal environment to recognise this broader protection, and have recommended an amendment below.

Request to add to clause (b) “areas that meet the criteria for significance” and add new rule to control indigenous vegetation clearance in potential areas of significant indigenous vegetation and habitats of indigenous fauna

STOP (OS900.10) and Forest and Bird (OS958.9) seek to amend clause (b) to add “areas that meet the criteria for significance”. Forest and Bird also seek to add reference to their suggested new schedule for significance criteria. Clause (b) leads, via Policy 10.2.1.4, to a restricted discretionary activity status for indigenous vegetation clearance in ASCVs.

Geoff Scurr Contracting Limited (FS2391.74) and Federated Farmers of New Zealand (FS2449.39, FS2449.40) oppose this request.

STOP (OS900.157) and Forest and Bird NZ (OS958.74) also seek that a new rule is added to the plan to control indigenous vegetation clearance in areas not listed in the plan as scheduled ASCVs, but that meet the criteria for ASCVs (note that both submitters have also requested changes to these criteria, which are set out in Policy 2.2.3.1). The proposed rule is set out in the table above, with the submitters also suggesting that the activity status should be the same as for indigenous vegetation clearance in ASCVs (i.e. restricted discretionary).

Both STOP and Forest and Bird believe that indigenous vegetation clearance should not be permitted in these “potential” areas of significant indigenous vegetation and habitats of indigenous fauna, within rural, rural residential and recreation zones. Both submitters consider that this change is necessary to protect areas of significant indigenous vegetation and habitats of indigenous fauna that have not been identified or included in the ASCV schedule.

Oceana Gold (FS2439.36, FS2439.38) and Federated Farmers (FS2449.258, FS2449.261) oppose STOP and Forest and Bird’s submission for a new rule. Oceana Gold considers that introducing “potential areas of significant indigenous vegetation and significant habitats of indigenous fauna” and making the status of these areas equivalent to that of ASCVs creates uncertainty for plan users. Oceana Gold also considers that the outcome sought is unduly restrictive for locationally constrained activities such as mining. FFNZ considers that the outcome sought is unnecessary, goes well beyond the intent and purpose of the RMA, and has not been adequately justified or shown to be appropriate

Recommendation

I do not consider that the proposed amendment to Policy 2.2.3.2.b or the new rule proposed are appropriate, as they would signal an *ultra vires* method, where a rule applied in areas that were not yet identified. I consider that the policy as currently worded more accurately reflects the Plan methods, in particular restricted discretionary activity status for indigenous vegetation clearance in scheduled ASCVs, and do not recommend this submission is accepted.

I note the recommended changes to vegetation clearance and indigenous vegetation clearance assessment rules 10.4.3.2, 10.4.3.3, 10.4.3.4 and 10.4.3.5 to include general assessment guidance that considers whether vegetation or habitats that meet the criteria of Policy 2.2.3.1 are affected by any application for vegetation clearance. While not providing the level of protection that the submitters request, it does provide guidance that will assess the effects of vegetation clearance on the values of these areas as if they were scheduled areas. The recommended amendment to the assessment rules is set out in section 5.13.2 below.

Request to change word 'limit' to minimise in clause c.

STOP (OS900.10) and Forest and Bird (OS958.9) request clause (c) be amended to read "otherwise ~~limit~~ minimise the removal of indigenous vegetation". This part of clause (c) leads, via Policy 10.2.1.3, to Rule 10.3.2.2 Maximum area of indigenous vegetation clearance. Geoff Scurr Contracting Limited (FS2391.74) and Federated Farmers of New Zealand (FS2449.39, FS2449.40) oppose this request.

Recommendation

I consider the word "limit" to be a more accurate reflection of this method used in the plan which sets limits, not a sliding target to "minimise". I do not recommend this amendment is accepted.

Request to add to clause (c) "and provide for the maintenance of indigenous vegetation and habitats of indigenous species"

Forest and Bird (OS958.9) request to add to clause (c) "and provide for the maintenance of indigenous vegetation and habitats of indigenous species". Geoff Scurr Contracting Limited (FS2391.74) and Federated Farmers of New Zealand (FS2449.39, FS2449.40) oppose this request.

Recommendation

Clause (c) relates to Rule 10.3.2.2, the performance standard for maximum area of indigenous vegetation clearance, and Rule 10.3.2.4, the performance standard for protected species. I consider the clause as worded is an accurate description of these methods. I note that the wording at the start of Policy 2.2.3.2 is "Maintain or enhance indigenous biodiversity in the rural environment through rules that..." which I consider achieves the same intent as the suggested amendment, with the following clauses in the policy providing succinct descriptions of the methods to be employed. I do not recommend that this amendment is accepted.

Submission to amend clause (c) by removing “and otherwise limit the removal of indigenous vegetation”

Federated Farmers of New Zealand (OS919.9) seeks to amend Policy 2.2.3.2.c by removing the phrase “and otherwise limit the removal of indigenous vegetation”. The submitter considers that with the overall approach taken in Policy 2.2.3.1 and other matters proposed within Policy 2.2.3.2, Policy 2.2.3.2.c is unnecessarily restrictive.

HPPC (FS2267.2) opposes FFNZ (OS919.9) because they disagree that Policy 2.2.3.2 is unnecessarily restrictive and the deleted statement is required to uniformly express Council intent, especially for rural areas covered by overlays dealing with landscapes, character, features and ASCVs. Forest and Bird NZ (FS2482.11) oppose FFNZ (OS919.9) because “minimising impacts on indigenous vegetation provides flexibility where appropriate and within context of this policy to maintaining and enhancing indigenous biodiversity”.

Recommendation

As stated above, this part of clause (c) leads, via Policy 10.2.1.3, to Rule 10.3.2.2 Maximum area of indigenous vegetation clearance. It is an accurate description of the method and I recommend it is not removed unless the related performance standard 10.3.2.2 Maximum area of indigenous vegetation clearance is removed from the Plan.

Recommended amendment:

Amendments 1 and 2

Amend Policy 2.2.3.2 as follows:

“...a. restrict indigenous vegetation clearance ~~along in the coastal margins environment,~~ riparian corridors and ~~in~~ wetlands; {NatEnv900.10}
b. protect significant indigenous vegetation and/or significant habitats of indigenous fauna in Scheduled Areas of Significant Conservation Value (ASCVs);...” {NatEnv690.5}

5.2.4 Policy 2.2.3.3

Sub pt #	Submitter Name	Support/Oppose/ Seek Amend	Summary Of Submission	Accept/Reject/ Accept in part	Staff Recommendation
OS690.6	Yellow-eyed Penguin Trust	I support the provision	Retain Policy 2.2.3.3	Accept in part	Retain Policy 2.2.3.3 subject to amendments as shown below
OS919.100	Federated Farmers	I support the	Retain Policy 2.2.3.3	Accept in part	Retain Policy 2.2.3.3

	of New Zealand	provision			subject to amendments as shown below
OS908.24	Otago Regional Council	I support the provision	Amend Policy 2.2.3.3(b) to add restoration to the types of conservation that form part of the assessment rule for consent applications, and to the matters of discretion for the relevant rule/s.	Accept	Amend Policy 2.2.3.3 as shown below
OS900.11	Save The Otago Peninsula (STOP) Inc Soc	I seek to have the above provision amended	Amend Policy 2.2.3.3 as follows: Encourage conservation activity in all zones through...b. assessment rules that encourage the consideration of the positive effects of conservation (protection, <u>restoration</u> or enhancement of indigenous biodiversity) as part of consent applications. <u>Requiring restoration of indigenous vegetation to utilise indigenous species that naturally occur in the area.</u>	Accept in part	Amend Policy 2.2.3.3 as shown below
FS2391.75	Geoff Scurr Contracting Limited	I oppose the submission	Oppose OS900.11. Disallow submission.	Reject	Amend Policy 2.2.3.3 as shown below
FS2449.41	Federated Farmers of New Zealand	I oppose the submission	Oppose OS900.11. Disallow submission.	Reject	Amend Policy 2.2.3.3 as shown below
OS958.10	Forest and Bird NZ	I seek to have the above provision amended	Amend Policy 2.2.3.3 to read as follows: Encourage conservation activity in all zones through: a. rules that enable conservation activity; and b. assessment rules that encourage the consideration of the positive effects of conservation (protection, <u>restoration</u> or enhancement of indigenous biodiversity) as part of consent applications. c. <u>Requiring restoration of indigenous vegetation to utilise indigenous species that naturally occur in the area.</u>	Accept in part	Amend Policy 2.2.3.3 as shown below

FS2449.42	Federated Farmers of New Zealand	I oppose the submission	Oppose OS958.10. Disallow submission.	Reject	Amend Policy 2.2.3.3 as shown below
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Background

Policy 2.2.3.3 states “Encourage conservation activity in all zones through:

- a. rules that enable conservation activity; and
- b. assessment rules that encourage the consideration of the positive effects of conservation (protection or enhancement of indigenous biodiversity) as part of consent applications”.

This policy sets up conservation as a permitted activity in management and major facility zones, as well as assessment rules that consider the positive effects of conservation activity in resource consent applications. These assessment rules include:

- Rule 10.4.2.1.c (assessment of all performance standard contraventions) states “The development incorporates conservation activity that will have significant positive effects on biodiversity or natural character values”.
- Rule 10.5.2 (assessment of restricted discretionary activities) – in a number of parts of this rule, a potential circumstance that may support a consent application is that “Development activities are associated with conservation”.
- Rule 10.6.2.1.d (assessment of all discretionary activities) states “The development incorporates conservation activity that will have significant positive effects on biodiversity or natural character values”.

Submissions in support

Yellow-eyed Penguin Trust (OS690.6) seeks to retain Policy 2.2.3.3, because the submitter believes the policy is appropriate, but they also believe it is not fully recognised in other provisions, as addressed elsewhere in their submission (refer sections 5.4.13 and 5.4.23).

Federated Farmers of New Zealand (OS919.100) seeks to retain Policy 2.2.3.3, because the submitter considers that the policy, in conjunction with their proposed amendments to Policies 2.2.3.1 and 2.2.3.2, provides for a reasonable balance between regulating for protection of significant indigenous vegetation and habitat values and providing a supportive framework which encourages conservation activity in partnership with landowners and resource users.

Request to add restoration to clause (b)

Otago Regional Council (OS908.24) seeks to amend Policy 2.2.3.3.b to add restoration to the types of conservation that form part of the assessment for consent applications. They consider that, overall, the strategic direction objective and policies of the proposed district plan recognise the importance of biodiversity and ecosystem services and give effect to the Proposed RPS. STOP (OS900.11) and Forest and Bird (OS958.10) also seek reference to ‘restoration’ in Policy 2.2.3.3.b.

Geoff Scurr Contracting Limited (FS2391.75) and Federated Farmers of New Zealand (FS2449.41) oppose the submission point by STOP (OS900.11), and F (FS2449.2) opposes the submission point by Forest and Bird (OS958.10), because they believe that restoration in the way

proposed goes over and beyond the principles of sustainable management within the RMA in this area. I note that these further submissions may be in opposition to the proposed addition of a new clause (c), which is discussed below.

Recommendation – Amendment 1

I agree with the Otago Regional Council that restoration is one of the components of conservation activity that should be considered as a positive effect when assessing consent applications. I have recommended an amendment to Policy 2.2.3.3 to this effect below. I note that in the relevant assessment rules where the positive effects of conservation activity are considered (as set out above), conservation activity is referred to as a whole, rather than referring to component parts such as restoration.

Submissions to require restoration to utilise species that naturally occur in the area

STOP (OS900.11) and Forest and Bird (OS958.10) want the policy to be amended to add a new clause "c. Requiring restoration of indigenous vegetation to utilise indigenous species that naturally occur in the area." The submitters have not provided any particular reason for this request, stating that they "generally support, but need to add restoration".

I note that the same submitters have made a similar submission to the definition of conservation activity (refer section 5.1.1 above), requesting that restoration planting use "eco sourced indigenous species local to the area".

Geoff Scurr Contracting Limited (FS2391.75) and Federated Farmers of New Zealand (FS2449.41) oppose the submission point by STOP (OS900.11), and FFNZ (FS2449.42) opposes the submission point by Forest and Bird (OS958.10), because they believe that restoration in the way proposed goes over and beyond the principles of sustainable management within the RMA in this area.

Recommendation

I acknowledge that it may be considered good conservation practice to use naturally occurring species. However, I do not consider it should be a mandatory requirement that restoration should utilise naturally occurring indigenous species, and note that there are no rules in the plan to require this at the moment. I consider this may be too restrictive an imposition on landowners and people seeking to undertake restoration planting and may have a negative impact on the willingness of people to undertake such conservation activities. There may also be difficulties in monitoring any such requirement – for instance, defining with accuracy from at what point in time or stage in succession are species considered to be naturally occurring. I note that the submitters have not justified the need for this amendment.

I consider that non-regulatory methods may be available to achieve the same intended outcomes, such as the use of planting guides with suggested local species.

Recommended amendment:

Amendment 1

Amend Policy 2.2.3.3 as follows:

"...b. assessment rules that encourage the consideration of the positive effects of conservation (protection, restoration {NatEnv908.24} or enhancement of indigenous biodiversity) as part of consent applications".

5.2.5 Policy 2.2.3.4

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
OS818.12	Urban Cohousing Otepoti Ltd	I seek to have the above provision amended	Amend Policy 2.2.3.4 by inserting: 'That the DCC encourages the replacing of exotic flora; that resident is living beside reserve land be encouraged to replace exotic with native flora.'	Reject	Do not amend Policy 2.2.3.4 as requested
OS900.12	Save The Otago Peninsula (STOP) Inc Soc	I seek to have the above provision amended	Amend Policy 2.2.3.4 as follows: Encourage maintenance <u>Maintain</u> and enhancement of biodiversity values in the urban environment through: ...b. rules that restrict vegetation clearance along water bodies <u>and coastal margins</u> ; ...	Accept	Amend Policy 2.2.3.4 as shown below
OS958.11	Forest and Bird NZ				
FS2449.43, FS2449.44	Federated Farmers of New Zealand	I oppose the submission	Oppose OS900.12 and OS958.11. Disallow submissions.	Reject	Amend Policy 2.2.3.4 as shown below
FS2140.4	John Scott	I oppose the submission	Oppose OS958.11. Disallow submission and do not make changes as requested by submitter.	Reject	Amend Policy 2.2.3.4 as shown below
FS2279.4	Ben Graham	I oppose the submission	Oppose OS958.11. Disallow submission and do not make changes as requested by submitter.	Reject	Amend Policy 2.2.3.4 as shown below
FS2300.4	Mathew O'Connell	I oppose the submission	Oppose OS958.11. Disallow submission and do not make changes as requested by submitter.	Reject	Amend Policy 2.2.3.4 as shown below
FS2391.79	Geoff Scurr Contracting Limited	I oppose the submission	Oppose OS958.11. Disallow submission.	Reject	Amend Policy 2.2.3.4 as shown below

FS2416.4	Alan Brown, Carrowmore Properties Limited, Robyn and Stephan Smith and Rick and Jill Clarke ("Pigeon Flat Road Group")	I oppose the submission	Oppose OS958.11. Disallow submission.	Reject	Amend Policy 2.2.3.4 as shown below
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Background

Policy 2.2.3.4 states "Encourage maintenance and enhancement of biodiversity values in the urban environment through:

- a. identification of an urban conservation mapped area and rules that restrict vegetation clearance in these areas;
- b. rules that restrict vegetation clearance along water bodies;
- c. requiring esplanade reserves or esplanade strips when land is subdivided adjacent to the coast and identified water bodies; and
- d. rules that require buildings, structures and earthworks to be set back from the coast and identified water bodies".

This policy signals the various methods used to maintain or enhance biodiversity in the urban environment, including vegetation clearance rules for urban conservation mapped areas and along water bodies, setbacks from the coast and water bodies, and requirements for taking esplanade reserves or esplanade strips.

Submission to amend policy to encourage replacement of exotic flora with indigenous flora

Urban Cohousing Otepoti Ltd (OS818.12) seeks to amend Policy 2.2.3.4 to encourage replacement of exotic with native flora. They would like to see a return to native vegetation and a removal of pestilent vegetation such as gorse, broom, old man's beard, passion fruit vines etc., which they believe are flourishing on DCC reserve land presently.

Recommendation

I do not support this amendment to Policy 2.2.3.4 as it does not align with any rules in the plan. I also note that rules requiring pest plant species clearance are the responsibility of the ORC who do have some rules that require clearance of some of the pest plants referenced. I refer the submitter to the Otago Regional Council's Regional Pest Management Strategy for Otago 2009.

I note, however, the following provisions in the 2GP which general support the submitter's concerns.

- Policy 2.2.3.3 encourages conservation activity in all zones (which involves the planting of indigenous species)
- There are exemptions in Rule 10.3.2 for vegetation clearance that is for the clearance of pest plant species listed in Appendix 10B
- Under Rule 10.2.3.1.a, vegetation clearance in urban conservation mapped areas is permitted where it is part of conservation activity involving vegetation clearance and replacement with indigenous species

In response to the submitter's concerns about pest species on DCC land, I suggest they contact the DCC Parks and Reserves department directly in relation to this.

Submission to “maintain and enhance” biodiversity values and add “coastal margins” to clause (b)

STOP (OS900.12) and Forest and Bird NZ (OS958.11) seek to amend Policy 2.2.3.4 as follows: “~~Encourage maintenance~~ Maintain and enhancement of biodiversity values in the urban environment through: ... b. rules that restrict vegetation clearance along water bodies and coastal margins; ...”. The submitters state that “Policy 2.2.3.2. correctly provides for the maintenance and enhancement of indigenous biodiversity, whereas this policy is only to encourage maintenance.....This does not fulfil Councils duties under the RMA. Vegetation clearance also needs to be restricted along coastal margins in order to fulfil the Councils obligations under the NZ Coastal Policy Statement.”

Federated Farmers of New Zealand (FS2449.43) opposes STOP (OS900.12) and Forest and Bird (OS958.11) because they believe the best outcomes for biodiversity can be attained through ‘encouragement’ via education and promotion of biodiversity values. John Scott (FS2140.4), Ben Graham (FS2279.4), Mathew O’Connell (FS2300.4), Geoff Scurr Contracting Limited (FS2391.79), Alan Brown, Carrowmore Properties Limited, and Pigeon Flat Road Group (FS2416.4) oppose Forest and Bird NZ (OS958.11) because they believe any amendment of this nature must take account of the need for farming to be able to continue without undue compromise to the use of land.

Recommendation

I support the amendment proposed by STOP and Forest and Bird to amend the start of Policy 2.2.3.4 to “Maintain” and “enhance” rather than “Encourage maintenance and enhancement of”. I consider this wording to be a more accurate reflection of the methods used in the plan which include performance standards. It is also consistent with terminology used in Policy 2.2.3.2, though I note this policy uses and ‘or’ not an ‘and’ which I think is more appropriate.

I also support the second amendment proposed by the submitters, to add “and coastal margins” to clause (b). This part of the policy leads to a performance standard Rule 10.3.3 for setbacks that applies to mean high water springs as well as water bodies, so I consider this amendment more accurately reflects the related method the policy sets up.

I note in relation to the opposition from further submitters that this policy specifically relates to rules in the urban environment, so their concerns regarding restrictions on farming are probably not directly relevant to this policy.

Recommended amendment:

Amend Policy 2.2.3.4 as follows:

~~“Encourage maintenance and enhancement~~ Maintain or enhance of {NatEnv900.12} biodiversity values in the urban environment through: ...
b. rules that restrict vegetation clearance along water bodies and coastal margins; ...” {NatEnv900.12}

Note also the change to Policy 2.2.3.4 recommended as a result of a submission on Objective 10.2.4 in section 5.4.20 below.

5.2.6 Request to add new policies under Objective 2.2.3

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
OS592.2 OS717.3	Dianne Reid Robyn and Stephan Smith, Rick and Jill Clarke, Alan Brown, Carrowmore Properties Ltd (on behalf of the "Pigeon Flat Road Group")	I seek to have the above provision amended	Add new policy under Objective 2.2.3 to support alternative development options as follows: <u>'Recognise that retention, enhancement and restoration of indigenous biodiversity can compromise other values of land, such as productive capacity. Where that is the case enable alternative subdivision and development options that will enable the retention, enhancement and restoration of indigenous biodiversity.'</u>	Reject	Do not add new policy as requested
FS2473.2	David Hiom and Kerry Hiom	I oppose the submission	Oppose OS592.2. Disallow submission.	Accept	Do not add new policy as requested
OS919.10	Federated Farmers of New Zealand	I seek to have the above provision amended	Add a new policy under Objective 2.2.3 as follows: <u>Recognise anticipated activities in rural areas such as farming and the efficient use of land and resources while having regard to the maintenance, protection or enhancement of indigenous biodiversity values.</u>	Reject	Do not add new policy as requested
FS2140.34	John Scott	I support the submission	Support OS919.10. Allow submission and make changes requested by submitter.	Reject	Do not add new policy as requested
FS2267.3	Harboursides and Peninsula Preservation Coalition	I oppose the submission	Oppose OS919.10. Disallow submission.	Accept	Do not add new policy as requested
FS2279.34	Ben Graham	I support the submission	Support OS919.10. Allow submission and make changes requested by submitter.	Reject	Do not add new policy as requested
FS2300.34	Mathew O'Connell	I support the submission	Support OS919.10. Allow submission and make changes requested by submitter.	Reject	Do not add new policy as requested

FS2416.38	Alan Brown, Carrowmore Properties Limited, Robyn and Stephan Smith and Rick and Jill Clarke ("Pigeon Flat Road Group")	I support the submission	Support OS919.10. Allow submission and add new policy under Objective 2.2.3 as requested by submitter.	Reject	Do not add new policy as requested
FS2452.76	Horticulture New Zealand	I support the submission	Support OS919.10. Allow submission.	Reject	Do not add new policy as requested
FS2482.13	Forest and Bird NZ	I oppose the submission	Oppose OS919.10. Disallow submission.	Accept	Do not add new policy as requested
OS900.8	Save The Otago Peninsula (STOP) Inc Soc	I seek to have the above provision amended	Add new policy under Objective 2.2.3 as follows: <u>Significant adverse effects of the use and development on habitats of indigenous birds in wetlands, beds of rivers and lakes and their margins for breeding, roosting, feeding and migration are avoided and other effects are avoided, remedied or mitigated.</u>	Reject	Do not add new policy as requested
FS2391.105	Geoff Scurr Contracting Limited	I oppose the submission	Oppose OS900.8. Disallow submission.	Accept	Do not add new policy as requested
FS2449.35	Federated Farmers of New Zealand	I oppose the submission	Oppose OS900.8. Disallow submission.	Accept	Do not add new policy as requested
OS958.57	Forest and Bird NZ	I seek to have the above provision amended	Add a specific objective and policies to give effect to the New Zealand Coastal Policy Statement.	Accept in Part	Amend Policy 2.2.3.2 and 10.1 Introduction as shown below

Background

As outlined in the Plan Overview report and the 2GP Users Guide, the 2GP is designed so that policies under the strategic directions section outline the methods used in the plan to achieve the overall strategic objectives.

Submissions for new policy to support alternate subdivision and development options

Dianne Reid (OS592.2) and Pigeon Flat Road Group (OS717.3) seek to add a new policy under Objective 2.2.3 as follows: "Recognise that retention, enhancement and restoration of indigenous biodiversity can compromise other values of land, such as productive capacity. Where that

is the case enable alternative subdivision and development options that will enable the retention, enhancement and restoration of indigenous biodiversity." The submitters consider that it is appropriate to support alternative development options where indigenous biodiversity values exist that will enable those values to be maintained and enhanced, and that simply encouraging conservation activity in and of itself is not sufficient. David Hiom and Kerry Hiom (FS2473.2) oppose Dianne Reid (OS592.2), with the reasons relating to their opposition to more intensive zoning and a higher intensity of use in their vicinity of Saddle Hill Road.

Recommendation

The suggested policy wording seems to relate to a desire to include in the Plan consideration of where subdivision leading to other development options might be a better option in terms of indigenous biodiversity values protection, because the presence of the biodiversity limits the use of the land for farming activities. I acknowledge the comments of the submitter that non-productive land uses (such as use of land for rural residential activity) may have the potential to support positive outcomes for indigenous biodiversity, particularly if the use of land for farming or other productive activities (such as forestry) could not be undertaken without adverse effects on those values.

I note that Policy 2.2.3.3 already sets out the use of "assessment rules that encourage the consideration of the positive effects of conservation (protection or enhancement of indigenous biodiversity) as part of consent applications". I consider that this policy already addresses the matters that the submitter is hoping to have included in the Plan, in terms of its need for inclusion as a strategic direction policy.

I note that a similar policy was requested by the same submitter under Objective 2.4.6. This was considered in the Rural Section 42A report (p96) where, as reporting planner, I gave the following opinion: "I favour the proposed 2GP approach whereby strategic policies act toward achievement of the objective under which they sit, rather than introducing new matters not related to achievement of that particular objective. I consider that balance is provided through the development of appropriate methods such as zoning; development of effective and efficient rules such as activity status rules and performance standards; and through assessment of resource consents taking into consideration a range of relevant objectives and policies covering a variety of matters. I am of the opinion that this is an approach that provides greater clarity than attempting to draft a one-size-fits-all policy, and do not recommend that the proposed new policy is accepted."

Submission to add new policy to recognise anticipated activities

Federated Farmers of New Zealand (OS919.10) seek to add a new policy under Objective 2.2.3 as follows: "Recognise anticipated activities in rural areas such as farming and the efficient use of land and resources while having regard to the maintenance, protection or enhancement of indigenous biodiversity values." The submitter's reasons are to provide clarity that the intention is not to unnecessarily hinder rural production in rural areas, and to specifically recognise anticipated activities in rural areas such as farming while at the same time seeking to protect indigenous biodiversity values.

John Scott (FS2140.34), Ben Graham (FS2279.34), Mathew O'Connell (FS2300.34), and Pigeon Flat Road Group (FS2416.38) support FFNZ (OS919.10) as they consider this provides appropriate recognition of the importance of farming activity. Horticulture New Zealand (FS2452.76) also supports FFNZ (OS919.10) as they believe the new policy supports the intent of the Plan to enable rural production activities.

HPPC (FS2267.3) oppose FFNZ (OS919.10), as "their term 'having regard to' is weak, vague and 2GP policies as written express more than

'having regard' for the rural overlays dealing with landscapes, character, features and ASCVs". Forest and Bird (FS2482.13) also oppose the submission, saying the suggested policy "is unnecessary as these matters are addressed throughout the plan and is repetitive of the RMA purpose".

Recommendation

In my opinion, the proposed policy is not an appropriate 'course of action' necessary to achieve Objective 2.2.3 but rather related to an objective about enabling farming, which is included in other objectives in the plan. The protection of the capacity for productivity, including the productivity of farming and other rural activities, is covered under Strategic Objective 2.3.1. I consider it would detract from plan clarity to have these matters repeated under this strategic objective.

In terms of the substantive change sought by the policy change – to ensure adequate and balanced recognition of anticipated activities such as farming in rural areas alongside the protection of indigenous vegetation - I note the recommended amendments to the rural zones assessment rules (refer sections 5.8.6.3, 5.13.4 and 5.13.8 below). These amendments will introduce the assessment of positive effects in terms of supporting farming or conservation activity and the consideration of Objective 16.2.1 in any consideration of consent applications for development performance standard contraventions, restricted discretionary or discretionary activities.

Submission for new policy to avoid significant adverse effects on indigenous bird habitats

STOP (OS900.8) seeks to add a new policy under Objective 2.2.3 as follows: "Significant adverse effects of the use and development on habitats of indigenous birds in wetlands, beds of rivers and lakes and their margins for breeding, roosting, feeding and migration are avoided and other effects are avoided, remedied or mitigated." The submitter's reasons are that many of the indigenous species using these areas are threatened. Some sites have been identified as Important Bird Areas and should be assessed as significant natural areas.

The submitters also request the same policy is added under Objective 10.2.2 (these points OS900.43, O958.61) and those of the related further submitters (FS2391.110, FS2439.19, 20) are summarised in the table in section 5.4.8 but are addressed here.

Geoff Scurr Contracting Limited (FS2391.105) opposes the STOP submission as they consider wide community input is required before any new policies are considered. Federated Farmers of New Zealand (FS2449.35) oppose this submission because they believe that habitats are adequately covered elsewhere in the Plan and in the regional council planning framework so it is unnecessary. These further submitters also make submissions in opposition to the proposed addition under 10.2.2, however, with respect to this change Oceana Gold (New Zealand) Limited (FS2439.19, FS2439.20) supports STOP (OS900.43) and Forest and Bird NZ (OS958.61) because they support the intent of the policy in principle, provided focus is appropriately placed on identified significant indigenous birds and/or identified areas of significant habitat.

I note that the original submission of STOP also requested the addition of the word "protected" into Objective 2.2.3 but this was not picked up in the summary of submissions. I refer the submitter to my response to Forest and Bird (OS958.7) in section 5.2.1 above, where I did not recommend such an amendment to the objective.

Recommendation

I do not support the submission to add a new policy specifically to identify, and avoid effects on the habitats of, indigenous bird habitats. I consider that this is already provided for at the strategic level by two existing policies under Objective 2.2.3 as follows:

- Policy 2.2.3.1 provides for the identification and protection of significant habitats of indigenous fauna, including clauses (b)-(e) which specifically provide for different types of habitats.
- Policy 2.2.3.2.a provides for the restriction of indigenous vegetation clearance along coastal margins, riparian corridors and in wetlands, while 2.2.3.2.d manages the location and scale of development adjacent to the coast and water bodies.

I note that policies that set out the level of effects that will be tolerated, and whether effects are to be avoided or mitigated or handled in some other way, are provided in section 10 rather than at the strategic direction level where policies are focused on describing the methods used in the plan to achieve strategic objectives.

Request to add an objective and policies to give effect to the NZCPS, including Policy 11

Forest and Bird NZ (OS958.57) seeks to add a specific objective and policies to give effect to the New Zealand Coastal Policy Statement (NZCPS), including NZCPS Policy 11 which seeks the protection of indigenous biological diversity in the coastal environment. The submitter states that there are various policies that meet some of these, but it would be more helpful if they were covered specifically, both in the Strategic Directions and in the Natural Environment Chapter.

Policy 11 Indigenous biological diversity (biodiversity) of the New Zealand Coastal Policy Statement reads:

To protect indigenous biological diversity in the coastal environment:

(a) avoid adverse effects of activities on:

- (i) indigenous taxa that are listed as threatened or at risk in the New Zealand Threat Classification System lists;
- (ii) taxa that are listed by the International Union for Conservation of Nature and Natural Resources as threatened;
- (iii) indigenous ecosystems and vegetation types that are threatened in the coastal environment, or are naturally rare;
- (iv) habitats of indigenous species where the species are at the limit of their natural range, or are naturally rare;
- (v) areas containing nationally significant examples of indigenous community types; and
- (vi) areas set aside for full or partial protection of indigenous biological diversity under other legislation; and

(b) avoid significant adverse effects and avoid, remedy or mitigate other adverse effects

of activities on:

- (i) areas of predominantly indigenous vegetation in the coastal environment;
- (ii) habitats in the coastal environment that are important during the vulnerable life stages of indigenous species;
- (iii) indigenous ecosystems and habitats that are only found in the coastal environment and are particularly vulnerable to modification, including estuaries, lagoons, coastal wetlands, dunelands, intertidal zones, rocky reef systems, eelgrass and saltmarsh;
- (iv) habitats of indigenous species in the coastal environment that are important for recreational, commercial, traditional or cultural purposes;
- (v) habitats, including areas and routes, important to migratory species; and
- (vi) ecological corridors, and areas important for linking or maintaining biological values identified under this policy.

Recommendation – Amendment 1

The NZCPS is given effect to through the following methods used in the Plan, as outlined in the Strategic Directions:

- Objective 2.2.3: Dunedin's indigenous biodiversity is retained, enhanced and restored, with improved connections and resilience
- Policy 2.2.3.1 sets up the method for scheduling ASCVs method and the criteria to be used to identify ASCVs (note the recommended amended criteria recommended as set out in section 5.2.2 above)
- Policy 2.2.3.2 sets up a range of rules used including:
 - restrictions on indigenous vegetation clearance along coastal margins and in ASCVs;
 - limits on the overall size of indigenous vegetation clearance in rural and rural residential zones;
 - setbacks for development from the coast and water bodies; and
 - requirements for esplanade reserves and strips at the time of subdivision.

Note that I am recommending an amendment to clause (a) of Policy 2.2.3.2 in section 5.2.3 above, to change 'coastal margins' to 'coastal environment', to indicate that indigenous vegetation clearance is to be controlled more widely in the coastal environment (in coastal character overlay zones and the coastal environment mapped layer).

- Objective 2.4.5: The natural character of the coastal environment is maintained or enhanced.
- Policy 2.4.5.1 sets up the method for assessing the natural character of the coastal environment, and Policy 2.4.5.2 sets up the method for classifying areas as ONCC, HNCC or NCC overlay zones.
- Policy 2.4.5.3 sets up a range of rules, in conjunction with Appendix 5 values, which manage land use activities, including forestry, and manage the scale and design of development in natural coastal character overlay zones.

I consider that these objectives and policies are appropriate methods to give effect to NZCPS Policy 11. These methods also contribute to meeting the requirements of NZCPS policies 13 and 14 regarding preservation and restoration of natural character.

However, I agree with the submitter that in terms of ensuring the outcomes in Policy 11, which requires the avoidance of adverse effects on specific types of biodiversity, the Plan has some weaknesses that I have recommended amendments on – particularly:

1. The voluntary approach to scheduling ASCVs which means some areas that meet the significance criteria but either have not been assessed or landowners are unwilling to schedule. I propose that this is rectified by amending assessment vegetation clearance rules to consider whether vegetation to be cleared meets the significance criteria.
2. Amending the ASCV criteria to better reflect the considerations of Policy 11 of the NZCPS, particularly the elements set out in clause (a).
3. Addition of fauna species into the indigenous vegetation clearance (protected species) Rule 10.3.2.4 provides for consideration of the habitats of threatened or at risk coastal wildlife species.

I agree with the submitter that the recognition of the need for protecting indigenous biodiversity in the coastal environment could have more prominence in the 2GP. I am recommending that 10.1 Introduction is amended to reference how the section gives effect to the NZCPS in this respect.

However, beyond these changes outlined here, I do not consider it necessary to add any other specific objective or policy to give effect to the NZCPS.

Recommended amendment:

Amendment One:

Amend the second paragraph of 10.1 Introduction as follows:

"...There is a duty under section 31 to control land use and development for the purpose of maintaining indigenous biological diversity. Further, the New Zealand Coastal Policy Statement 2010 requires protection of indigenous biological diversity in the coastal environment. The natural environment in Dunedin is also important...." {NatEnv958.57}

5.2.7 Request for new objectives and policies under 2.3 Dunedin is Economically and Socially Prosperous

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
OS447.1	Harboursides and Peninsula Preservation Coalition	I seek to have the above provision amended	Add new objective under Strategic Direction 2.3: <u>Current residents are recognized as stakeholders in Dunedin's Rural and Natural Environments. The Rural environment Natural Environment are a key aspects of the Dunedin character and has been through our history, even for city dwellers. All Dunedin residents are stakeholders in the rural environment and natural environment and their preservation. This cultural well- being of the current residents in all of Dunedin and the well-being of future generations is, therefore, accorded an equal priority standing with that of Rural and Natural Environment development interests. Add two new policies under this new objective: <u>In planning and resource consent decision-making the concerns of all current Dunedin residents and property</u></u>	Reject	Do not add new objective and policies under 2.3
OS900.13	Save The Otago Peninsula (STOP) Inc Soc				

			<u>owners are accorded equal standing with development, subdivision and land use activity interests and Among all Dunedin residents and property owners, the neighbours in the specific resource consent locale are granted highest priority standing in matters regarding the development, subdivision and new land use activity by interests seeking to operate in the Rural, Rural Residential and city-wide Natural Environment areas.</u>		
FS2373.39, FS2373.65	Howard Saunders	I oppose the submission	Oppose OS447.1 and OS900.13. Disallow submissions to add a new objective and policies under Strategic Direction 2.3.	Accept	Do not add new objective and policies under 2.3
FS2391.15, FS2391.106	Geoff Scurr Contracting Limited	I oppose the submission	Oppose OS447.1 and OS900.13. Disallow submissions.	Accept	Do not add new objective and policies under 2.3
FS2449.10, FS2449.286	Federated Farmers of New Zealand	I oppose the submission	Oppose OS447.1 and OS900.13. Disallow submissions.	Accept	Do not add new objective and policies under 2.3
FS2452.8, FS2452.39	Horticulture New Zealand	I oppose the submission	Oppose OS447.1 and OS900.13. Disallow submissions.	Accept	Do not add new objective and policies under 2.3
FS2267.40	Harboursides and Peninsula Preservation Coalition	I support the submission	Support OS900.13. Allow submission.	Reject	Do not add new objective and policies under 2.3

Background

Strategic Direction 2.3 states that “Dunedin is Economically and Socially Prosperous”. It contains objectives related enabling land uses and facilities important for economic productivity, the centres hierarchy, and enabling facilities and spaces that support social and cultural well-being (mainly through major facility zones and enabling community and leisure and sport and recreation activities).

Submissions

HPPC (OS447.1) and STOP (OS900.13) seek to add a new objective and two new policies under Strategic Direction 2.3 to recognise current

residents as stakeholders in the rural and natural environments; to accord equal standing to residents and property owners in planning and consent decisions; and to grant highest priority to neighbours in any particular locale in any consent involving rural, rural residential or natural environment areas. The submitters believe that this would provide recognition that an important public good can outweigh the desires of a single individual seeking a new activity, development or subdivision, especially in areas cited to be “outstanding”, “significant”, “natural”, and of “high character”. They also believe neighbouring properties are the most greatly affected as it is their home location rather than solely a cultural or recreational use destination.

Howard Saunders (FS2373.39, FS2373.65), Geoff Scurr Contracting Limited (FS2391.15, FS2391.106), FFNZ (FS2449.10, FS2449.286) and Horticulture New Zealand (FS2452.8, FS2452.39) oppose HPPC (OS447.1) and STOP (OS900.13). Howard Saunders states that such an objective and policies are inappropriate at the strategy level as they would lead to unworkable decision-making, and that existing resource consent provisions are adequate to enable interested parties to participate in consent processes. He considers the wording both “too broad and more a statement of the obvious”. Geoff Scurr Contracting believes the objective and policies proposed are unnecessary.

Federated Farmers perceive the proposed changes as entirely inconsistent with the purpose and intent of the Resource Management Act 1991 and with other laws and regulations of New Zealand, and that it is not appropriate for general city residents to be considered stakeholders in the preservation of private land, nor is it appropriate or necessary to have city residents provided with equal input as landowners on resource consenting decisions as proposed.

Horticulture New Zealand believes that the new objective and policy is inappropriate as it seeks to give urban dwellers rights over privately owned rural land, and the Plan should not specifically confer special status on a potential group of submitters. Both Federated Farmers and Horticulture New Zealand state that the proposed objectives and policies are uncertain and unfair, and that “Residential interests will already be adequately represented through the current district plan rules and appropriate notification decisions when resource consent applications for development are made.”

The submission of STOP is supported by HPPC (FS2267.40), as “the amendment protects the standing of current residents”.

Recommendation

I agree with HPPC and STOP that the rural and natural environments can be valued by a wide range of stakeholders for different reasons. However, I do not support the necessity of a strategic objective or policy related to affected parties identification. While the plan does contain some rules related to affected parties and notification (such as under Rule 16.4), I believe the RMA gives enough context for the inclusion of these rules, and that strategic objectives to override the broad direction of the Act is both unnecessary and inappropriate.

Recommended amendment:

None.

5.2.8 Policy 2.3.3.1.c

Sub pt #	Submitter Name	Support/Oppose/ Seek Amend	Summary Of Submission	Accept/Reject/ Accept in part	Staff Recommendation
OS743.52	Elizabeth Kerr	I support the provision	Retain policy 2.3.3.1c (rules for public access to the coast and waterways)	Accept	Retain Policy 2.3.3.1.c
<p>Discussion: Elizabeth Kerr (OS743.52) seeks to retain policy 2.3.3.1.c (which leads to the performance standard 10.3.1 requiring esplanade reserves and strips, as well as assessment rule 10.5.2.c which considers the effects on public access of subdivision activity). The submitter believes that Dunedin people want improved access to the water at the Steamer Basin, and at St Clair Esplanade and that this must be safe access.</p> <p>The submitter's support is noted. No amendment is necessary in response to this submission.</p>					
<p>Recommended amendment: None.</p>					

5.2.9 Objective 2.4.4: Natural landscapes and natural features

Sub pt #	Submitter Name	Support/Oppose/ Seek Amend	Summary Of Submission	Accept/Reject/ Accept in part	Staff Recommendation
OS191.2	Judith Ansbacher	I support the provision	Retain Objective 2.4.4	Accept	Retain Objective 2.4.4
OS293.70	Southern Heritage Trust & City Rise Up	I support the provision	Retain Objective 2.4.4	Accept	Retain Objective 2.4.4
OS299.114	Rosemary & Malcolm McQueen	I support the provision	Retain Objective 2.4.4	Accept	Retain Objective 2.4.4
OS308.72	University of Otago	I support the provision	Retain Objective 2.4.4 and associated policies 2.4.4.1-2.4.4.3.	Accept	No amendment required
OS444.38	John and Clare Pascoe	I support the provision	Retain Objective 2.4.4	Accept	Retain Objective 2.4.4
OS458.19	Saddle Views	I oppose the	Remove Objective 2.4.4 and associated	Reject	Do not remove

	Estate Limited	provision	policies or as an alternative apply the imperatives of avoid, remedy or mitigate to SNLs and ONFs, and insert a new policy that recognises that many of the District's landscapes are highly modified, and consequently amend the District Plan to ensure that the objectives, policies, definitions and methods reflect and implement this relief.		Objective 2.4.4 and associated policies
OS874.9	Blackhead Quarries Ltd	I oppose the provision	Remove Objective 2.4.4 and associated policies.	Reject	Do not remove Objective 2.4.4 and associated policies
FS2267.13	Harboursides and Peninsula Preservation Coalition	I oppose the submission	Oppose OS874.9. Disallow submission and retain Objective 2.4.4 as proposed in the 2GP.	Accept	Do not remove Objective 2.4.4 and associated policies
OS901.5	Tussock Top Farm Ltd	I oppose the provision	Remove Objective 2.4.4 and associated policies.	Reject	Do not remove Objective 2.4.4 and associated policies
OS1070.8	Blueskin Resilient Communities Trust	I seek to have the above provision amended	Insert new policy under Objective 2.4.4 as follows: <u>Manage the effects of activities on the values in identified Significant Natural Landscapes recognising that land use and development is more appropriate in SNLs and areas not identified as outstanding.</u>	Reject	Do not add new policy as requested
FS2160.20	Geraldine Tait	I oppose the submission	Oppose OS1070.8. Disallow submission.	Accept	Do not add new policy as requested
FS2438.2	Simon Ryan	I oppose the submission	Oppose OS1070.8. Disallow submission.	Accept	Do not add new policy as requested
FS2449.45	Federated Farmers of New Zealand	I oppose the submission	Oppose OS1070.8. Disallow submission.	Accept	Do not add new policy as requested
<u>Background</u> Objective 2.4.4 states "Dunedin's outstanding and significant natural landscapes and natural features are protected".					

Submissions in support

Judith Ansbacher (OS191.2) seeks to retain Objective 2.4.4 because of concern surrounding consent for quarrying of Saddle Hill. Southern Heritage Trust & City Rise Up (OS293.70), Rosemary & Malcolm McQueen (OS299.114) and John and Clare Pascoe (OS444.38) also seek to retain Objective 2.4.4. The University of Otago (OS308.72) seek to retain Objective 2.4.4 and associated policies 2.4.4.1-2.4.4.3, as they support the overall proposed approach in terms of protecting the wider environment.

Submissions to remove Objective 2.4.4

Saddle Views Estate Limited (OS458.19) seek to remove Objective 2.4.4 and associated policies or as an alternative apply the imperatives of 'avoid, remedy or mitigate' to SNLs and ONFs, and insert a new policy that recognises that many of the District's landscapes are highly modified. They believe that the mapping and studies have not recognised the modified nature of the environment and that the approach is not balanced, and that identifying SNLs as having the same protection imperative as ONLs is not appropriate.

Blackhead Quarries Ltd (OS874.9) and Tussock Top Farm Ltd (OS901.5) seek to remove Objective 2.4.4 and associated policies. They believe that the proposed District Plan does not provide adequate recognition of the importance of aggregate to the community and does not provide the appropriate level of protection for existing quarries or make adequate provision for the development of new quarries. HPPC (FS2267.13) opposes Blackhead Quarries Ltd (OS874.9) because they believe protection of natural landscapes and features as an overall objective should not be diluted by standard, uncompromised commercial interests.

Recommendation

I do not consider that Objective 2.4.4 and its associated policies should be removed. As discussed earlier, the protection of outstanding natural landscapes and features from inappropriate subdivision, use and development are matters of national importance under section 6b of the RMA. Significant natural landscapes are a response to the requirement under section 7c of the RMA to maintain and enhance amenity values. Objective 2.4.4 and its associated policies give effect to these requirements, through the objective setting out the outcome sought and the policies setting out the methods that will be employed to achieve this outcome.

With regard to Saddle Views Estates request to apply the imperatives of "avoid, remedy or mitigate", the use of "avoided, remedied or mitigated" was discussed on page 26 of the Plan Overview Section 42A report. I concur with the opinion expressed in that report that the phrasing "does not provide any guidance in terms of a preference for effects being avoided, remedied, or mitigated, which equates to saying that any level of mitigation is acceptable. Any amendment should clearly state the outcome to be achieved, and provide guidance as to an acceptable level of mitigation (if the Panel decide that there should be no preference for avoidance of effects)... This wording is also contrary to the Court's comments that for provisions to be useful they should not simply repeat the provisions of the RMA".

I do not consider a new policy is required to recognise that some landscapes are highly modified. The process for assessing and describing landscapes already reflects that landscapes may have been modified to varying degrees. This level of modification is reflected in the descriptions and values for each landscape listed in Appendix A3. For example, A3.1.14.2 in clause (c)(ii) sets out that the main modification to the natural

landform of the Saddle Hill Outstanding Natural Feature is the Jaffray Hill quarry. These descriptions and values statements in Appendix A3 are to be used in any resource consent that requires an assessment of effects on landscape values, thus providing the opportunity to recognise that sometimes there will be a level of modification in a landscape overlay zone.

With regard to the statement by Saddle View Estates that SNLs have the same protection as ONLs, this is addressed in the response to the Blueskin Resilient Communities Trust submission (OS1070.8) below where I explain why this is not the case.

Blackhead Quarries and Tussock Top Farm state that the proposed District Plan does not provide adequate recognition of the importance of aggregate to the community. The role of mining and quarrying in the rural economy was discussed in the Mining Activities Section 42A report as part of the Cross-Plan hearing. I draw the submitters' attention to the recommended amendments to Policy 2.3.1.2, Policy 2.4.6.2 and 16.1 Introduction to better recognise that mining activities are a productive part of the rural economy (refer pp 24-26 of Mining Section 42A). I defer to that hearing to address this aspect of the submission.

I, therefore, recommend that these submission points be rejected and no amendments are made in response to these points.

Submission to add new policy to recognise that land use and development are more appropriate in SNLs than ONLs

Blueskin Resilient Communities Trust (OS1070.8) seek to insert a new policy under Objective 2.4.4 to recognise that SNLs are not as special as ONFs or ONLs and, due to this reduced "specialness", a lower level of protection is appropriate. They believe that SNLs are not a matter of national importance, therefore, protection of them creates an overly restrictive framework.

Geraldine Tait (FS2160.20), Simon Ryan (FS2438.2) and Federated Farmers of New Zealand (FS2449.45) oppose Blueskin Resilient Communities Trust (OS1070.8). Geraldine Tate believes that most development should continue to be inappropriate within SNLs unless the effects can be mitigated, and this is not likely with regards to huge wind turbines. Simon Ryan states that the hierarchy between ONFs, ONLs and SNLs is clear from the present 2GP provisions, which are generally appropriate, and the new policy sought by BRCT is neither necessary nor appropriate. Federated Farmers believe the suggested policy is unnecessary and too vague to be an effective policy.

Recommendation

I note that Policy 2.4.4.2, in setting out the classification and mapping of landscapes and features, recognises that SNLs have values of "high significance" while ONFs and ONLs have "exceptional" values. This provides differentiation at the strategic level, but in reference to the identification rather than the management of the different types of landscape or feature.

The policies under Objective 10.2.5 are the relevant policies in terms of setting the different 'tests' applied to any resource consents required as a result of rules in the various overlays. I note that I am recommending amendments in these policies for the tests for restricted discretionary and discretionary activities in both ONLs and SNLs – this is discussed in section 5.4.12 below. The recommended amendments are part of a package to provide a better and more consistent differentiation between the different types of overlay zones and the policy wording and effects-tests that should be applied.

I do not consider that a new policy should be added to specify that land use and development is “more appropriate” in SNLs. I consider this statement to be too broad, and agree with the further submitters who state that it is not necessary or appropriate. I do not consider it sends an appropriate signal to state that land use and development is necessarily appropriate in an SNL.

Recommended amendment:

None.

5.2.10 Policy 2.4.4.2

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
OS1088.19	Oceana Gold (New Zealand) Limited	I support the provision	Retain Policy 2.4.4.2	Accept	Retain Policy 2.4.4.2

Discussion:

Oceana Gold (New Zealand) Limited (OS1088.19) requests to retain Policy 2.4.4.2 (classification and mapping of natural features and natural landscapes) because they believe it is desirable to have clear differentiation between ONFs and ONLs on one hand and other valued landscapes.

The submitter’s support is noted. No amendment is necessary in response to this submission point.

Recommended amendment:

None.

5.2.11 Policy 2.4.4.3

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
OS1088.20	Oceana Gold (New Zealand) Limited	I support the provision	Retain Policy 2.4.4.3	Accept	No amendment required
OS447.7 OS900.18	Harboursides and Peninsula Preservation Coalition, Save The Otago	I seek to have the above provision amended	Amend Policy 2.4.4.3 as follows: Protect the values in identified natural features and natural landscapes (ONFs, ONLs, SNLs) by... and using rules that <u>in conjunction with subjective councillor discretion and also</u>	Reject	Do not amend Policy 2.4.4.3 as requested

	Peninsula (STOP) Inc Soc		<u>objective and specific quantifiable rules that:...</u>		
FS2373.4, FS2373.42	Howard Saunders	I oppose the submission	Oppose OS447.7 and OS900.18. Disallow submissions to amend Policy 2.4.4.3.	Accept	Do not amend Policy 2.4.4.3 as requested
FS2449.47, FS2449.48	Federated Farmers of New Zealand	I oppose the submission	Oppose OS447.7 and OS900.18. Disallow submissions.	Accept	Do not amend Policy 2.4.4.3 as requested
OS919.12	Federated Farmers of New Zealand	I seek to have the above provision amended	Amend Policy 2.4.4.3 as follows: 'Protect the values in identified natural features and natural landscapes (ONFs, ONLs, SNLs) by listing these values in Appendix A3 and using rules that: ... b. manage land use activities that may be carried out in ONLs and SNLs, <u>where these are incompatible</u> ; c. restrict the scale and ensure the design of development in ONFs, ONLs and SNLs <u>is appropriate</u> ; d. restrict forestry activity in ONLs and SNLs-; <u>and</u> e. <u>Provide for activities which are otherwise compatible with these values.</u> '	Accept in part	Amend Policy 2.4.4.3 as shown below
FS2267.6	Harboursides and Peninsula Preservation Coalition	I oppose the submission	Oppose OS919.12. Disallow submission and retain Policy 2.4.4.3 as proposed in the 2GP.	Reject	Amend Policy 2.4.4.3 as shown below
FS2482.14	Forest and Bird NZ	I oppose the submission	Oppose OS919.12. Disallow submission.	Reject	Amend Policy 2.4.4.3 as shown below
OS1070.7	Blueskin Resilient Communities Trust	I seek to have the above provision amended	Amend Policy 2.4.4.3 by removing any reference to 'SNLs'	Reject	Do not amend Policy 2.4.4.3 as requested
FS2160.19	Geraldine Tait	I oppose the submission	Oppose OS1070.7. Disallow submission and retain reference to SNLs in Policy 2.4.4.3.	Accept	Do not amend Policy 2.4.4.3 as requested
FS2438.1	Simon Ryan	I oppose the	Oppose OS1070.7. Disallow submission.	Accept	Do not amend Policy

		submission			2.4.4.3 as requested
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Background

Policy 2.4.4.3 states “Protect the values in identified natural features and natural landscapes (ONFs, ONLs, SNLs) by listing these values in Appendix A3 and using rules that:

- a. limit land use activities that may be carried out on ONFs;
- b. manage land use activities that may be carried out in ONLs and SNLs;
- c. restrict the scale and design of development in ONFs, ONLs and SNLs; and
- d. restrict forestry activity in ONLs and SNLs”.

This strategic direction policy is linked to the methods as follows:

- Clause (a), which uses the word ‘limit’, relates to land use activity status rules on ONFs, which include a number of non-complying land use activities in recognition of their very significant status and discrete land areas. The word ‘limit’ is used in clause (a) in recognition that there is a more restricted range of activities provided for on ONFs than in ONLs and SNLs.
- Clause (b), which uses the word ‘manage’, relates to land use activity status rules in ONLs and SNLs, which include a number of restricted discretionary and discretionary land use activities.
- Clause (c), which uses the word ‘restrict’, relates to the restricted discretionary or non-complying activity status of development activities in landscape overlay zones, as well as performance standards such as height and reflectivity which either apply only in these overlay zones or are otherwise more restricted in these overlay zones than outside them.
- Clause (d), which uses the word ‘restrict’, relates to the restricted discretionary activity status of forestry in ONLs and SNLs.

Submissions in support

Oceana Gold (New Zealand) Limited (OS1088.20) request to retain Policy 2.4.4.3. They support the policy insofar as the classification of SNLs is used correctly and the level of management between ONLs and SNLs differs, with less management of activities in SNLs.

Submissions to refer to subjective councillor discretion and objective and specific quantifiable rules in Policy 2.4.5.3

HPPC (OS447.7) and STOP (OS900.18) seek to amend Policy 2.4.4.3 to add “in conjunction with subjective councillor discretion and also objective and specific quantifiable rules”. The submitters believe it is a recommended statement of Council intent to have the 2GP reflect a balance of the methods that are outlined in the RMA and necessary to achieve the RMA objectives.

Howard Saunders (FS2373.4, FS2373.42) opposes HPPC (OS447.7) and STOP (OS900.18) because the submitter believes that subjective councillor discretion contradicts a rule base process. Federated Farmers of New Zealand (FS2449.47, FS2449.48) also opposes these submissions because the proposed amendment is inconsistent with the purpose and principles of the RMA, and because providing for councillor discretion in a provision is both uncertain for resource users and unfair over time as councillors change.

Recommendation

I do not support the amendment proposed to Policy 2.4.4.3 by HPPC and STOP. I believe addition of the term “subjective councillor discretion” into the policy is contrary to how plans work in line with the RMA which relates to assessment of proposals against rules and the ability to apply for resource consents where activities are not permitted in accordance with those rules; with resource consents considered by Hearings Panels, which generally include consideration against the Plan (and other relevant documents and the RMA itself in accordance with s104) objectives and policies and assessment matters (rather than absolute discretion). Furthermore, while hearings panels usually include some councillors they may also include independent Hearings Commissioners.

Submission to be more specific about compatible and incompatible activities

Federated Farmers of New Zealand (OS919.12) seeks to amend Policy 2.4.4.3 as follows:

“Protect the values in identified natural features and natural landscapes (ONFs, ONLs, SNLs) by listing these values in Appendix A3 and using rules that:...

- b. manage land use activities that may be carried out in ONLs and SNLs, where these are incompatible;
- c. ~~restrict the scale and~~ ensure the design of development in ONFs, ONLs and SNLs is appropriate;
- d. restrict forestry activity in ONLs and SNLs; and
- e. Provide for activities which are otherwise compatible with these values.”

The reason for this submission is to ensure recognition that Dunedin’s rural landscapes are largely inhabited by people and subject to human activity and change, and have never been static. Federated Farmers supports a 'tiered' approach to managing land use but are very keen to ensure that the rules associated with the lower tier landscapes, particularly SNLs, recognise the need for balance between use and protection.

HPPC (FS2267.6) opposes FFNZ as 'restriction of the scale' should not be deleted, as scale of development is a primary component of landscape impact. Forest and Bird NZ (FS2482.14) opposes FFNZ as the terms “inappropriate or incompatible” have not been defined, so would require a determination ahead of applying the other provisions as to what is appropriate. The use of standards, rules and conditions and the resource consent process is the appropriate way to determine this.

Recommendation – Amendment 1

I support the proposed amendment to clause (b) to specify that it is incompatible land use activities that the 2GP seeks to manage in ONLs and SNLs, as I consider this will enhance plan clarity and understanding. I consider, however, that clause (b) could be even more direct by specifying that the 2GP contains rules requiring resource consent when land use activities may be incompatible in ONLs and SNLs. I have recommended an amendment to this effect below.

With regard to clause (c), I do not consider that the reference to scale should be removed. Scale of buildings is managed through a different activity status for buildings and structures over 60m² in landscape overlay zones (see for example Rule 16.3.4.5), which is set by a threshold performance standard. While scale might be considered part of design, in my opinion it is clearer to specify it separately. I also consider the word “restrict” should be retained in relation to scale. However, I support the second part of the submission on clause (c), as I consider that specifying that rules seek to ensure design of development is appropriate provides better clarity and understanding than the current wording. I have recommended amendments to clause (c) below.

I am relatively neutral in regard to the new clause (e) suggested by the submitter. It seems to be providing the reverse of the previous clauses spelt out in the policy, so for reasons of brevity I am not recommending its acceptance. Were the Panel of a mind that it should be added, I consider the word "otherwise" should be omitted, so that it reads "Provide for activities which are compatible with these values".

Submission to remove reference to SNLs

Blueskin Resilient Communities Trust (OS1070.7) seeks to amend Policy 2.4.4.3 by removing any reference to 'SNLs'. They believe that SNLs are not a matter of national importance therefore protection of them creates an overly restrictive framework. If SNLs are to remain then the submitter seeks that this policy make it clear that SNLs are not as special as ONFs or ONLs and due to this reduced "specialness" a lower level of protection is appropriate.

Geraldine Tait (FS2160.19) opposes Blueskin Resilient Communities Trust (OS1070.7) because the overlay zone SNL has been created to reflect the value of landscape and reflects local and city wide perspectives of the importance of landscape areas and features. The submitter believes that Blueskin Resilient Communities Trust has an individual business development motive which may be hindered by the landscape overlay.

Simon Ryan (FS2438.1) also opposes Blueskin Resilient Communities Trust (OS1070.7), stating that SNLs or comparable overlays are widespread in resource management plans throughout the country, and are an appropriate and effective tool for the recognition and protection of landscape values which should be retained in the 2GP. The submitter feels that it is inappropriate for Blueskin Resilient Communities Trust (OS1070.7) to be seeking such amendments at the policy level - which will have district-wide implications - for what is essentially a site-specific concern.

Recommendation

I agree with Blueskin Resilient Communities Trust that SNLs are not a matter of national importance, but I do not agree that protection of them creates an overly restrictive framework. SNLs are a landscape overlay zone that gives effect to section 7(c) of the RMA, the maintenance and enhancement of amenity values.

I note the requirement in Policy 3.2.5 of the pORPS-dv to identify highly valued natural features and landscapes, and in Policy 3.2.6 to protect or enhance these by avoiding significant adverse effects on those values which contribute to the high value of the natural feature or landscape. While noting that there are appeals to policies 3.2.5 and 3.2.6, I consider that SNLs are the appropriate 2GP response to give effect to the requirements set out by these policies to identify landscapes that are not outstanding but of high value, and manage land use and development within these areas.

As stated in section 5.2.9 above in response to submissions on Objective 2.4.4, Policy 2.4.4.2 sets out the hierarchy of values these different landscape overlay zones possess, while the policies under Objective 10.2.5 tolerate different levels of effects when considering land use and development in these different overlay zones. I consider Policy 2.4.4.2 and the policies under Objective 10.2.5 clarify that ONLs and ONFs have a higher level of "specialness" than SNLs, and do not consider that Policy 2.4.4.3 needs to be amended as requested.

Recommended amendment:

Amendment 1

Amend Policy 2.4.4.3 as follows:

"... b. ~~manage~~ require resource consent for land use activities that may be carried out in ONLs and SNLs, where these may be incompatible with the values of the area; {NatEnv919.12}

c. restrict the scale of development and ensure the design of development in ONFs, ONLs and SNLs is appropriate; {NatEnv919.12} and

d. restrict forestry activity in ONLs and SNLs".

5.2.12 Objective 2.4.5: Natural character of the coastal environment

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
OS189.5	Joel A Vanderburg	I support the provision	Retain Objective 2.4.5.	Accept in part	Retain Objective 2.4.5 subject to the recommended amendment below
OS299.115	Rosemary & Malcolm McQueen	I support the provision	Retain Objective 2.4.5	Accept in part	Retain Objective 2.4.5 subject to the recommended amendment below
OS308.76	University of Otago	I support the provision	Retain Objective 2.4.5 and associated policies 2.4.5.1-2.4.5.3.	Accept in part	Retain Objective 2.4.5 subject to the recommended amendments below
OS900.21	Save The Otago Peninsula (STOP) Inc Soc	I seek to have the above provision amended	Amend Objective 2.4.5 as follows: The natural character of the coastal environment is <u>preserved</u> . maintained or enhanced.	Accept in part	Amend Objective 2.4.5 as shown below
OS958.12	Forest and Bird NZ				

FS2375.15	Aurora Energy Limited	I oppose the submission	Oppose OS900.21. Disallow submission	Reject	Amend Objective 2.4.5 as shown below
FS2391.72	Geoff Scurr Contracting Limited	I oppose the submission	Oppose OS900.21. Disallow submission.	Reject	Amend Objective 2.4.5 as shown below
FS2449.49	Federated Farmers of New Zealand	I oppose the submission	Oppose OS900.21. Disallow submission.	Reject	Amend Objective 2.4.5 as shown below
FS2375.16	Aurora Energy Limited	I oppose the submission	Oppose OS958.12. Disallow submission	Reject	Amend Objective 2.4.5 as shown below
FS2449.50	Federated Farmers of New Zealand	I oppose the submission	Oppose OS958.12. Disallow submission.	Reject	Amend Objective 2.4.5 as shown below
OS1070.9	Blueskin Resilient Communities Trust	I seek to have the above provision amended	Insert new policy under Objective 2.4.5 as follows: <u>Manage the effects of activities on the values of High and Natural Coastal Character Overlay Areas, recognising that land use development is more appropriate in these areas than those identified as Outstanding Coastal Character Areas</u>	Reject	Do not add new policy as requested
FS2160.21	Geraldine Tait	I oppose the submission	Oppose OS1070.9. Disallow submission.	Accept	Do not add new policy as requested
FS2267.11	Harboursides and Peninsula Preservation Coalition	I oppose the submission	Oppose OS1070.9. Disallow submission.	Accept	Do not add new policy as requested
FS2438.3	Simon Ryan	I oppose the submission	Oppose OS1070.9. Disallow submission.	Accept	Do not add new policy as requested
FS2449.46	Federated Farmers of New Zealand	I oppose the submission	Oppose OS1070.9. Disallow submission.	Accept	Do not add new policy as requested

Background

Objective 2.4.5 states "The natural character of the coastal environment is maintained or enhanced."

Submissions to retain Objective 2.4.5

Joel A Vanderburg (OS189.5) seeks to retain Objective 2.4.5 because he supports the attention to identifying areas of cultural, historic and environmental values in our coastal areas. Rosemary & Malcolm McQueen (OS299.115) also seek to retain Objective 2.4.5.

The University of Otago (OS308.76) seeks to retain Objective 2.4.5 and associated policies 2.4.5.1-2.4.5.3, as the University supports the overall proposed approach in terms of protecting the wider environment.

Submissions to amend Objective 2.4.5 to “preserve” natural character

STOP (OS900.21) and Forest and Bird NZ (OS958.12) seek to amend Objective 2.4.5, as they believe this objective does not meet the requirements of Part II RMA or the NZ Coastal Policy Statement. Aurora Energy Limited (FS2375.15), Geoff Scurr Contracting Limited (FS2391.72) and Federated Farmers of New Zealand (FS2449.49) oppose STOP (OS900.21). Aurora Energy Limited (FS2375.16) and Federated Farmers of New Zealand (FS2449.50) oppose Forest and Bird NZ (OS958.12). Aurora Energy believes the requirement to “preserve” the natural character of the coastal environment is overly restrictive, particularly where natural character has been modified or degraded by human use values. FFNZ and Geoff Scurr Contracting believe the amendment goes further than the intent of the RMA and is unnecessarily restrictive.

Recommendation – Amendment 1

Section 6(a) of the RMA and Objective 2 and Policy 13 of the NZCPS seek the preservation of the natural character of the coastal environment. The term “preserve” is used in a very general sense, for example, not limited solely to those areas that may be considered of high or outstanding natural character.

Policy 3.2.9 of the pORPS-dv begins “Preserve or enhance the outstanding natural character of the coastal environment...”, while Policy 3.2.10 of the pORPS-dv begins “Preserve or enhance the high natural character of the coastal environment...” There is no corresponding policy for preserving natural character in the pORPS-dv for areas of the coastal environment that are not regarded as outstanding or high natural character areas.

I note the RMA does not define the word “preserve” and in such cases the ordinary meaning of the word should be used. The Oxford English dictionary defines “preserve” as “Maintain (something) in its original or existing state” with a synonym given as maintain. One of the definitions of maintain (which is used more broadly) is “Keep (something) at the same level or rate”. While the meanings are similar, I consider the word “preserved” should be used instead of “maintained” in Objective 2.4.5, to more directly give effect to section 6(a) of the RMA and the NZCPS. In particular, I consider it is the intent of the 2GP to preserve the natural character of areas that are considered outstanding or high in their natural character values. I have recommended an amendment to Objective 2.4.5 as set out below.

I do not consider that the word “enhanced” should be deleted as the submitter suggests. Policy 14 of the NZCPS promotes the restoration or rehabilitation of the natural character of the coastal environment. I consider the word “enhanced” should remain in Objective 2.4.5 to allow for the promotion of restoration of natural character. Specifying preservation only in the objective would seem to preclude the possibility of restoration and enhancement.

Submission to add new policy to differentiate ONCCs from HNCCs and NCCs

Blueskin Resilient Communities Trust (OS1070.9) seek to insert a new policy under Objective 2.4.5 to recognise that the quality of coastal character varies and that development is likely to be less appropriate in outstanding coastal character overlay zones than in high or natural coastal character overlay zones.

Geraldine Tait (FS2160.21), HPPC (FS2267.11), Simon Ryan (FS2438.3) and Federated Farmers of New Zealand (FS2449.46) oppose Blueskin Resilient Communities Trust (OS1070.9). Geraldine Tait believes that the rules already take account of the different values and there is no need to soften the rules. Simon Ryan believes the new policy sought by BRCT is inappropriate and unnecessary, and the hierarchy is clear from the present 2GP provisions, which are generally appropriate. HPPC disagree that “since H/NCC areas are less sensitive than ONCC areas it obliges development in the H/NCC areas”. FFNZ believes the new policy is unnecessary and too vague to be an effective policy.

Recommendation

I note that Policy 2.4.5.2, in setting out the classification and mapping of coastal areas, recognises that ONCCs have “exceptional” natural character, HNCCs have natural character of “high significance” while for NCCs the character is less than high significance. This provides differentiation at the strategic level, but in reference to the identification rather than the management of the different types of coastal area.

It is at the level of the Natural Environment policies under Objective 10.2.3 that the differentiation is given effect in terms of managing activities. The approach in this policy set is proposed to be quite restrictive of activities in ONCCs and HNCCs. Further, for all types of coastal overlay zone the level of effects tolerated also provides differentiation in management. I note that I am recommending amendments in these policies under Objective 10.2.3 for the tests for restricted discretionary and discretionary activities in ONCCs, HNCCs and NCCs – this is discussed in section 5.4.12 below. The recommended amendments are part of a package to provide a better and more consistent differentiation between the different types of overlay zones and the policy wording and effects-tests that should be applied.

I do not consider that a new policy should be added to specify that land use and development is “more appropriate” in HNCCs or NCCs. I consider this statement to be too broad and not accurate. I agree with the further submitters who state that it is not necessary or appropriate. I do not consider it sends an appropriate signal to state that land use and development is necessarily appropriate in these areas, particularly in the case of HNCCs where natural character is assessed as being of high significance.

Recommended amendment:

Amendment 1

Amend Objective 2.4.5 as follows:

“The natural character of the coastal environment is ~~maintained~~ preserved {NatEnv900.21} or enhanced.”

5.2.13 Policy 2.4.5.1

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
OS958.13	Forest and Bird NZ	I seek to have the above provision amended	Amend Policy 2.4.5.1 by adding a new para (i) as follows: ' <u>i. Presence of indigenous vegetation and/or wildlife</u> '	Reject	Retain Policy 2.4.5.1
FS2449.51	Federated Farmers of New Zealand	I oppose the submission	Oppose OS958.13. Disallow submission.	Accept	Retain Policy 2.4.5.1

Background

Policy 2.4.5.1 states "Identify and assess areas that contribute to the natural character of the coastal environment based on the following criteria:

- a. natural elements, processes and patterns;
- b. biophysical, ecological, geological and geomorphological aspects;
- c. natural landforms such as headlands, peninsulas, cliffs, dunes, wetlands, estuaries, reefs, freshwater springs and surf breaks;
- d. the natural movement of water and sediment;
- e. the natural darkness of the night sky;
- f. places or areas that are wild or scenic;
- g. a range of natural character from pristine to modified; and
- h. experiential attributes, including the sounds and smell of the sea; and their context or setting".

These criteria are taken directly from Policy 13 of the New Zealand Coastal Policy Statement 2010 (NZCPS), which sets out the matters that comprise natural character. This list of attributes is also replicated in the proposed Regional Policy Statement for Otago (pORPS-dv) in Policy 3.2.8: Identifying high and outstanding natural character in the coastal environment.

Submissions

Forest and Bird NZ (OS958.13) seeks to amend Policy 2.4.5.1 to add a new clause as shown in the table above, because they believe natural character includes indigenous vegetation and wildlife. Federated Farmers of New Zealand (FS2449.51) oppose Forest and Bird NZ (OS958.13) because they believe it is unnecessary and adequately covered elsewhere in the plan.

Recommendation

The criteria in Policy 2.4.5.2 include biophysical and ecological aspects as set out in para (b). The assessment of these in the Coastal Environment of Otago study (refer section 2.3 above) included an assessment of the degree to which vegetation cover is indigenous to the areas, and the degree to which wildlife is present and sustained. To include the new para (i) as suggested by the submitter would provide a duplication of these factors and I do not consider this a necessary amendment.

I consider the criteria should remain as listed to reflect that they are taken directly from the NZCPS and the PORPS-dv. I note there are no appeals to any of these criteria in PORPS-dv Policy 3.2.8.

Recommended amendment:

None.

5.2.14 Policy 2.4.5.2

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
OS958.14	Forest and Bird NZ	I support the provision	Retain Policy 2.4.5.2	Accept	Retain Policy 2.4.5.2

Discussion

Forest and Bird NZ (OS958.14) seeks to retain Policy 2.4.5.2 (classification and mapping of coastal areas). The submitter's support is noted. No amendment is necessary.

Recommended amendment:

None.

5.2.15 Policy 2.4.5.3

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
OS447.8	Harboursides and Peninsula Preservation Coalition	I seek to have the above provision amended	Amend Policy 2.4.5.3 as follows: Protect and enhance the natural character values in ONCCs, HNCCs and NCCs through using rules that in conjunction with subjective councillor discretion and also objective and specific quantifiable rules that: ...	Reject	Do not amend Policy 2.4.5.3 as requested
OS900.19	Save The Otago Peninsula (STOP) Inc Soc				
FS2373.5, FS2373.43	Howard Saunders	I oppose the submission	Oppose OS447.8 and OS900.19. Disallow submissions to amend Policy 2.4.5.3.	Accept	Do not amend Policy 2.4.5.3 as requested

FS2449.52, FS2449.53	Federated Farmers of New Zealand	I oppose the submission	Oppose OS447.8 and OS900.19. Disallow submissions.	Accept	Do not amend Policy 2.4.5.3 as requested
OS919.13	Federated Farmers of New Zealand	I seek to have the above provision amended	Amend Policy 2.4.5.3 as follows: 'Protect and enhance the natural character values in ONCCs, HNCCs and NCCs through listing natural character values in Appendix A5 and using rules that: a. manage <u>incompatible</u> land use activities that may be carried out; b. restrict <u>manage</u> the scale and design of <u>incompatible</u> development; c. restrict <u>large scale</u> forestry activity; and d. promote the <u>maintenance or</u> restoration of natural character.'	Accept in part	Amend Policy 2.4.5.3 as shown below
FS2267.7	Harboursides and Peninsula Preservation Coalition	I oppose the submission	Oppose OS919.13. Disallow submission and retain Policy 2.4.5.3 as proposed in the 2GP.	Reject	Amend Policy 2.4.5.3 as shown below
FS2482.15	Forest and Bird NZ	I oppose the submission	Oppose OS919.13. Disallow submission.	Reject	Amend Policy 2.4.5.3 as shown below
OS958.15	Forest and Bird NZ	I seek to have the above provision amended	Amend Policy 2.4.5.3 by deleting para (a) and replacing with: ' <u>a. manage land use activities to; avoid adverse effects of activities on natural character in areas of the coastal environment with outstanding or high natural coastal character and avoid significant adverse effects and avoid, remedy or mitigate other adverse effects of activities on natural character in all other areas of the coastal environment;</u> '	Reject	Do not amend Policy 2.4.5.3 as requested
FS2379.2	Department of Conservation	I support the submission	Support OS958.15. Allow submission and amend Policy 2.4.5.3 as requested by submitter.	Accept in part	Do not amend Policy 2.4.5.3 as requested
FS2449.54	Federated Farmers	I oppose the	Oppose OS958.15. Disallow submission.	Reject	Do not amend Policy

	of New Zealand	submission			2.4.5.3 as requested
<p><u>Background</u></p> <p>Policy 2.4.5.3 states “Protect and enhance the natural character values in ONCCs, HNCCs and NCCs through listing natural character values in Appendix A5 and using rules that:</p> <ol style="list-style-type: none"> manage land use activities that may be carried out; restrict the scale and design of development; restrict forestry activity; and promote restoration of natural character”. <p>This strategic direction policy is linked to the methods as follows:</p> <ul style="list-style-type: none"> • Clause (a), which uses the word ‘manage’, is linked to activity status rules which require resource consent as a restricted discretionary, discretionary or non-complying activity. • Clause (b), which uses the word ‘restrict’, relates to the restricted discretionary or non-complying activity status of development activities in natural coastal character overlay zones, as well as performance standards such as height and reflectivity which either apply only in these overlay zones or are otherwise more restricted in these overlay zones than outside them. • Clause (c), which uses the word ‘restrict’, relates to the restricted discretionary activity status of forestry in NCCs and non-complying activity status in ONCCs and HNCCs. • Clause (d), which uses the word ‘promote’ and relates to the requirement under the NZCPS Policy 14 to promote the restoration of natural character, is not directly linked to any rules but may be considered in any assessment of discretionary or non-complying activities. <p><u>Submissions to refer to subjective councillor discretion and objective and specific quantifiable rules in Policy 2.4.5.3</u></p> <p>HPPC (OS447.8) and STOP (OS900.19) request to amend Policy 2.4.5.3 to add “<u>in conjunction with subjective councillor discretion and also objective and specific quantifiable rules</u>”. The submitters believe it is a recommended statement of Council intent to have the 2GP reflect a balance of the methods that are outlined in the RMA and necessary to achieve the RMA objectives. Howard Saunders (FS2373.5, FS2373.43) and Federated Farmers of New Zealand (FS2449.52, FS2449.53) oppose these submissions for the same reason as their opposition to the corresponding submissions on Policy 2.4.4.3 in section 5.2.11 above.</p> <p><u>Recommendation</u></p> <p>I do not support the amendment proposed to Policy 2.4.5.3 by HPPC and STOP, for the same reasons as given in response to the same submissions on Policy 2.4.4.3 in section 5.2.11 above.</p> <p><u>Submission to be more specific about compatible and incompatible activities</u></p> <p>Federated Farmers of New Zealand (OS919.13) seek to amend clauses (a)-(d) of Policy 2.4.5.3 as follows:</p> <p>“... a. manage <u>incompatible</u> land use activities that may be carried out;</p>					

- b. ~~restrict~~ manage the scale and design of incompatible development;
- c. restrict large scale forestry activity; and
- d. promote the maintenance or restoration of natural character.”

The submitter states that while it is useful and necessary to provide a regulatory response to pressures in the coastal environment, it is also necessary to ensure that activities that are compatible with the coastal environment and the underlying values are not unnecessarily restricted, which can include agricultural activities.

HPPC (FS2267.7) opposes FFNZ, stating “restriction of the scale” should not be deleted, as scale of development is a primary component of landscape impact. Forest and Bird NZ (FS2482.15) opposes FFNZ, stating that the terms “inappropriate or incompatible” have not been defined, and the changes proposed do not meet the requirements of Part II RMA or the NZ Coastal Policy Statement.

Recommendation – Amendment 2

I support the proposed amendments to clause (a) and (b) for the same reasons as given in response to Policy 2.4.4.3 in section 5.2.11 above. I recommend these are amended so that clause (a) specifies that resource consent is required for incompatible land use activities, and so that clause (b) seeks to ensure that the design of development is appropriate. I have recommended these amendments below.

I do not support the addition of “large scale” into clause (c) with respect to forestry. There is no definition of “large scale” in relation to forestry in the 2GP. I also consider that plantation forestry at even a relatively small scale should be managed in coastal overlay zones as it has the potential to cause adverse effects on the natural character of these areas. I note that small woodlots (less than one hectare) are proposed (as a result of the Rural hearing) to fall within the definition of tree planting rather than forestry. Tree planting is permitted in NCC overlay zones, but restricted discretionary in ONCC and HNCC overlay zones.

I also do not support the addition of the phrase “maintenance or” into clause (d). This clause is intended to specifically refer to the restoration of natural coastal character, in line with Policy 14 of the NZCPS which seeks to promote restoration or rehabilitation of the natural character of the coastal environment. Maintenance of natural character is addressed through the clauses (a)-(c) of this policy, whereas clause (d) seeks to specifically promote restoration of natural character.

Submission to replace clause (a)

Forest and Bird NZ (OS958.15) seeks to amend Policy 2.4.5.3 by deleting para (a) and replacing it with: “a. manage land use activities to; avoid adverse effects of activities on natural character in areas of the coastal environment with outstanding or high natural coastal character and avoid significant adverse effects and avoid, remedy or mitigate other adverse effects of activities on natural character in all other areas of the coastal environment.” The submitter believes the policy does not meet the requirements of Part II RMA or the NZ Coastal Policy Statement. Department of Conservation (FS2379.2) supports Forest and Bird NZ (OS958.15) because they believe the amended changes to the policy will better give effect to the NZCPS. Federated Farmers of New Zealand (FS2449.54) opposes Forest and Bird NZ (OS958.15) because they believe the existing paragraph within the 2GP more appropriately covers the intent of the Policy.

Recommendation

As discussed in the Plan Overview hearing and in the 2GP users guide, the purpose of strategic directions policies are to introduce the methods used in the Plan to achieve the strategic objectives. As such they are in a different format than policies in the other plan sections which do include a policy 'test' which discusses the level of effects that will be tolerated (for example "avoided or, if avoidance is not possible, no more than minor") or the outcome to be achieved. The amendments proposed seek to introduce this policy test inappropriately (in terms of the drafting protocol) at the strategic level. For this reasons I do not support the proposed amendment to paragraph (a).

I note that the policies under Objective 10.2.3 set out in a more specific manner the activities that are anticipated and the level of effects that will be tolerated (policy test) in respect to land use, development and subdivision activities. I also note that the words proposed are a restatement of clauses 1(a) and 1(b) of NZCPS Policy 13 and I do not see the value in directly restating higher level policy documents.

Recommended amendment:

Amendment 1

Amend Policy 2.4.5.3 as follows:

"... a. ~~manage~~ require resource consent for land use activities that may be carried out, where these may be incompatible; {NatEnv919.13}
b. restrict the scale of development and ensure the design of development is appropriate;..." {NatEnv919.13}

5.3 Natural Environment & Introduction

5.3.1 10. Natural Environment

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
OS308.226	University of Otago	I support the provision	Retain Chapter 10 Natural Environment.	Accept	No amendment required
OS329.4	East Otago Taiapure Management Committee	I seek to have the above provision amended	Ensure additional residential development in coastal and estuarine areas is managed in a way that decreases risk to waterways and fisheries.	Accept	No amendment required

OS329.5	East Otago Taiapure Management Committee	I support the provision	Retain plan approach that recognises: the vulnerability of the coastal environment; the need for future planning around areas of cultural, historic, biodiversity and natural character in the coastal/marine environment; the need to give priority to protecting local food sources and land and waterways adjacent to the East Otago Taiapure as an area where a precautionary approach to development and land use should be taken.	Accept	No amendment required
OS471.2	Rebecca Jane Wilde	I oppose the provision	Replace entire Natural Environment section with simpler and less onerous provisions	Reject	Do not replace Natural Environment as requested
OS919.19	Federated Farmers of New Zealand	I seek to have the above provision amended	Amend the Natural Environment chapter to ensure there is a 'one stop shop' for plan users. This will involve reducing the chapter's complexity and reducing the need for plan users to cross reference between chapters in order to work out which controls apply to their activity.	Accept in part	No amendment required, as the plan has been designed to achieve this outcome as far as possible.
OS908.14	Otago Regional Council	I seek to have the above provision amended	Amend to recognise the nationally significant surf breaks at Karitane and The Spit in the district plan, including provisions for managing activities that may affect access to, and the use and enjoyment of, those surf breaks so as to give effect to the policies of the proposed RPS (proposed policies 2.2.10 and 2.2.11) and the NZ Coastal Policy Statement 2010.	Accept	Amend Appendix A5 as shown below.

Submission in support

The University of Otago (OS308.226) seeks to retain Chapter 10 Natural Environment as the University supports provisions to protect the natural environment, which is a significant part of Dunedin's special character and value.

Request to retain plan approach recognising vulnerability of the coastal environment and manage residential development to

decrease risk to waterways and fisheries

Background

The East Otago Taiapure was established in 1999 under the Fisheries Act 1996 with the aim of protecting habitat and managing mahinga kai resources. The Taiapure encompasses marine and estuarine waters between Cornish Head and Potato Point including the Waikouaiti, Karitane, Blueskin Bay and Purakaunui inlets/estuaries. Parts of the adjacent coastal area are subject to NCC overlays, or are part of the coastal environment mapped area and there are ONF overlays at Huriawa and Mapoutahi. The Pūrakaunui to Hikaroroa to Huriawa wāhi tūpuna site overlays much of the Taiapure and there are several other specific wāhi tūpuna sites along the coastline including Huriawa, Matainaka, Te Awa Koeo (Brinns Point) and Te Awa Kai Pawa (Green Point), Okahau (Warrington), Blueskin Bay, Mapoutahi and Mateawheawhe (beach at Pūrakaunui Bay). The Manawhenua Section 42A report recommended that East Otago Taiapure also be recognised within the 2GP by amending the introduction section of the plan (1.5.3 Kāi Tahu and the District Plan) so that it refers to the taiapure.

Submission

The East Otago Taiapure Management Committee (OS329.5) seek to retain the plan approach that recognises the vulnerability of the coastal environment, the need for future planning around areas of cultural, historic, biodiversity and natural character in the coastal/marine environment and the need to give priority to protecting local food sources. The submitter identifies the land and waterways adjacent to the East Otago Taiapure as an area where a precautionary approach to development and land use should be taken. The submitter explains that "the protection and enhancement of the Taiapure is a matter of national importance" and that "Councils are required to have particular regard for kaitiakitanga."

The East Otago Taiapure Management Committee (OS329.4) also seeks to ensure additional residential development in coastal and estuarine areas is managed in a way that decreases risk to waterways and fisheries. The Committee seeks recognition of the complexity of land and waterways adjacent to the East Otago Taiapure and consider that a precautionary decision making approach should be taken. The submitter believes that "land based decisions and activities (including contaminated storm water and effluent run-off to waterways) can have negative effects on locally managed fisheries" and draw attention to the protection and enhancement of the Taiapure as a matter of national importance, with councils being "required to have particular regard for kaitiakitanga."

Recommendation

The taiapure itself falls outside of the jurisdiction of the DCC as it covers the marine area to MHWS and discharges (including land based discharges) are primarily managed by the Otago Regional Council. However, the 2GP recognises and provides for sites of significance to Rūnaka as matters of national importance (RMA s6(e)) and has particular regard to kaitiakitanga (RMA s7(a)) through the mapping of wāhi tūpuna along the coastline. Mahika kai is identified as being one of the values to be protected while activities affecting water quality including earthworks and sediment discharge is identified as a principal threat to values in areas including Blueskin Bay, Matainaka/Hawksbury Lagoon, and subdivision in Okahau (Warrington). I note that the Manawhenua Section 42A report recommended an additional 20m buffer around the water at Matanaka/Hawksbury, Blueskin Bay and Pūrākaunui and additional assessment rules where not already present.

The Natural Environment section also contains a number of provisions seeking to protect biodiversity and natural character of the coast recognising the impact on, and directly influencing the health of the adjacent marine environment. Objective 10.2.2 requires that the biodiversity

values and natural character of the coast and riparian margins are maintained and enhanced and is supported by policies that require activities to be set back from the coast and water bodies including Policy 10.2.2.2 (building and structures) and Policy 10.2.2.3 (vegetation clearance). Policy 10.2.2.4 requires that earthworks minimise the risk of sediment entering the sea or water bodies by being set back or by using appropriate sediment control techniques. Policy 10.2.2.5 requires that subdivision activities maintain and enhance biodiversity and natural character values including water quality and aquatic habitats and the natural functioning of the adjacent sea or water body.

The policies are implemented by performance standards relating to esplanade strips and reserves as well as setback from coast and water bodies. For those areas that are zoned rural residential or residential, i.e. around Blueskin Bay and at Karitane and Waikouaiti, any new development must be set back 20m from MHWS and any wetland identified as an ASCV, and 5m from a water body. Vegetation clearance rules also have a protective effect on coastal and estuarine areas by requiring that indigenous vegetation clearance must not occur within 20 metres of water (wetland, MHWS, water body >3m width) in the rural or rural residential zones or within any coastal environment mapped area (Seacliff, Puraukanui Beach, Matanaka). Finally, any subdivision activities adjacent to the coast or estuaries must provide esplanade reserves and potential circumstances that may support a consent application for subdivision include that the subdivision is designed to minimise any adverse effects from drainage on water bodies and in rural zones, to maintain natural overland flow paths and hydrology.

Part of the coastal area adjacent to the East Otago Taiapure have a Natural Coastal Character overlay (Karitane Beach, Waikouaiti Beach) which provides additional controls relating to residential development, by way of requiring consent for buildings and structures greater than 60m². In addition, most of the coastal area adjacent to the Taiapure has a rural zoning, restricting residential development, and standard residential activities are non-complying activity within the ONFs at Huriawa and Mapoutahi.

I acknowledge the submitter's support for the approach of the 2GP with respect to the coastal environment. I am satisfied that the 2GP policies and rules promote a precautionary approach in seeking to avoid or minimise any adverse effects on coastal and estuarine areas associated with residential development, reducing risk to water bodies and fisheries, including the East Otago Taiapure. I recommend that the submitter's point is accepted and that no amendment is required.

Requests to replace entire Natural Environment section or to amend section to reduce complexity

Rebecca Jane Wilde (OS471.2) seeks to replace the entire Natural Environment section with simpler and less onerous provisions. She believes many of the obligations are far too complex and that the plan is excessively onerous and does not make adequate provision for cultural and economic considerations. She believes the 2GP will impose unnecessary costs on individuals and ratepayers and submits that it would be more effective to start again.

Federated Farmers of New Zealand (OS919.19) seeks that the section be re-written to ensure there is a 'one stop shop' from a plan user perspective, with a view to reducing the complexity and need for cross-referencing between sections. FFNZ feels that, from a plan user perspective, this section of the plan is unwieldy and difficult to understand. The submitter considers that:

- Where there are exceptions provided within a rule, it is unclear whether the exceptions to the rules mean that the activity is permitted or unregulated, or whether the activity is captured in some other rule. This is particularly relevant given the multiple categories used.
- There is a complicated cross reference required, with the reader having to check rules in the landscape section even though some policies

are addressed within this section.

- There is also an overall onus on the landowner to check for protected species before carrying out a permitted activity, unnecessarily complicating the supposed simplification that should stem from a permitted activity approach.

Recommendation

In response to the assertion that the obligations are far too complex and excessively onerous, I refer to the following discussion on page 116 of the Plan Overview Section 42A report:

“District plans can be complex documents for lay people, in formulating the 2GP we used a number of techniques to try to communicate information in a way that was simple for people to understand, including the preparation of plain English summary information sheets at all stages of consultation (including notification) and providing numerous opportunities for people to interact with planners and ask questions either in person or over the phone.”

I also note that the 2GP employed a clear and specific drafting protocol, which sought to ensure clear and consistent plan wording and clear and direct links between objectives, policies and rules. Section 10 Natural Environment has been drafted to achieve the purpose of the RMA (section 5), to meet the functions of territorial authorities (RMA section 31), and to meet the legislative requirements for district plans (RMA sections 72-77). I consider that the Natural Environment section of the 2GP does not go beyond the scope of these requirements. While the submitter may consider them onerous, the use of rules, while restrictive, is an important part of managing land use and controlling environmental effects. In the absence of specific examples of provisions that are considered too onerous, I do not recommend that the entire Section 10 Natural Environment is replaced.

In response to Rebecca Wilde’s statement that the plan does not make adequate provision for cultural and economic considerations, I consider that the 2GP has been prepared in accordance with meeting the purpose of the RMA, which requires consideration of the social, economic and cultural well-being of people and communities. The Strategic Directions (e.g. Strategic Direction 2.3 and its objectives) provide economic, social and cultural outcomes, which Section 10 Natural Environment contributes towards (e.g. Objective 10.2.4 which requires that subdivision and development activities maintain and enhance access including for the purposes of gathering food and mahika kai). The Natural Environment Section 32 Report considers environmental, economic and social costs and benefits in its evaluation of the proposed 2GP provisions and alternate options. I note that the process for development of the 2GP included extensive community engagement and consultation, as set out on pages 4-8 of the Introduction to Section 32 Reports report and on pages 8-10 of the Plan Overview Section 42A report. In response to the submitter’s statement that the 2GP will impose unnecessary costs on individuals and ratepayers, I consider the 2GP has been drafted where possible to reduce complexity (e.g. policies drafted to be more specific regarding activities and levels of effects that are anticipated in the zones), and to reduce the need for consents (e.g. providing for additional permitted activities subject to standards, such as rural tourism, rural ancillary retail, family flats). It is the nature of meeting the requirements of the RMA that there will be restrictions on land owners. I consider the 2GP has been drafted to minimise these restrictions to the greatest extent possible. Again in the absence of specific examples of these unnecessary costs, I do not recommend that the submission to replace Section 10 Natural Environment should be accepted.

In terms of the first two bullets raised by Federated Farmers, the rationale for the plan structure is contained in the Plan User Guide available on the 2GP and was the subject of the Plan Overview Hearing, which I note will reconvene at the end of the hearings schedule to re/consider all submissions and evidence on Plan Structure. I defer the Panel to recommending report for that hearing.

With regard to Federated Farmers' request for clarification over whether activities that are exempt from section 10 rules are captured under other rules, I understand this to be a reference to Rule 10.3.2 Vegetation Clearance and Rule 10.3.3 Setback from Coast and Water Bodies, which both contain fairly long lists of exemptions. For example, any vegetation clearance involved in fencing, in the operation of utilities, tracks, drains and roads, or in the construction of tracks up to 2m wide, is exempt from Rule 10.3.2, while numerous types of structure that by their nature need to locate next to or across water bodies (e.g. hydro generators, bridges and boat ramps) are exempt from Rule 10.3.3.

As highlighted in Federated Farmers' submission, these exemptions do not mean that a proposal that involves vegetation clearance that is exempt from Rule 10.3.2, or that involves a structure near a water body that is exempt from Rule 10.3.3, will not require resource consent under other rules, in order to manage other types of effect. For example: the construction of a track would need consent if the earthworks involved did not meet the performance standards set out in the Rural Zones section (Rule 16.6.1); and hydro generators are subject to rules in the network utilities and energy generation section, and will require consent if they exceed a certain scale or are located in a landscape or coastal overlay or ASCV. All district plans must be considered in their totality and it is common place that not needing a consent under one rule does not mean consent will not be required under other rules.

The submitter's concern that landowners will be required to check their land for protected species before carrying out a permitted activity is discussed in response to another FFNZ submission on the relevant Policy 10.2.1.4 in section 5.8.7.1 below.

Request to recognise the nationally significant surf breaks at Karitane

Otago Regional Council (OS908.14) seeks that the nationally significant surf breaks at Karitane and The Spit are recognised in the 2GP. The submitter also requests provisions for managing activities that may affect access to and the use and enjoyment of the surf breaks. This would give effect to the policies of the proposed RPS (policies 2.2.10 and 2.2.11) and the NZ Coastal Policy Statement 2010. The submitter considers that the proposed district plan's approach to coastal matters "gives good effect to the objectives and policies of the Proposed RPS" but that only one of the three nationally significant surf breaks located in the Dunedin district is listed in the 2GP (Whareakeake). ORC also notes the "inconsistent use" of phrases to describe the threshold of acceptable effects (e.g. "no material effects", "insignificant", "no more than minor") in policies under Objective 10.2.3.

Recommendation – Amendments 1 and 2

The pORPS-dv has two policies relating to surf breaks "Identifying surf breaks of national importance" and "Managing surf breaks of national importance". I note that in the pORPS-dv these are renumbered as Policy 3.2.11 and 3.2.12 respectively. Policy 3.2.11 seeks to recognise the surf breaks of national importance at Karitane, Papatowai, The Spit and Whareakeake. Policy 3.2.12 seeks to

Protect surf breaks of national importance, by all of the following:

- a) Avoiding adverse effects on the natural and physical processes contributing to their existence; ~~and~~
- b) Avoiding adverse effects of other activities on access to, and use and enjoyment of, those surf breaks.

Method 4 under Policy 3.2.12 is City and District Plans.

While the surf breaks themselves fall outside of the jurisdiction of the DCC, the 2GP provides for access to, and therefore for the use and enjoyment of the surf breaks, through Objective 10.2.4 which requires that "Subdivision and development activities maintain and enhance access to coastlines, identified water bodies and other parts of the natural environment, including for the purposes of gathering food and mahika kai." The 2GP also indirectly contributes to protecting surf breaks through Objective 10.2.2: "the biodiversity values and natural character of the coast and riparian margins are maintained and enhanced". Policy 10.2.2.5 only allows subdivision activities where biodiversity values and natural character values are maintained or enhanced, including "c. the natural functioning of the adjacent sea or water body" and Policy 10.2.2.3 is also relevant in requiring vegetation clearance to be set back an adequate distance to minimise risk of erosion.

The 2GP also recognises and provides for high value coastal landscapes. As noted by the submitter, Whareakeake is listed as a surf break of national significance and one of the cultural and historic values that are identified as being important to protect in the Heyward Coast Outstanding Natural Landscape overlay (Appendix A3.2.2). Although not specifically listed in the 2GP, I note that the two other surf breaks also occur along coastline with values recognised in the 2GP; the Aramoana Spit Natural Coastal Character overlay and the Waikouaiti Beach Natural Coastal Character overlay (Karitane surf break). I consider that it would be appropriate to add the two surf breaks as values in Appendix A5.3.2 Aramoana Spit and A5.3.16 Waikouaiti Beach as shown below, in order to recognise them as values that are maintained and enhanced under Objective 10.2.3. I have recommended an amendment to this effect below.

Recommended amendment:

Amendment One

Amend Appendix A5.3.2 Aramoana Spit as follows:

"A5.3.2.2 Values

- a. The sense of tumultuous wildness.
- b. The Spit is a surf break of national significance {NatEnv908.14}
- ~~b- c.~~ Indigenous vegetation cover, where present...."

Amendment Two

Amend A5.3.16 Waikouaiti Beach as follows:

"A5.3.16.2 Values

- a. Natural dune forms at the southern end of the spit.
- b. Wildness and scenic qualities highest at the eastern spit and near Matanaka.
- c. Karitane is a surf break of national significance {NatEnv908.14}
- ~~e- d.~~ Values of significance to manawhenua. See Appendix A4.5."

5.3.2 10.1 Introduction

Sub pt #	Submitter Name	Support/ Oppose/ Seek Amend	Summary Of Submission	Accept/ Reject/ Accept in part	Staff Recommendation
OS447.14	Harboursides and Peninsula Preservation Coalition	I seek to have the above provision amended	Amend Introduction by adding to the end of paragraph 2: <u>The rural environment is a key aspect of the Dunedin character and has been through our history, even for city dwellers. All Dunedin residents are stakeholders in the rural environment and its preservation. This cultural well-being of the current residents in all of Dunedin and the well-being of future generations is, therefore, accorded an equal priority standing with that of rural development interests.</u> and by adding to the Introduction's 12th bullet point the words: <u>'and significant natural landscapes'</u>	Accept in part	Amend 10.1 Introduction as shown below
FS2373.10	Howard Saunders	I oppose the submission	Oppose OS447.14. Disallow submission to amend 10.1 Introduction.	Reject	Amend 10.1 Introduction as shown below
FS2449.55	Federated Farmers of New Zealand	I oppose the submission	Oppose OS447.14. Disallow submission.	Reject	Amend 10.1 Introduction as shown below
FS2452.77	Horticulture New Zealand	I oppose the submission	Oppose OS447.14. Disallow submission.	Reject	Amend 10.1 Introduction as shown below
OS900.26	Save The Otago Peninsula (STOP) Inc Soc	I seek to have the above provision amended	Amend 10.1 Introduction by: adding to the 4th paragraph as follows: 'Threats to Dunedin's natural environment include the reduction or loss of habitats due to contamination, disturbance, destruction, <u>fragmentation</u> , invasive pest species, and surrounding land uses.'; deleting the 4th paragraph, 5th bullet: the costs of protecting areas and habitats are local and often specific to an individual, yet the benefits may be local, regional, and national; and adding to the 6th Paragraph first bullet point as follows: 'land use, development, and	Accept in part	Amend 10.1 Introduction as shown below
OS958.16	Forest and Bird NZ				
OS958.17	Forest and Bird NZ				

			subdivision activities can lead to modification, <u>fragmentation</u> or loss of biodiversity values, areas of indigenous vegetation, and habitats of indigenous fauna;'		
FS2449.56	Federated Farmers of New Zealand	I oppose the submission	Oppose OS900.26. Disallow submission.	Reject	Amend 10.1 Introduction as shown below
FS2439.11	Oceana Gold (New Zealand) Limited	I oppose the submission	Oppose OS958.17. Disallow submission.	Reject	Amend 10.1 Introduction as shown below
FS2449.57	Federated Farmers of New Zealand	I oppose the submission	Oppose OS958.17. Disallow submission.	Reject	Amend 10.1 Introduction as shown below
OS919.20	Federated Farmers of New Zealand	I seek to have the above provision amended	<p>Amend 10.1 Introduction to:</p> <ol style="list-style-type: none"> 1. provide an historic context to the loss of habitat; 2. amend the 'threats to Dunedin's natural environment' paragraphs as follows: <ul style="list-style-type: none"> • '<u>...although landowners do actively protect areas of value, there can at times be tensions between the aspirations of landowners for land use and development and the need to protect those areas and habitats;..</u> • maintaining indigenous biodiversity requires more than both the protection of sites of especially high biodiversity value. It also involves <u>and</u> the growth, creation, and or restoration of new or existing sites; ...' • 3. amend the 'key resource management issues' paragraphs as follows (or words to similar effect): • <u>inappropriate</u> land use, development, and subdivision activities can lead to modification or loss of biodiversity values, areas of indigenous 	Accept in part	Amend 10.1 Introduction as shown below

			<p>vegetation, and habitats of indigenous fauna;</p> <ul style="list-style-type: none"> • <u>inappropriate</u> land use, development, and subdivision activities can adversely affect values of natural features and landscapes; • <u>inappropriate</u> land use, development, and subdivision activities can adversely affect the natural character of the coast and riparian margins; • <u>inappropriate</u> land use, development and subdivision activities can restrict public access to and along the coastal marine area, lakes and rivers; and • <u>inappropriate</u> conservation, including pest control and restorative planting, is an important activity and needs to be provided for and encouraged. <p>4. amend the 'response to issues' paragraphs as follows (or words to similar effect):</p> <ul style="list-style-type: none"> • 'areas of <u>significant</u> indigenous vegetation and the habitats of <u>significant</u> indigenous fauna; ...' 		
FS2267.120	Harboursides and Peninsula Preservation Coalition	I oppose the submission	Oppose OS919.20. Disallow submission and retain 10.1 Introduction as proposed in the 2GP.	Accept in part	Amend 10.1 Introduction as shown below
FS2452.78	Horticulture New Zealand	I support the submission	Support OS919.20. Allow submission.	Accept in part	Amend 10.1 Introduction as shown below
FS2482.17	Forest and Bird NZ	I oppose the submission	Oppose OS919.20. Disallow submission.	Accept in part	Amend 10.1 Introduction as shown below
OS1071.46	Kati Huirapa Runaka ki Puketeraki and	I seek to have the above provision	Amend Introduction to include provisions for Manawhenua, their access to, and the preservation of, Mahika Kai.	Accept	Amend 10.1 Introduction as shown below

	Te Runanga o Otakou	amended			
OS1088.29	Oceana Gold (New Zealand) Limited	I seek to have the above provision amended	Amend 10.1 Introduction by changing the second paragraph as follows: 'There is a duty-function under section 31 to control land use and development for the purpose of maintaining indigenous biological diversity...' and by amending the seventh paragraph as follows: 'In response to these issues, the Natural Environment section proposes to focus on <u>managing impacts on (with a preference for maintaining and enhancing where practicable): significant areas of indigenous vegetation and the important habitats of indigenous fauna; the landscape values of outstanding natural features, outstanding natural landscapes, and significant natural features; ...'</u>	Accept in part	Amend 10.1 Introduction as shown below

Amendments requested by HPPC

HPPC (OS447.14) seeks to amend the Introduction by adding to the end of paragraph 2: "The rural environment is a key aspect of the Dunedin character and has been through our history, even for city dwellers. All Dunedin residents are stakeholders in the rural environment and its preservation. This cultural well-being of the current residents in all of Dunedin and the well-being of future generations is, therefore, accorded an equal priority standing with that of rural development interests." and by adding to the Introduction's 12th bullet point the words: 'and significant natural landscapes'

The submitter's reasons are that "the rural environment also 'contributes significantly' to the broader environment of our citizens' lives and their cultural well-being". The submitter also points out that the words "significant natural landscapes" were not included in the Introduction and are needed to comprehensively support the statement that says "The natural environment of Dunedin makes an important contribution to...the quality of the city's landscape".

Howard Saunders (FS2373.10), Federated Farmers of New Zealand (FS2449.55) and Horticulture New Zealand (FS2452.77) oppose HPPC (OS447.14). Howard Saunders believes this amendment is unnecessary and would include prescriptive elements into what is intended only as an introduction. FFNZ states that rural landowners are also responsible for implementing the provisions in the Plan and therefore are key stakeholders in any planning provisions relating to rural land development or use. Residential interests will be represented adequately through the current district plan rules and resource consent applications where these are publicly notified. They believe it is impractical and unfair to allow unrestrained third party interest. Horticulture New Zealand states that it is inappropriate that city residents seek to have equal priority over privately owned rural landowners, and that special status does not need to be conferred through the District Plan.

Recommendation – Amendment 5

I do not agree with the first amendment proposed by HPPC for the same reasons as given in response to the submitter's request to add a new objective and policies under Strategic Direction 2.3 in section 5.2.7 above. I note, however, the revised recommended amendment to the Rural Section Introduction as part of the Rural hearing in response to the same submitter to highlight the value placed on the rural environment by Dunedin's citizens.

I do agree with the second amendment proposed by HPPC, to modify the 12th bullet point to include "and significant natural landscapes". I consider this phrase should replace "and significant natural features" to rectify a drafting error, and have recommended an amendment below.

Amendments requested by STOP and Forest and Bird

STOP (OS900.26) and Forest and Bird (OS958.16, OS958.17) seek to amend the Introduction as shown in the table above, because they believe that threats to Dunedin's natural environment also include fragmentation of habitats. They also feel the 4th paragraph, 5th bullet is unclear in terms of what it refers to and implies that compensation should be considered which is contrary to S85 RMA. Federated Farmers of New Zealand (FS2449.56, 2449.57) opposes these submissions because they believe the additions are unnecessary, and the proposed deletion removes an important point about where costs and benefits lie. Oceana Gold (New Zealand) Limited (FS2439.11) opposes Forest and Bird NZ (OS958.17) because they believe the recognition of local, regional and national benefits arising from protection, and the cost to the individual landowner, is important.

Recommendation – Amendments 3 and 4

I agree with the submitters that fragmentation of habitats should be referred to in the introduction as a threat to the natural environment, and recommend that the term be added to the text as shown below.

However, I do not recommend that the 4th paragraph, 5th bullet – i.e. [Maintaining the city's biodiversity is challenging because...] "the costs of protecting areas and habitats are local and often specific to an individual, yet the benefits may be local, regional, and national" be deleted as requested. The submitters are concerned that this bullet point is contrary to RMA s85. I note that this section of the RMA states "(1) An interest in land shall be deemed not to be taken or injuriously affected by reason of any provision in a plan unless otherwise provided for in this Act", and goes on to set out the situations in which persons having interest in land may challenge a provision in a plan, if they consider that the provision renders their interest in land incapable of reasonable use.

I agree that the "costs of protecting areas and habitat" could refer to the costs to landowners of not being able to use ASCV-scheduled land for certain purposes, as well as to the costs of conservation activity to enhance existing sites of high biodiversity value, or to establish or restore new sites. However, I do not agree that simply acknowledging these costs implies that compensation should be considered. In addition, given that s85(1) includes the phrase "...unless otherwise provided for in this Act", a statement in a district plan cannot result in a liability for compensation that is not set out in the RMA.

Amendments requested by Federated Farmers

Federated Farmers of New Zealand (OS919.20) seeks to amend 10.1 Introduction as shown in the table above. The submitter is of the view that

it is appropriate to recognise that loss of habitat was within an historic context and as a result of other values being prioritised, with the decline of bush not the fault of individual landowners but a result of overall attitudes and the prevailing government directions at the time. Horticulture New Zealand (FS2452.78) supports FFNZ because they believe the changes sought more appropriately describe the issues.

HPPC (FS2267.120) opposes FFNZ, stating that the words 'inappropriate' and 'significant' unnecessarily reduce the emphasis of placing importance on the Natural Environment and leaves the consent process further open to vague interpretation. HPPC considers that the Council should also emphasize that technological change has created greater farm productivity and economic return and that modern societal values recognize the need to balance current economic return with investment in conservation for long term sustainability. Forest and Bird NZ (FS2482.17) opposes FFNZ as they feel the terms "inappropriate or incompatible" have not been defined, and other suggested amendments including "significance" are not consistent with the purpose of Part II RMA or the provisions of this plan.

Recommendation – Amendment 3

I recommend that the changes requested by FFNZ to the "Threats to Dunedin's natural environment..." paragraph should be made, with minor drafting amendments, as follows:

- I recommend that the second bullet point be amended to read "although many landowners actively protect areas of value, there can at times be tensions between the aspirations of landowners for land use and development and the need to protect those areas and habitats". I prefer this wording to that proposed by the submitter, given that not all landowners protect their land in this way, although many do.
- I recommend that the third bullet point be amended as sought by Federated Farmers, because I consider that the wording proposed by the submitter appropriately, and equitably, recognises the importance of both protecting existing high value sites and creating or restoring new or existing sites that currently have lesser values.

However, I do not agree with the changes proposed by the submitter to either the "key resource management issues" or the "response to issues" paragraphs. I do not consider it necessary to add the word "inappropriate" as a qualifier to the type of land use, development or subdivision activities that may have adverse effects. The relevant bullet points state "land use, development or subdivision activities **can**" have adverse effects; in my view, the word "can" indicates that not all such activities will have these effects. In addition, I do not agree with the proposed qualifier of "significant" to the areas of indigenous vegetation and habitats of indigenous fauna that the Natural Environment section seeks to maintain and enhance. I note that the language used in this sentence of the introduction as notified mirrors that of Objective 10.2.1. See discussion of submissions on this objective in section 5.4.2 of the report, below. In that section I explain why I do not support limiting this objective to "significant" areas and habitats only.

Amendments requested by Runaka

Kati Huirapa Runaka ki Puketeraki and Te Runanga o Otakou (OS1071.46) seek to amend the Introduction to recognise the importance of high-quality natural resources to Manawhenua and link to the provisions for mahika kai in Chapter 14.

Recommendation – Amendment 2

I agree with the Runaka's submission and recommend an amendment to the paragraph that begins "The natural environment of Dunedin makes

an important contribution to...", as shown below.

Amendments requested by Oceana Gold

Oceana Gold (New Zealand) Limited (OS1088.29) seek to amend 10.1 Introduction as shown above, based on the view that:

- RMA section 31 prescribes a function rather than a duty
- maintaining and enhancing section 6 values is generally but not always appropriate, and the introduction should not make maintenance and enhancement absolute
- the addition of 'significant' and 'important' are necessary because the provision is overly wide and could result in areas with minor indigenous vegetation and fauna falling under the natural environment objectives, policies and rules which follow, and
- the deletion of 'significant natural features' is necessary to prevent SNLs from being managed as if they were ONLs or ONFs.

Recommendation – Amendment 1

I agree in part (with minor drafting changes) with the change requested in the first element of Oceana Gold's submission, and recommend that the wording of the text in relation to RMA section 31 is amended as shown below.

I do not agree with the other elements of the submission.

With regard to the proposed amendments to the wording of "In response to these issues, the Natural Environment section proposes to focus on maintaining and enhancing...", I do not consider that the notified wording is "absolute", in the sense that it would preclude the Council from taking account of either measures to mitigate adverse effects on the natural environment, or situations in which some degree of adverse effect is unavoidable for other reasons.

With regard to the addition of the qualifiers "significant" and "important" to "areas of indigenous vegetation and habitats of indigenous fauna", see my discussion above of a similar request from Federated Farmers.

I do not consider that it is necessary to delete the reference to "significant natural features", although I have recommended in response to HPPC's submission, discussed above, that this be amended to "significant natural landscapes", to rectify a drafting error. In my view, it is appropriate that the introduction refers to significant natural landscapes, because these are protected in the plan. I do not consider that the notified wording implies that these are managed in the plan as if they were ONLs or ONFs. Different policies and rules apply in SNLs.

Recommended amendments:

Amend 10.1 Introduction as follows:

Amendment One

"...The preservation of the natural character of the coastal environment and riparian margins, the protection of outstanding natural features and landscapes, the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna, and the maintenance and

enhancement of public access to and along the coastal marine area, lakes and rivers are matters of national importance under section 6(a), (b), (c) and (d) of the RMA. ~~There is a duty under section 31~~ Section 31 states that it is a function of the Council {NatEnv1088.29} to control land use and development for the purpose of maintaining indigenous biological diversity. The natural environment in Dunedin is also important for the social, cultural and economic well-being of people and communities in Dunedin, and the life supporting capacity of air, water, soil and ecosystems..."

Amendment Two

"...The natural environment of Dunedin makes an important contribution to the health and well-being of the residents of the city and to the quality of the city's landscape. Vegetation, including trees, performs a range of environmental functions such as releasing oxygen; absorbing carbon dioxide and retaining water; moderating micro-climates; giving shade and shelter from winds; providing land stability, particularly on gully and river banks; and providing habitat for wildlife, both native and exotic species. Protection of the natural environment is also an essential part of the maintenance and enhancement of the relationship between Manawhenua and their ancestral lands, water, sites, wāhi tapu, and other taoka, as recognised in Section 14 of this plan. For instance, high quality natural resources are necessary for the availability of mahika kai. {NatEnv1071.46} In the urban environment, areas of bush contribute significantly to amenity values, as well as providing habitat and ecological corridors for indigenous fauna..."

Amendment Three

"...Threats to Dunedin's natural environment include the reduction or loss of habitats due to contamination, disturbance, destruction, fragmentation, {NatEnv900.26} invasive pest species, and surrounding land uses. Maintaining the city's biodiversity is challenging because:

- areas and habitats of indigenous species often occur on both private and public land;
- although many landowners actively protect areas of value, there can at times {NatEnv 919.20} be tensions between the aspirations of landowners for land use and development and the need to protect those areas and habitats;
- ecosystems are not always confined to definable sites;
- maintaining indigenous biodiversity requires ~~more than~~ both the protection of sites of especially high biodiversity value. ~~It also involves and~~ the growth, creation, and or restoration of new or existing sites; {NatEnv 919.20} and
- the costs of protecting areas and habitats are local and often specific to an individual, yet the benefits may be local, regional, and national..."

Amendment Four

"...In identifying the elements of the natural environment that need to be protected, the following key resource management issues have been identified:

- land use, development, and subdivision activities can lead to modification, fragmentation, {NatEnv900.26} or loss of biodiversity values, areas of indigenous vegetation, and habitats of indigenous fauna;..."

Amendment Five

"...In response to these issues, the Natural Environment section proposes to focus on maintaining and enhancing:

- areas of indigenous vegetation and the habitats of indigenous fauna;

- the landscape values of outstanding natural features, outstanding natural landscapes, and significant natural features landscapes; {NatEnv447.14}
- the biodiversity values and natural character values of the coast and riparian margins; ...”

5.4 Objectives and Policies

This section contains responses to submissions on Section 10 objectives and policies. Submissions on policies that relate specifically to performance standards or activity status rules are considered in conjunction with submissions on those rules, in sections 5.6 to 5.12 below.

5.4.1 10.2. Objectives and Policies

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
OS289.2	Chris Walker	I support the provision	Retain 10.2 Natural Environment Objectives and Policies.	Accept	No amendment required
FS2444.2	Waste Management (NZ) Limited	I oppose the submission	Oppose OS289.2. Disallow submission	Reject	No amendment required
OS447.15	Harboursides and Peninsula Preservation Coalition	I seek to have the above provision amended	Amend all Natural Environment Objectives and Policies to change the word 'minor' to 'insignificant' and to change the word 'insignificant' to 'very insignificant, meaning bordering on unidentifiable'	Reject	No amendment required
FS2373.12	Howard Saunders	I oppose the submission	Oppose OS447.15. Disallow submission and do not make changes as requested by submitter.	Accept	No amendment required
FS2449.58	Federated Farmers of New Zealand	I oppose the submission	Oppose OS447.15. Disallow submission.	Accept	No amendment required
OS588.1	Otago Peninsula Community Board	I seek to have the above provision amended	Amend Natural Environment Objectives and Policies to describe importance of natural environment to tourism and wider economy (inferred not stated)	Accept in part	Amend 10.1 Introduction as shown below

OS447.30	Harboursides and Peninsula Preservation Coalition,	I seek to have the above provision amended	Add a new objective as follows: <u>It is recognized that regarding new activities in the Natural Environment all current residents are key stakeholders, be they adjacent property owners or part of the greater Dunedin community. They will be accorded an equal priority standing with that of developers and those seeking to introduce new activities in the Rural Zones. This shall apply when Council discretion is directed to assessment determinations of 'no more than minor', 'insignificant', and 'contrary to' District Plan provisions,</u> and make consequential changes including adding this objective into Rules 10.5.2.4, 10.5.2.7, 10.5.2.15 and 10.5.2.16.	Reject	Do not add new objective as requested
OS900.66	Save The Otago Peninsula (STOP) Inc Soc				
FS2373.18, FS2373.56	Howard Saunders	I oppose the submission	Oppose OS447.30 and OS900.66. Disallow submissions to add a new objective.	Accept	Do not add new objective as requested
FS2391.101, FS2391.115	Geoff Scurr Contracting Limited	I oppose the submission	Oppose OS447.30 and OS900.66. Disallow submissions to add a new objective.	Accept	Do not add new objective as requested
FS2449.149, FS2449.150	Federated Farmers of New Zealand	I oppose the submission	Oppose OS447.30 and OS900.66. Disallow submissions to add a new objective.	Accept	Do not add new objective as requested
FS2200.1	Dianne Reid	I oppose the submission	Oppose. Disallow submission and do not make changes as requested by submitter.	Accept	Do not add new objective as requested
OS958.60	Forest and Bird NZ	I seek to have the above provision amended	Add new policies to give effect to proposed Policy 2.1.6 of the proposed Otago Regional Policy Statement. These new policies should include: <u>Maintain, protect or enhance areas of modified indigenous vegetation which</u>	Accept in part	Amend policies 10.2.1.3, 10.2.1.4, 10.2.1.5 and 10.2.2.3 as shown below

			<u>contain indigenous biodiversity and habitats for indigenous species.</u>		
FS2416.53	Alan Brown, Carrowmore Properties Limited, Robyn and Stephan Smith and Rick and Jill Clarke ("Pigeon Flat Road Group")	I oppose the submission	Oppose OS958.60. Disallow submission and do not make changes as suggested by submitter.	Reject	Amend policies 10.2.1.3, 10.2.1.4, 10.2.1.5 and 10.2.2.3 as shown below
FS2449.151	Federated Farmers of New Zealand	I oppose the submission	Oppose OS958.60. Disallow submission.	Reject	Amend policies 10.2.1.3, 10.2.1.4, 10.2.1.5 and 10.2.2.3 as shown below
OS355.15	Robert George & Sharron Margaret Morris	I oppose the provision	Remove Objective 10.2.3 and all associated policies 10.2.3.1 to 10.2.3.11	Reject	Do not remove Objective 10.2.3 and associated policies
OS951.9	Timothy George Morris	I oppose the provision	Remove Objective 10.2.3 and all associated policies 10.2.3.1 to 10.2.3.11	Reject	Do not remove Objective 10.2.3 and associated policies
OS1054.9	Timothy Morris (on behalf of RG and SM Morris Family Trust)	I oppose the provision	Remove Objective 10.2.3 and all associated policies 10.2.3.1 to 10.2.3.11	Reject	Do not remove Objective 10.2.3 and associated policies
OS355.17	Robert George & Sharron Margaret Morris	I seek to have the above provision amended	Amend Objective 10.2.4 and all associated policies, including by deleting Policy 10.2.4.1 and 10.2.4.3	Reject	No amendment required
OS951.11	Timothy George Morris	I seek to have the above provision amended	Amend Objective 10.2.4 and all associated policies, including by deleting Policy 10.2.4.1 and 10.2.4.3	Reject	No amendment required
OS1054.11	Timothy Morris (on behalf of RG and SM Morris Family Trust)	I seek to have the above provision amended	Amend Objective 10.2.4 and all associated policies, including by deleting Policy 10.2.4.1 and 10.2.4.3	Reject	No amendment required

OS355.18	Robert George & Sharron Margaret Morris	I oppose the provision	Remove Objective 10.2.5 and all associated policies 10.2.5.1 to 10.2.5.16	Reject	Do not remove Objective 10.2.5 and associated policies
OS951.12	Timothy George Morris	I oppose the provision	Remove Objective 10.2.5 and all associated policies 10.2.5.1 to 10.2.5.16	Reject	Do not remove Objective 10.2.5 and associated policies
OS1054.12	Timothy Morris (on behalf of RG and SM Morris Family Trust)	I oppose the provision	Remove Objective 10.2.5 and all associated policies 10.2.5.1 to 10.2.5.16	Reject	Do not remove Objective 10.2.5 and associated policies
FS2391.18	Geoff Scurr Contracting Limited	I support the submission	Support OS1054.12. Allow submission.	Reject	Do not remove Objective 10.2.5 and associated policies

Submission in support of 10.2 Objectives and Policies

Chris Walker (OS289.2) seeks to retain 10.2 Natural Environment Objectives and Policies because they promote the purpose of sustainable management. Waste Management (NZ) Limited (FS2444.2) opposes Chris Walker (OS289.2) because they seek changes to the Objectives and Policies of section 10.2 as set out in the WMNZ primary submission.

The support of Chris Walker is noted.

Request to amend all objectives and policies to replace 'minor' with 'insignificant' and 'insignificant' with 'very insignificant, meaning bordering on unidentifiable'

HPPC (OS447.15) seeks to amend all Natural Environment objectives and policies to change the word 'minor' to 'insignificant' and to change the word 'insignificant' to 'very insignificant, meaning bordering on unidentifiable'. They are concerned that the use of 'minor' should not be confused with the use of minor in RMA case law which relates to section 104D. With regard to the replacement of insignificant with 'very insignificant, meaning bordering on unidentifiable', the submitter explains that it provides for a more definitive description and better clarity.

Howard Saunders (FS2373.12) opposes HPPC (OS447.15), stating that the current classification of effects is adequate and well understood, and the proposed amendment raises the bar too high to make any changes and introduces standards that too subjective to be workable in practice. Federated Farmers of New Zealand (FS2449.58) opposes HPPC (OS447.15) because it makes the interpretation overly complex and the language used is not consistent with accepted RMA terminology.

Recommendation

The use of 'minor' in the 2GP policies is part of the standard wording that was developed to indicate different levels of strictness or leniency in terms of the tolerance of effects (refer Plan Overview section 42A report pp22-23). The use of 'no more than minor' is used in the 2GP in policies

with a 'medium to high strictness' level while 'insignificant' is used in policies with the 'most strict level' with respect to the tolerance of effects. As discussed in the Plan Overview section 42A, this wording was developed to be best practice, based on expert opinions from planning and legal practitioners. I do not consider it to be appropriate to change the word 'minor' to 'insignificant' throughout the Natural Environment objectives and policies, as this would both conflict with the 2GP drafting protocol and would indicate a stricter test than is intended for certain policies.

I also do not recommend replacing 'insignificant' with 'very insignificant, meaning bordering on unidentifiable'. I note the dictionary definition of insignificant as being 'too small or unimportant to be worth consideration' renders the addition of the modifier 'very' essentially meaningless. With regard to the meaning intended by the submitter that it would mean 'bordering on unidentifiable', this is a somewhat vague use of language. I note that the same submitter uses 'bordering on undetectable' elsewhere (see Mining activities section 42A Report) which implies a standard that can be measured. Notwithstanding the meaning intended, I consider that 'bordering on unidentifiable/undetectable' both creates an unrealistically high bar for activities to achieve, and does not represent an improvement in meaning or clarity over the use of the word 'insignificant' as set out in the 2GP drafting protocol.

Request to amend objectives and policies to describe importance of natural environment to tourism and the wider economy

Otago Peninsula Community Board (OS588.1) seeks to amend the Natural Environment Objectives and Policies as they believe that there is no mention within Section 10 of the importance of the natural environment to the economy and in particular to the tourism sector. Tourism, biodiversity, conservation and the natural environment are interlinked and now form a major part of the Peninsula and Dunedin economy. They feel that it is imperative that this is acknowledged both in the policies and objectives of Section 10 but also in its rules.

Recommendation – Amendment 1

The Natural Environment objectives and policies include rural tourism with other rural activities, consistent with the drafting of these policies around management of effects. The outcome focus of the objectives is on natural environment outcomes rather than economic activities such as tourism which may in turn be beneficial to the natural environment. I do not consider that the objectives and policies need to be amended in response to this submission. However, I consider that the introduction to the Natural Environment section should be amended to discuss the value of tourism, noting that there is already mention of this in the fourth paragraph of the introduction to the Rural section.

I note that there is a recommended amendment to 10.1 Introduction as a result of the Rural Section 42A, which inserts a new fifth paragraph as follows:

"The natural environment also makes an important contribution to the economic well-being of Dunedin, not least through the tourism sector. Tourism activities in general, particularly eco-tourism activities, rely on maintaining the quality of Dunedin's natural environment. The city's natural features and landscapes, natural character of the coast and other water bodies, and biodiversity all play an important role in contributing to the visitor experience." {RU447.10, RU900.22}

Rather than as a new fifth paragraph, I consider this paragraph should be inserted as a new fourth paragraph, following on from the third paragraph which discusses the contribution of the natural environment to the city, and prior to the existing fourth and fifth paragraphs which discuss threats to the natural environment, this recommendation is shown below.

Requests to add a new objective to give equal priority standing to current residents

HPPC (OS447.30) and STOP (OS900.66) seek to add a new objective as they believe that the rural environment contributes to the broader environment of our citizens' lives, and current residents are key stakeholders in Dunedin's rural environment. The discretionary decision of what is 'no more than minor' or 'insignificant' needs to be primarily from their perspective and not determined by expert witnesses, landscape architecture principles, formulas, or their judgments, for example. Decision makers need to consider what consensus opinion might most likely be formed by neighbours and the broad Dunedin citizenry. Consent applications must be more broadly announced to the public in a more visible and prominent fashion. STOP believes that wider stakeholders than developers need to be consulted when developments will impact within rural areas or where visual impact will be felt by others.

Howard Saunders (FS2373.18, FS2373.56), Geoff Scurr Contracting Limited (FS2391.101, FS2391.115) and Federated Farmers of New Zealand (FS2449.149, FS2449.150) oppose HPPC (OS447.30) and STOP (OS900.66). Howard Saunders believes that it is an unnecessary addition of new objective as existing consent processes already allow affected parties to participate; efficient and acceptable processes exist without this. Geoff Scurr Contracting considers that the objective proposed is unnecessary. FFNZ believes that the proposed objective is inconsistent with the purpose and principles of RMA, and is both uncertain and unfair. Residential interests will be represented adequately through the current district plan rules and appropriate notification decisions when resource consent applications for development are made, it is impractical and unfair to allow unrestrained third party interest.

Dianne Reid (FS2200.1) opposes STOP (OS900.66) because she opposes the wider consultation and potential notification proposed. She believes this is unnecessary and does not meet the legal tests in the RMA.

Recommendation

While I agree with HPPC and STOP that the natural environment can be valued by a wide range of stakeholders for different reasons, I do not recommend the addition of this new objective for the same reasons as given in response to the submitters' request to add a new objective and policies under Strategic Direction 2.3 in section 5.2.7 above.

Request to add new policies to give effect to RPS Policy 2.1.6

Forest and Bird NZ (OS958.60) seek to add new policies as they believe that the proposed chapter should give effect to the policies of the proposed Otago Regional Policy statement relating to maintaining or enhancing areas of predominantly indigenous vegetation, buffer or link existing ecosystems and protect hydrological services including those provided by tussock grasslands etc. under their proposed policy 2.1.6. or similar.

Pigeon Flat Road Group (FS2416.53) opposes Forest and Bird NZ (OS958.60) as they consider this to be unnecessary and too restrictive on farming activity in all circumstances. Federated Farmers of New Zealand (FS2449.151) opposes Forest and Bird NZ (OS958.60) because they believe that it is unnecessary and that the indigenous vegetation provisions are adequately covered elsewhere in the Plan and RMA plans are to be read and taken in their entirety.

Recommendations

I note that Policy 2.1.6 in the notified version of the RPS is now numbered 3.1.9 in the decisions version of the RPS (pORPS-dv). This policy now reads as follows, although there are a number of appeals against the policy:

Manage ecosystems and indigenous biological diversity in terrestrial, freshwater and marine environments to achieve all of the following:

- a) Maintain or enhance ecosystem health and indigenous biological diversity;
- b) Maintain or enhance biological diversity where the presence of exotic flora and fauna supports indigenous biological diversity;
- c) Maintain or enhance areas of predominantly indigenous vegetation;
- d) Recognise and provide for important hydrological services, including the services provided by tussock grassland;
- e) Recognise and provide for natural resources and processes that support indigenous biological diversity;
- f) Maintain or enhance habitats of indigenous species and the habitat of trout and salmon that are important for recreational, commercial, cultural or customary purposes;
- g) Control the adverse effects of pest species, prevent their introduction and reduce their spread.

I note that the decisions version of the policy has removed the clause “buffer or link existing ecosystems”, which was one of the matters that Forest and Bird NZ submitted on. However, I also note that (amended) significance criterion (f) of Policy 2.2.3.1 includes “areas important for their ecological context as an ecological buffer, connection or as a habitat for indigenous fauna”.

The pORPS-dv Policy 3.2.1.9 is given effect to in the 2GP by a number of methods – scheduling of ASCVs and associated rules for ASCVs; vegetation clearance and earthworks rules for coastal and riparian margins, wetlands and urban conservation areas; maximum areas for indigenous vegetation clearance.

The Forest and Bird submission seeks an ecosystems approach, in particular by maintaining, protecting or enhancing areas of modified indigenous vegetation which contain indigenous biodiversity and habitats. I consider modified indigenous vegetation is managed by the following 2GP provisions:

ASCV scheduling - amended criterion (d) of Policy 2.2.3.1 is “areas that are examples of an indigenous vegetation type or habitat that is typical or characteristic of the natural diversity of the relevant ecological district, which may include degraded examples of their type or represent all that remains of indigenous vegetation and habitats of indigenous fauna in some areas”. Other criteria in amended Policy 2.2.3.1 (such as b, e-g) may also provide protection for modified indigenous vegetation that provides habitat for indigenous species as requested by the submitter.

Vegetation clearance rules – Rules 10.3.2.1 and 10.3.2.3 manage vegetation clearance in Urban Conservation Mapped Areas, and the margins of the coast, water bodies and wetlands. These rules will in effect protect mixed areas of exotic and indigenous vegetation.

Indigenous vegetation clearance rules – Rules 10.3.2.2 – 10.3.2.4 which manage indigenous vegetation clearance rely on a definition of indigenous vegetation that depends on either 20% or 30% dominance by indigenous species. This affords protection for areas of indigenous vegetation that may already be relatively heavily modified.

I am not recommending the addition of any new policies as a result of this submission.

Requests to remove or amend objectives 10.2.3, 10.2.4 and 10.2.5 and their associated policies

Robert George & Sharron Margaret Morris (OS355.15, 17, 18), Timothy George Morris (OS951.9, 11, 12) and Timothy Morris (on behalf of RG and SM Morris Family Trust) (OS1054.9, 11, 12) seek to remove objectives 10.2.3 and 10.2.5 and all their associated policies, and to amend Objective 10.2.4 and all associated policies, including by deleting Policy 10.2.4.1 and 10.2.4.3.

The submitters believe the provisions are too complicated; overly onerous on landowners; incompatible with Policy 16.2.1.1 of the 2GP; an unreasonable imposition on existing rural activities within the rural areas; that they have been developed without an appropriate level of consultation; that they are at odds with various miscellaneous normal and routine farming and related activities undertaken in rural areas; and are at odds with a number of cultural and economic considerations. Mapping of what DCC refer to HNCC, ONL and ONF areas has not been based on appropriate consultation.

Geoff Scurr Contracting Limited (FS2391.18) supports Timothy George Morris (on behalf of RG and SM Morris Family Trust) (OS1054.12) because he believes that the requested amendment is appropriate.

Recommendation

The statutory and strategic context for managing the natural character of the coastal environment and public access to the natural environment was set out in the Natural Environment Section 32 Report (pp 15-24). The context for landscape protection was set out in the Landscape section 32 report (pp 11-14). These provisions are also set out in section 3.0 above.

I note again that the preservation of the natural character of the coastal environment is a matter of national importance under section 6(a) of the RMA, the maintenance and enhancement of public access to and along the coastal marine area, lakes and rivers is a matter of national importance under section 6(d), and the protection of outstanding natural landscapes is a matter of national importance under section 6(b). I also note that management of activities in relation to these matters is also a requirement under the New Zealand Coastal Policy Statement.

I do not consider that the provisions are an unreasonable imposition on existing rural activities. Farming, grazing and conservation activities remain permitted land use activities in landscape and natural coastal character overlay zones. It is the effect of development activities that may be associated with these, particularly buildings and structures over a certain size and in certain locations, earthworks – large scale and indigenous vegetation clearance, which have been identified as requiring assessment to consider their effects on landscape and natural character values and public access.

In relation to mapping and consultation, the consultation phases of the 2GP prior to notification included materials showing the extent of proposed overlay zones, which included proposed landscape and coastal landscape layers, although these were refined as further assessment was conducted closer to notification.

I do not support the removal of these provisions, as I believe these are necessary to fulfil the DCC's obligations under the RMA, the New Zealand Coastal Policy Statement, and the Regional Policy Statement for Otago. While I recognise that the set of policies may be viewed by some plan

users as complicated, I consider that this policy set, which follows the 2GP drafting protocol as discussed in the Plan Overview section 42A report, provides clarity and certainty as to the activities and associated level of effects that are anticipated in landscape and natural coastal character overlay zones.

However, I refer the submitters to the response to their submissions on Objective 10.2.1 in section 5.4.2 below, which refers to recommended amendments to rural zones assessment rules, which may grant some relief to these submissions.

Recommended amendment:

Amendment 1

Amend 10.1 Introduction by moving the following paragraph prior to the fourth paragraph:

"The natural environment also makes an important contribution to the economic well-being of Dunedin, not least through the tourism sector. Tourism activities in general, particularly eco-tourism activities, rely on maintaining the quality of Dunedin's natural environment. The city's natural features and landscapes, natural character of the coast and other water bodies, and biodiversity all play an important role in contributing to the visitor experience." {RU447.10 and 900.22, NatEnv588.1}

5.4.2 Objective 10.2.1

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
OS690.7	Yellow-eyed Penguin Trust	I support the provision	Retain Objective 10.2.1 and associated policies	Accept	No amendment required
OS361.1	Ben Graham	I seek to have the above provision amended	Amend Objective 10.2.1 as follows: 'Areas of indigenous vegetation and the habitats of indigenous fauna are maintained and or enhanced.'	Reject	Do not amend Objective 10.2.1 as requested
OS364.1	Mathew O'Connell				
OS1084.1	John Scott				
FS2449.59, FS2449.61, FS2449.63	Federated Farmers of New Zealand	I support the submission	Support OS361.1, OS364.1, OS1084.1. Allow submissions.	Reject	Do not amend Objective 10.2.1 as requested
FS2444.13	Waste Management (NZ) Limited	I oppose the submission	Oppose OS364.1. Disallow submission	Accept	Do not amend Objective 10.2.1 as

					requested
OS796.17	Waste Management (NZ) Limited	I seek to have the above provision amended	Amend Objective 10.2.1 as follows: Areas of indigenous vegetation and the habitats of indigenous fauna are maintained and <u>if possible</u> enhanced.	Reject	Do not amend Objective 10.2.1 as requested
OS900.141 OS958.18	Save The Otago Peninsula (STOP) Inc Soc Forest and Bird NZ	I seek to have the above provision amended	Amend Objective 10.2.1 to read as follows: Areas of indigenous vegetation and the habitats of indigenous fauna are <u>identified, protected,</u> maintained and enhanced. Or have two separate objectives as follows: <u>Identify, protect and enhance areas of significant indigenous vegetation and significant habitats of indigenous fauna, including rare or threatened indigenous species.</u> <u>Areas of indigenous vegetation and the habitats of indigenous fauna are protected, maintained and enhanced.</u>	Accept in part	Amend Objective 10.2.1 as shown below
FS2449.66, FS2449.67	Federated Farmers of New Zealand	I oppose the submission	Oppose OS900.141, OS958.18. Disallow submissions.	Reject	Amend Objective 10.2.1 as shown below
OS919.21	Federated Farmers of New Zealand	I seek to have the above provision amended	Amend Objective 10.2.1 as follows: 'Areas of indigenous vegetation and the habitats of indigenous fauna <u>in Scheduled Areas for Conservation Value</u> are maintained and enhanced.'	Reject	Do not amend Objective 10.2.1 as requested
FS2267.8	Harboursides and Peninsula Preservation Coalition	I oppose the submission	Oppose OS919.21. Disallow submission.	Accept	Do not amend Objective 10.2.1 as requested
FS2482.18	Forest and Bird NZ	I oppose the	Oppose OS919.21. Disallow submission.	Accept	Do not amend

		submission			Objective 10.2.1 as requested
OS1088.30	Oceana Gold (New Zealand) Limited	I seek to have the above provision amended	Amend Objective 10.2.1 as follows: <u>'Impacts on significant Areas of indigenous vegetation and the important habitats of indigenous fauna are managed with a preference (where practicable) that they are maintained and enhanced.'</u> ; and make consequential changes to assessment rules	Reject	Do not amend Objective 10.2.1 as requested
OS951.1 OS1054.1	Timothy George Morris, Timothy Morris (on behalf of RG and SM Morris Family Trust)	I seek to have the above provision amended	Amend Objective 10.2.1 so that not at odds with other objectives, policies and rules of the plan	Reject	Do not amend Objective 10.2.1 as requested
FS2391.22	Geoff Scurr Contracting Limited	I support the submission	Support OS1054.1. Allow submission.	Reject	Do not amend Objective 10.2.1 as requested
OS361.3 OS364.3 OS1084.3	Ben Graham Mathew O'Connell John Scott	I seek to have the above provision amended	Add a new Policy under Objective 10.2.1 that states, <u>'Enable indigenous vegetation clearance associated with rural activities when that vegetation is not in an Area of Significant Indigenous Vegetation'</u> .	Reject	Do not add new policy as requested
FS2449.60, FS2449.62, FS2449.64	Federated Farmers of New Zealand	I support the submission	Support OS361.3, OS364.3, OS1084.3. Allow submissions.	Reject	Do not add new policy as requested
OS900.35 OS958.58	Save The Otago Peninsula (STOP) Inc Soc Forest and Bird NZ	I seek to have the above provision amended	Add new policy under Objective 10.2.1 as follows: <u>Maintain and enhance indigenous biodiversity when undertaking land management and development activities.</u>	Reject	Do not add new policy as requested
FS2391.109, FS2391.82	Geoff Scurr Contracting Limited	I oppose the submission	Oppose OS900.35, OS958.58. Disallow submissions.	Accept	Do not add new policy as requested

FS2439.12, FS2439.13	Oceana Gold (New Zealand) Limited	I oppose the submission	Oppose OS900.35, OS958.58. Disallow submissions or allow as amended by the following wording: " <u>When undertaking land management and development activities, manage impacts on significant indigenous biodiversity, with a preference (where practicable) that it is maintained and enhanced.</u> "	Accept	Do not add new policy as requested
FS2449.65, FS2449.68	Federated Farmers of New Zealand	I oppose the submission	Oppose OS900.35, OS958.58. Disallow submissions.	Accept	Do not add new policy as requested
FS2140.7	John Scott	I oppose the submission	Oppose OS958.58. Disallow submission and do not make changes as requested by submitter.	Accept	Do not add new policy as requested
FS2279.7	Ben Graham	I oppose the submission	Oppose OS958.58. Disallow submission and do not make changes as requested by submitter.	Accept	Do not add new policy as requested
FS2300.7	Mathew O'Connell	I oppose the submission	Oppose OS958.58. Disallow submission and do not make changes as requested by submitter.	Accept	Do not add new policy as requested
OS958.59	Forest and Bird NZ	I seek to have the above provision amended	Add the following new policy to implement Objective 10.2.1: <u>Avoid fragmentation, reduction in size and extent of indigenous ecosystems and habitats of indigenous species.</u>	Reject	Do not add new policy as requested
FS2439.14	Oceana Gold (New Zealand) Limited	I oppose the submission	Oppose OS958.59. Disallow submission.	Accept	Do not add new policy as requested
FS2449.69	Federated Farmers of New Zealand	I oppose the submission	Oppose OS958.59. Disallow submission.	Accept	Do not add new policy as requested

Background

Objective 10.2.1 states "Areas of indigenous vegetation and the habitats of indigenous fauna are maintained and enhanced".

This objective is given effect to through policies linked to rules on:

- activity status of conservation activity in all zones

- activity status of land use, development, subdivision and city-wide activities in scheduled ASCVs
- performance standards for vegetation clearance and indigenous vegetation clearance (rules 10.3.2.2 - 10.3.2.4)
- the performance standard relating to wilding tree species (Rule 10.3.4)
- the site restoration performance standard for mineral exploration and prospecting (Rule 16.5.11)
- rules guiding the assessment of mining and landfill activities in relation to site restoration (Rules 16.11.2.4 and 10.6.2.3)

Submissions on vegetation and indigenous vegetation policies 10.2.1.3 - 10.2.1.5 are discussed alongside submissions on the relevant rules 10.3.2.1 - 10.3.2.4 in section 5.8 below. Submissions on the tree species Policy 10.2.1.6 are discussed alongside submissions on the relevant Rule 10.3.4 in section 5.9 below.

Submissions in support

Yellow-eyed Penguin Trust (OS690.7) seeks to retain Objective 10.2.1 and associated policies because protection of indigenous biodiversity is a requirement of the RMA.

Submissions to change to “maintained or enhanced” or “maintained and if possible enhanced”

Ben Graham (OS361.1), Mathew O’Connell (OS364.1) and John Scott (OS1084.1) seek to amend Objective 10.2.1 as follows: ‘Areas of indigenous vegetation and the habitats of indigenous fauna are maintained ~~and~~ or enhanced.’

Their reasons are they believe the provision is unduly restrictive and uncertain. Federated Farmers of New Zealand (FS2449.59, FS2449.61, FS2449.63) supports Ben Graham (OS361.1), Mathew O’Connell (OS364.1) and John Scott (OS1084.1) because it does not feel that all indigenous vegetation needs to be maintained or enhanced and it is important that indigenous vegetation provisions do not restrict normal farming activities. Waste Management (NZ) Limited (FS2444.13) opposes Mathew O’Connell (OS364.1) because WMNZ prefers the relief sought in the WMNZ original submission.

Waste Management (NZ) Limited (OS796.17) seeks to amend Objective 10.2.1 because the submitter believes the objective should not require both maintenance and enhancement. It should seek to maintain areas of indigenous vegetation and if possible enhance.

Recommendations

Objectives in the plan are designed to be read as overall objectives for the city not objectives at a site or proposal level. This is reinforced by policies being written to provide guidance on what an acceptable outcome is on a case by case basis. In my opinion, it is appropriate at a city wide level to set an objective of areas of indigenous vegetation being both maintained in some circumstances and in enhanced in others. I therefore reject the submission to change the “and” to an “or” which implies a city wide outcome where there is no enhancement is acceptable.

Submissions to include “identified” and “protected”

STOP (OS900.141) and Forest and Bird (OS958.18) seek to amend Objective 10.2.1 to read “Areas of indigenous vegetation and the habitats of

indigenous fauna are identified, protected, maintained and enhanced”, or have two separate objectives, as section 6(c) requires objectives provide for the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna. Objectives should clearly state that ‘protection’ of these areas is expected, and activities that will result in adverse effects on SNAs should not occur. Wider areas of indigenous biodiversity need to be protected and maintained by avoiding, remedying or mitigating adverse effects in these areas.

Federated Farmers of New Zealand (FS2449.66, FS2449.67) opposes these submissions because they believe the amendments to be unnecessary and in this context ‘maintained and enhanced’ are the more appropriate terms.

Recommendation

I note that a similar submission was made by Forest and Bird regarding strategic Objective 2.2.3 in section 5.2.1 above. I have not recommended acceptance of this submission as I consider this strategic objective more wide-ranging than significant indigenous vegetation and habitats. It was noted that the policies under Objective 2.2.3 effectively split out significant areas (Policy 2.2.3.1) and sought identification and the promotion of protection of these, from a more general intent to maintain or enhance indigenous biodiversity (Policy 2.2.3.2).

These strategic policies are the level within the 2GP framework at which the methods of identification and protection (through scheduling or promoting as QEII covenants) of significant indigenous vegetation and habitats occurs. At the level of the Section 10 objectives and policies, it is assumed that these significant areas have already been identified and protected through scheduling, with the policies focussed on managing types of activities and their effects, either in scheduled ASCVS or in other areas that are not scheduled.

I do not recommend acceptance of these submissions to amend Objective 10.2.1.

Submissions to limit Objective 10.2.1 to scheduled and/or significant areas

Federated Farmers of New Zealand (FFNZ) (OS919.21) seeks to amend Objective 10.2.1 to limit it to Scheduled Areas for Conservation Value, as they consider Objective 10.2.1 and subsequent policies should specifically refer to scheduled sites. While FFNZ supports the intention to promote the maintenance and enhancement of indigenous vegetation and fauna beyond the scheduled areas, FFNZ does not agree this can be achieved efficiently or effectively through a regulatory approach. If there is no degree of significance introduced, then there is a lack of clarity, and farming within the city boundaries runs the risk of becoming unnecessarily hindered.

HPPC (FS2267.8) opposes FFNZ (OS919.21) because HPPC believes some varying degree of regulatory control is appropriate for ASCVs, overlays and the ‘standard’ Rural zone. Forest and Bird NZ (FS2482.18) opposes Federated Farmers of New Zealand (OS919.21) as they believe the amendments sought are not consistent with the purpose of Part II RMA or the provisions of this plan, or the NCPS.

Oceana Gold (New Zealand) Limited (OS1088.30) seeks to amend Objective 10.2.1 as follows: “Impacts on significant Areas of indigenous vegetation and the important habitats of indigenous fauna are managed with a preference (where practicable) that they are maintained and enhanced.” The submitter believes their proposed rewording of this objective is more appropriate to achieve the purpose of the RMA.

Recommendation

As outlined in the background above, the policies and rules used to achieve this objective include rules related to scheduled ASCVs and general rules (performance standards) for clearance of vegetation and indigenous vegetation. Therefore, any change to Objective 10.2.1 to limit it only to scheduled areas would require consequential changes to remove policies and rules related to non-scheduled areas, which I do not support.

I consider that the 2GP has a wider mandate to protect indigenous biodiversity not just limited to areas or habitats that are scheduled and considered significant as per RMA section 6(c). This mandate is provided through one of the functions of territorial authorities listed under RMA section 31(1)(b)(iii), namely the control of any effects of the use, development, or protection of land, for the purpose of the maintenance of indigenous biological diversity. Policy 3.1.9 of the pORPS-dv and Method 4.1.3 requires city and district plans to include provisions to maintain or enhance ecosystems and biological diversity and to protect significant indigenous vegetation and significant habitats of indigenous fauna. Again, this suggests a wider duty beyond areas that are considered significant.

I also do not consider that the objective should be amended so that areas of indigenous vegetation and habitats are “managed with a preference (where practicable) that they are maintained and enhanced”. This is an active statement that reads more as a policy, whereas the objective seeks a desired end-state of the maintenance or enhancement of areas of indigenous vegetation and habitats. Furthermore, the wording change dilutes and significantly reduces the aspiration of the objective in a way I consider contrary to Part 2 of the RMA and the requirements of the pORPS-dv.

Submissions to amend Objective 10.2.1 so that not at odds with other provisions

Timothy George Morris (OS951.1) and Timothy Morris (on behalf of RG and SM Morris Family Trust) (OS1054.1) supports the objective in principle, but seeks to amend Objective 10.2.1 so that it is not at odds with other objectives, policies and rules of the plan. His reasons are that he believes there is potential for these provisions to be applied in a manner inconsistent with other plan provisions, for example Policy 16.2.1.1. Geoff Scurr Contracting Limited (FS2391.22) supports Timothy Morris (on behalf of RG and SM Morris Family Trust) (OS1054.1) because he agrees that there are incompatibilities which need to be addressed.

Recommendation

I do not consider Objective 10.2.1 to be at odds with other 2GP provisions. I realise that there may sometimes be tension between activities such as farming and the objective to maintain or enhance areas of indigenous vegetation or habitats. However, I consider these tensions can be addressed by ensuring the rules are efficient as well as effective, and allow for appropriate exemptions.

In the absence of more specific examples of the conflict between Objective 10.2.1 and other provisions, or any proposed wording from the submitters, I do not recommend this submission is accepted. However, I note the recommended amendments to the rural zones assessment rules (refer sections 5.8.6.3, 5.13.4 and 5.13.8 below) in response to submissions from the same submitters. These amendments will introduce the assessment of positive effects in terms of supporting farming or conservation activity and the consideration of Objective 16.2.1 in any consideration of consent applications for development performance standard contraventions, restricted discretionary or discretionary activities.

Submissions to add policy to enable indigenous vegetation clearance outside scheduled ASCVs

Ben Graham (OS361.3), Mathew O'Connell (OS364.1) and John Scott (OS1084.3) seek to add a new policy under Objective 10.2.1 as follows: "Enable indigenous vegetation clearance associated with rural activities when that vegetation is not in an Area of Significant Indigenous Vegetation", to allow land owners to sustainably manage their property in accordance with the RMA 1991. Federated Farmers of New Zealand (FS2449.60, FS2449.62, FS2449.64) supports these submissions because they do not feel that all indigenous vegetation needs to be maintained or enhanced.

Recommendation

As set out in the response above to Federated Farmers (OS919.21), I consider that the 2GP has a wider mandate to protect indigenous biodiversity than just areas or habitats that are scheduled and considered significant as per RMA section 6(c). I consider that adding the suggested policy to being enabling of indigenous vegetation clearance outside ASCVs would mean that the 2GP would be too encouraging of indigenous vegetation activity, and would be counter to 2GP objectives and in conflict with both RMA and RPS requirements.

Submissions to add new policy to maintain and enhance indigenous biodiversity when undertaking activities

STOP (OS900.35) and Forest and Bird (OS958.58) seek to add a new policy under Objective 10.2.1 to "Maintain and enhance indigenous biodiversity when undertaking land management and development activities". No specific reason is given for this request.

Geoff Scurr Contracting Limited (FS2391.82, FS2391.109), Oceana Gold (New Zealand) Limited (FS2439.12, FS2439.13) and Federated Farmers of New Zealand (FS2449.65, FS2449.68) oppose these submissions. Geoff Scurr Contracting feels that wide community input is needed before these may be considered. Oceana Gold suggests an alternative wording: "When undertaking land management and development activities, manage impacts on significant indigenous biodiversity, with a preference (where practicable) that it is maintained and enhanced". FFNZ considers the new policy unnecessary and adequately covered by other policies. John Scott (FS2140.7), Ben Graham (FS2279.7), Mathew O'Connell (FS2300.7) oppose the submission of Forest and Bird (OS958.58) as they consider this to be unnecessary and too restrictive on farming activity in all circumstances.

Recommendation

I do not recommend that this proposed policy is accepted, as I consider it to be in effect a restatement of the objective. The maintenance and enhancement of indigenous vegetation and habitats of indigenous fauna are the outcome sought by Objective 10.2.1. The policies underneath this objective manage the land use and development activities that may impact on this outcome and specify the levels of effects that will be tolerated. I consider the proposed policy would not add anything to this framework and would detract from plan clarity.

Submissions to add new policy regarding fragmentation and reduction of ecosystems and habitats

Forest and Bird NZ (OS958.59) seeks to a new policy to implement Objective 10.2.1 as follows: "Avoid fragmentation, reduction in size and extent of indigenous ecosystems and habitats of indigenous species", as the submitter believes that biodiversity is often lost through cumulative effects that result in fragmentation and reduced habitat areas.

Oceana Gold (New Zealand) Limited (FS2439.14) opposes this submission because locationally constrained activities, such as mining, cannot always avoid fragmentation or reduction in size and extent of ecosystems and their habitats. Federated Farmers of New Zealand (FS2449.69) opposes the proposed new policy because it is unnecessary and adequately covered by other policies.

Recommendation

I consider the maximum thresholds for indigenous vegetation clearance provided by Rule 10.3.2.2, which I note are much reduced from the operative Plan, directly address the submitter’s concerns with regard to the cumulative effects of fragmentation and reduction in size and extent of indigenous ecosystems and habitats. These rules are to give effect to the following objectives:

Objective 2.2.3: Dunedin's indigenous biodiversity is retained, enhanced and restored, with improved connections and resilience.

Objective 10.2.1: Areas of indigenous vegetation and the habitats of indigenous fauna are maintained and enhanced.

I also note the changes to the significance criteria in Policy 2.2.3.1, which I consider better captures the range of different habitat types. I have recommended amendment to the assessment rules for vegetation clearance so that assessment guidance is added that will consider whether the area meets significance criteria as set out in Policy 2.2.3.1 and, if so, assess the significance of effects as if it was an ASCV. (Refer sections 5.8.5.3, 5.8.6.3 and 5.8.7.5).

On the basis of these recommended amendments elsewhere, I do not recommend the addition of the new policy suggested by the submitter. I note the wording of the suggested policy implies an absolute prohibition on any loss of indigenous vegetation or habitat which I do not consider is realistically achievable. I believe such aspirational statements are more appropriate at the objective level, and note that Objective 10.2.1 seeks that “Areas of indigenous vegetation and the habitats of indigenous fauna are maintained and enhanced”.

Recommended amendment:

None.

5.4.3 Policy 10.2.1.1

Sub pt #	Submitter Name	Support/Oppose/ Seek Amend	Summary Of Submission	Accept/Reject/ Accept in part	Staff Recommendation
OS1088.31	Oceana Gold (New Zealand) Limited	I support the provision	Retain Policy 10.2.1.1	Accept	Retain Policy 10.2.1.1
OS900.27	Save The Otago Peninsula (STOP) Inc Soc	I seek to have the above provision amended	Amend Policy 10.2.1.1 as follows: Encourage <u>the retention and enhancement of indigenous vegetation and habitats including restoration to increase</u>	Reject	Retain Policy 10.2.1.1

OS958.19	Forest and Bird NZ		<u>resilience, buffering and connectivity and provide for conservation activity in all zones.</u>		
FS2449.70	Federated Farmers of New Zealand	I oppose the submission	Oppose OS900.27. Disallow submission.	Accept	Retain Policy 10.2.1.1
FS2449.71	Federated Farmers of New Zealand	I oppose the submission	Oppose OS958.19. Disallow submission.	Accept	Retain Policy 10.2.1.1
OS951.2 OS1054.2	Timothy George Morris, Timothy Morris (on behalf of RG and SM Morris Family Trust)	I seek to have the above provision amended	Amend Policy 10.2.1.1 so that not at odds with other objectives, policies and rules of the plan	Reject	Retain Policy 10.2.1.1
FS2391.23	Geoff Scurr Contracting Limited	I support the submission	Support OS1054.2. Allow submission.	Reject	Retain Policy 10.2.1.1

Background

Policy 10.2.1.1 states “Encourage conservation activity in all zones”. The policy is linked to the permitted activity status for conservation in all management and nearly all major facility zones.

Submission in support of Policy 10.2.1.1

Oceana Gold (New Zealand) Limited (OS1088.31) seeks to retain Policy 10.2.1.1 because they support the policy.

Submissions to expand Policy 10.2.1.1 to include retention and enhancement of vegetation and habitats

STOP (OS900.27) and Forest and Bird NZ (OS958.19) seek to amend Policy 10.2.1.1 as follows:

“Encourage the retention and enhancement of indigenous vegetation and habitats including restoration to increase resilience, buffering and connectivity and provide for conservation activity in all zones.”

They support the policy in part, but believe that it needs to provide guidance as to how it will be achieved.

Federated Farmers of New Zealand (FS2449.70, FS2449.71) opposes these submissions because they believe it is unnecessary and that maintenance and enhancement are covered by other policies.

Recommendation

I do not support the submissions of STOP and Forest and Bird as it would make the policy misaligned with the rule framework. As stated in the background, the purpose of this policy is to set up the permitted activity status of conservation activity across all zones. Other policies in the Plan, such as Policy 10.2.1.3 and 10.2.1.4 relate to the indigenous vegetation clearance rule framework which seeks the retention of indigenous vegetation and habitats. I believe it is important to keep the policy and rule framework aligned and avoid overlap which would create confusion for plan users.

Submissions to amend Policy 10.2.1.1 so that not at odds with other plan provisions

Timothy George Morris (OS951.2) and Timothy Morris (on behalf of RG and SM Morris Family Trust) (OS1054.2) seek to amend Policy 10.2.1.1 so that it is not at odds with other objectives, policies and rules of the plan. Their reasons are they feel that there is potential for these provisions to be applied in a manner inconsistent with other plan provisions. Geoff Scurr Contracting Limited (FS2391.23) supports Timothy Morris (on behalf of RG and SM Morris Family Trust) (OS1054.2) because they agree that there are incompatibilities which need to be addressed.

Recommendation

In relation to the Morris submissions, I do not consider Policy 10.2.1.1 is at odds with other 2GP provisions. Conservation is rare in being a permitted land use activity in all management zones, compared to most other land use activities such as farming or residential activity where the activity status varies across management zones. It is an activity that does not give rise to a great range or severity of effects and can contribute positively to a number of strategic, citywide and management zone objectives.

I do not recommend any amendment in response to this submission.

Recommended amendment:

None.

5.4.4 Policy 10.2.1.2

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
OS951.4	Timothy George Morris	I support the provision	Retain Policy 10.2.1.2 but amend mapping to ensure that the extent of Areas of Significant Conservation Value is accurate	Accept in part	Retain Policy 10.2.1.2
OS1054.4	Timothy Morris (on behalf of RG and SM Morris Family Trust)	I support the provision	Retain Policy 10.2.1.2 but amend mapping to ensure that the extent of Areas of Significant Conservation Value is accurate	Accept in part	Retain Policy 10.2.1.2

OS690.8	Yellow-eyed Penguin Trust	I seek to have the above provision amended	Amend Policy 10.2.1.2 by clarifying that the biodiversity values are ' <u>including, but not limited to those referred to in the schedule</u> ' and make consequential changes to performance standards, assessment rules, maps and any other relevant Plan provisions	Accept	Amend policies 10.2.1.2, 10.2.1.10 and 10.2.1.11 as shown below
OS919.22	Federated Farmers of New Zealand	I seek to have the above provision amended	Amend Policy 10.2.1.2 as follows: ' Only allow land use and development activities in a Scheduled Area of Significant Conservation Value (ASCV) where these activities will have net positive <u>not, either directly or cumulatively, result in significant adverse</u> effects on the protection and enhancement of the biodiversity values of the Scheduled ASCV.'	Reject	Do not amend Policy 10.2.1.2 as requested
FS2267.14	Harboursides and Peninsula Preservation Coalition	I oppose the submission	Oppose OS919.22. Disallow submission and retain Policy 10.2.1.2 as proposed in the 2GP.	Accept	Do not amend Policy 10.2.1.2 as requested
FS2482.19	Forest and Bird NZ	I oppose the submission	Oppose OS919.22. Disallow submission.	Accept	Do not amend Policy 10.2.1.2 as requested
OS1088.32	Oceana Gold (New Zealand) Limited	I seek to have the above provision amended	Amend Policy 10.2.1.2 as follows: ' <u>Provide for</u> Only allow land use and development activities in a Scheduled Area of Significant Conservation Value (ASCV) where these activities will <u>not</u> have net positive <u>negative</u> effects on the protection and enhancement of the biodiversity values of the Scheduled ASCV.'; and make consequential changes to assessment rules	Reject	Do not amend Policy 10.2.1.2 as requested
OS900.142	Save The Otago Peninsula (STOP) Inc Soc	I seek to have the above provision amended	Remove Policy 10.2.1.2 and replace with: <u>Avoid landuse and development activities within a Scheduled Area of Significant Conservation Value (ASCV), or a</u>	Reject	Do not replace Policy 10.2.1.2 as requested

			<u>wetland, or where there are threatened plant species, or wildlife species or mature trees on the important native tree species list present, or within an area that meets the criteria in Policy 2.2.3.1 for significant natural areas.</u>		
FS2391.118	Geoff Scurr Contracting Limited	I oppose the submission	Oppose OS900.142. Disallow submission.	Accept	Do not replace Policy 10.2.1.2 as requested
FS2444.48	Waste Management (NZ) Limited	I oppose the submission	Oppose OS900.142. Disallow submission	Accept	Do not replace Policy 10.2.1.2 as requested
FS2449.72	Federated Farmers of New Zealand	I oppose the submission	Oppose OS900.142. Disallow submission.	Accept	Do not replace Policy 10.2.1.2 as requested
OS958.20	Forest and Bird NZ	I oppose the provision	Remove Policy 10.2.1.2 and re-write as follows: Only allow land use and development activities in a Scheduled Area of Significant Conservation Value (ASCV) where these activities will have net positive effects on the protection and enhancement of the biodiversity values of the Scheduled ASCV. <u>Avoid land use and development activities within a Scheduled Area of Significant Conservation Value (ASCV), or a wetland, or where there are threatened plant species, or wildlife species or mature trees on the important native tree species list present, or within an area that meets the criteria in Schedule xxx for significant natural areas, and schedule xxx for Important Bird Areas.</u>	Reject	Do not replace Policy 10.2.1.2 as requested
FS2449.73	Federated Farmers of New Zealand	I oppose the submission	Oppose OS958.20. Disallow submission.	Accept	Do not replace Policy 10.2.1.2 as requested

Background

Policy 10.2.1.2 states “Only allow land use and development activities in a Scheduled Area of Significant Conservation Value (ASCV) where these activities will have net positive effects on the protection and enhancement of the biodiversity values of the Scheduled ASCV”. The schedule of

ASCVs is provided in Appendix A1.2, including a brief description and values statement for each ASCV.

This policy leads to the activity status rules for land use and development activities in ASCVs, with the exception of indigenous vegetation clearance, and as such applies to restricted discretionary, discretionary and non-complying activities.

I note that the drafting protocol generally only uses the terminology of "only allow" for restricted discretionary and discretionary activities and generally uses "avoid...unless" for non-complying activities. In the case of Policy 10.2.1.2, one policy covers both because the policy test of "will have net positive effects on the protection and enhancement of the biodiversity values of the Scheduled ASCV" is considered a higher bar test that is adequate to cover all instances.

Submission in support

Timothy George Morris (OS951.4) and Timothy Morris (on behalf of RG and SM Morris Family Trust) (OS1054.4) seeks to retain Policy 10.2.1.2 but amend mapping to ensure that the extent of Areas of Significant Conservation Value is accurate. They believe that the areas where the extent of what is referred to as an ASCV are inaccurately mapped and that the extent of ASCV areas have been developed without adequate, or any, ground truthing.

Recommendation

The support of Timothy Morris for Policy 10.2.1.2 is noted. With regard to mapping, submissions on the mapping of ASCVs are considered in section 5.14 below.

Submission to extend scope of biodiversity values considered by Policy 10.2.1.2

Yellow-eyed Penguin Trust (OS690.8) seeks to amend Policy 10.2.1.2 so that the biodiversity values considered by the policy are not limited those referred to in Schedule A1.2. The ASCVs owned and managed by the Trust have their values for yellow eyed penguins recognised in the schedules, but in the long term the Trust would like these reserves to also support wider biodiversity values (e.g. other seabirds, geckos, endangered vegetation etc.) and the policy should support this.

Recommendation - Amendment 1

I note that the values statements for each ASCV provided in Schedule A1.2 vary in length but in many cases are brief. While these may provide a starting guide for assessment, I agree with the submitter that any assessment forming part of a consent application in an ASCV should not be limited to these. More information on biodiversity values may come to light with any ecological assessment accompanying or associated with any consent application, or may be made available via other means.

I note that the assessment rules to do with ASCVs (10.5.2.7-10.5.2.9, 10.6.2.6-10.6.2.7, 10.7.2.2-10.7.2.3) refer to the biodiversity values of ASCVs without limiting these to the values listed in Appendix A1.2. However, I consider that Policy 10.2.1.2 should be amended to clarify that a wider view of these values is intended, and have recommended an amendment below.

I also note that policies 10.2.1.10 and 10.2.1.11, which apply to network utilities and energy generation in ASCVs, refer to the “identified biodiversity values” of the ASCV. I recommend that, as a consequential change, that the word “identified” be removed from these policies and the same or similar amendment made as to Policy 10.2.1.2 to ensure consistency of approach. I note there are submissions to remove these two policies entirely (refer section 5.4.7 below), with submitters (STOP and Forest and Bird) stating that it is not clear what the identified biodiversity values are. I consider these submissions provide scope to amend policies 10.2.1.10 and 10.2.1.11 in the same way as Policy 10.2.1.2.

Submission to “allow” activities in ASCVs where no significant adverse effects

Federated Farmers of New Zealand (OS919.22) seeks to amend Policy 10.2.1.2 to “allow” land use and development activities in ASCVs where these will “not, either directly or cumulatively, result in significant adverse effects” on biodiversity values. The submitter believes it is unclear whether this policy relates solely to wetlands. If the policy does relate to scheduled areas beyond wetlands, the policy sets a very high bar which at face value is likely to be unachievable. Even if it relates specifically to wetlands the bar remains considerably high. They believe the aim of this policy should be to define inappropriate activities, instead of only enabling certain activities, and the aim should be to maintain or enhance instead of focussing on net positive benefit. It also conflicts with Policy 10.2.1.4, which allows for maintenance.

HPPC (FS2267.14) opposes FFNZ as they believe the amendment significantly weakens protection of indigenous vegetation. Forest and Bird NZ (FS2482.19) opposes FFNZ as they believe the amendments sought are not consistent with the purpose of Part II RMA or the provisions of the 2GP, or the NCPS.

Recommendation

Policy 10.2.1.2 relates to all scheduled ASCVs, not just wetlands. These scheduled areas are those that meet the significance criteria set out in Policy 2.2.3.1 and are considered matters of national importance according to RMA section 6(c). I consider the high bar set by Policy 10.2.1.2 to be appropriate given the level of significance of these areas and the fact that they have been individually assessed and their boundaries drawn accordingly. I do not support the suggested change to allow activities where adverse effects on the protection and enhancement of the biodiversity values of the Scheduled ASCV are tolerated, as long as the adverse effects are not significant. I consider that tolerating adverse effects on scheduled ASCVs would not be an appropriate means of achieving Objective 10.2.1.

The “only allow” policy wording is consistent with the 2GP drafting protocol and leads to the use of restricted discretionary and discretionary activity status. The rationale for the drafting protocol was addressed as part of the Plan Overview hearing.

Submission to “provide for” activities in ASCVs where these will not have negative effects on biodiversity values

Oceana Gold (New Zealand) Limited (OS1088.32) seeks to amend Policy 10.2.1.2 to “provide for” activities in ASCVs where these will not have negative effects on biodiversity values. The submitter believes that the purpose of the RMA is enabling and the suggested rewording reflects this. The proposed RPS promotes the enabling of resources unless there is a good reason to avoid or manage them. The DCC should have regard to this and formulate its objectives and policies in this way.

Recommendation

I do not recommend the change to “provide for” as I do not consider that the 2GP objectives and policies are intended to be encouraging of land

use and development activities in ASCVs, with the exception of conservation activity. I consider the “only allow” to be consistent with the approach to assessing restricted discretionary and discretionary activities in ASCVs, noting that a number of land use activities are proposed to be non-complying in ASCVs.

I consider that this approach has regard to the pORPS-dv. *Policy 3.2.2 Managing significant vegetation and habitats* of the pORPS-dv seeks to “protect and enhance” areas of significant indigenous vegetation and significant habitats of indigenous fauna, and requires “Avoiding adverse effects on those values which contribute to the area or habitat being significant”. I consider that this policy provides a basis to carefully and cautiously manage the land use and development activities that may occur in an ASCV.

Submissions to amend Policy 10.2.1.2 to refer to “avoid” activities and to apply it to all areas that meet significance criteria

STOP (OS900.142) seeks to remove Policy 10.2.1.2 and replace it with: “Avoid land use and development activities within a Scheduled Area of Significant Conservation Value (ASCV), or a wetland, or where there are threatened plant species, or wildlife species or mature trees on the important native tree species list present, or within an area that meets the criteria in Policy 2.2.3.1 for significant natural areas.” Forest and Bird NZ (OS958.20) seeks a similar change but with reference to new schedules for significant natural areas and important areas they wish to include in the Plan.

The aspect of these submissions that seeks to extend policies (which would require consequential changes to the rules) to manage activities in areas not scheduled as ASCVs that meet the significance criteria, was addressed in section 5.2.3 above. I refer the submitters to this response, rather than addressing again this part of their submission on Policy 10.2.1.2. In terms of their request to change the policy test in this policy from “only allow” to “avoid...activities”, STOP states that what constitutes “net positive effects” introduces uncertainty.

Geoff Scurr Contracting Limited (FS2391.118), Waste Management (NZ) Limited (FS2444.48) and Federated Farmers of New Zealand (FS2449.72) oppose STOP (OS900.142), and Federated Farmers of New Zealand (FS2449.73) opposes Forest and Bird NZ (OS958.20). Waste Management (NZ) considers that the normal tests under the RMA should apply in regards to effects, and that the word “avoid” should not be used as it results in a form of prohibition. FFNZ views the amendment as unnecessarily restrictive and believe that activities that have a positive effect should be allowed. Geoff Scurr Contracting is concerned about the implications of the term “avoid” in the context of the plan and suggest that definitions may be required.

Recommendation

Both STOP and Forest and Bird seek to “avoid” land use and development activities within an ASCV, or an area that meets the significance criteria, or a range of other areas (wetlands, areas where there are threatened plant or wildlife species, or mature trees on the native tree species list). I do not consider the policy should be amended to “avoid” with no “unless” qualifier as this implies prohibition of any land use or development activity in an ASCV (or one of the other areas suggested in the policy).

There are many activities proposed to be non-complying in ASCVs, as well as some that proposed to be restricted discretionary and discretionary. The choice of using “only allow” (which is used for RD and D activities according to the drafting protocol) as opposed to

"Avoid...unless" (which is used for NC activities under the drafting protocol, was to avoid policy repetition and create a 'one-stop-shop' policy covering both situations. However, the policy does include a very high test of requiring "net positive effects" on the protection and enhancement of biodiversity values so this level of test is more reflective of a non-complying activity, thus it has characteristics of both types of policy wording. The policy also applies to areas that have been assessed and scheduled specifically as ASCVs, and is clearly focused on protection.

I consider the current wording to be appropriate and do not recommend these submissions are accepted.

Recommended amendment:

Amendment 1

Amend Policy 10.2.1.2 as follows, and make consequential changes to assessment rules:

"Only allow land use and development activities in a Scheduled Area of Significant Conservation Value (ASCV) where these activities will have net positive effects on the protection and enhancement of the biodiversity values of the Scheduled ASCV including, but not limited to, those biodiversity values listed in Schedule A1.2". {NatEnv690.8}

Amend Policy 10.2.1.10 as follows, and make consequential changes to assessment rules:

"Only allow network utilities poles and masts - small scale, on-site energy generation devices, network utility structures - large scale, community scale solar panels and wind generators, and energy resource investigation devices in a Scheduled Area of Significant Conservation Value (ASCV) {NU 576.62 and others} where adverse effects on the identified {NatEnv900.33} biodiversity values of the ASCV {NU 576.62 and others} can will {cl. 16} be avoided or, where avoidance is not possible, would be ~~insignificant~~ no more than minor {NU 576.62 and others}, with values including, but are not limited to, those values listed in Schedule A1.2". {NatEnv900.33}

Amend Policy 10.2.1.11 as follows, and make consequential changes to assessment rules:

"Avoid wind generators - community scale, ~~biomass generators - stand-alone~~ {NU 308.137 and others} and regional scale energy generation in a Scheduled Area of Significant Conservation Value (ASCV) unless there are no adverse effects on the ~~identified~~ biodiversity values of the Scheduled ASCV including, but not limited to, those biodiversity values listed in Schedule A1.2". {NatEnv900.34}

5.4.5 Policy 10.2.1.7

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
OS900.80	Save The Otago Peninsula (STOP) Inc Soc	I seek to have the above provision amended	Amend Rule 10.4.4.6 by adding to the relevant objectives and policies Objective 2.2.3 and policies 2.2.3.1, 2.2.3.2, 2.2.3.3. and policy 10.2.1.1 as amended by this submission, and by deleting para (ii): "Mineral exploration and prospecting replant indigenous vegetation where it existed prior to the activity commencing and where it has been cleared as part of the exploration or prospecting activity (Policy 10.2.1.7)"	Accept in part	Amend Rule 10.4.4.6 as shown below
OS958.87	Forest and Bird NZ				
FS2449.207	Federated Farmers of New Zealand	I oppose the submission	Oppose OS900.80. Disallow submission.	Reject	Amend Rule 10.4.4.6 as shown below
FS2439.33	Oceana Gold (New Zealand) Limited	I oppose the submission	Oppose OS958.87. Disallow submission.	Reject	Amend Rule 10.4.4.6 as shown below
OS900.143	Save The Otago Peninsula (STOP) Inc Soc	I oppose the provision	Remove Policy 10.2.1.7	Reject	Retain Policy 10.2.1.7
OS949.8	Department of Conservation	I oppose the provision	Remove Policy 10.2.1.7	Reject	Retain Policy 10.2.1.7
OS958.25	Forest and Bird NZ	I oppose the provision	Remove Policy 10.2.1.7.	Reject	Retain Policy 10.2.1.7
OS1088.35	Oceana Gold (New Zealand) Limited	I seek to have the above provision amended	Amend Policy 10.2.1.7 as follows: 'Require mineral exploration and mineral prospecting to restore, <u>where practicable</u> , indigenous vegetation where it existed before the activity commenced and has been cleared as part of the exploration or prospecting activity.'; and make consequential changes to assessment rules	Accept in part	Amend Rule 16.5.11 as shown below.

Background

Policy 10.2.1.7 states "Require mineral exploration and mineral prospecting to restore indigenous vegetation where it existed before the activity commenced and has been cleared as part of the exploration or prospecting activity".

Policy 10.2.1.7 sets up a performance standard for mineral exploration and prospecting, which are permitted activities in the rural zones. Rule 16.5.11 Site Restoration requires restoration of areas disturbed by mineral prospecting and mineral exploration with respect to landform and productive potential, and requires replanting of indigenous vegetation.

The site restoration performance standard recognises that exploration and prospecting may involve significant indigenous vegetation clearance and requires that where indigenous vegetation clearance has taken place, replanting of indigenous vegetation must be conducted on at least the same parts of the site as where indigenous vegetation existed prior to the activity commencing.

For a contravention of the site restoration performance standard, the activity becomes restricted discretionary. The related assessment rule in Section 16 links to assessment Rule 10.4.4.6 which considers effects on biodiversity and links back to Objective 10.2.1 and Policy 10.2.1.7.

In all other zones and in ASCVs and ONFs, ONCCs and HNCCs in the rural and rural residential zones, mineral exploration and prospecting is a non-complying activity under Policy 10.2.1.2 which only allows land use and development activities in an ASCV where there are net positive effects and Policies 10.2.3.1 and 10.2.5.1 which limit rural (and community) activities in the ONCC and HNCC and ONFs respectively to those not requiring buildings or involving a change to landform. In an ASCV, Rule 10.7 (assessment of non-complying activities) provides guidance as to the assessment of resource consents in relation to Objective 10.2.1 and effects related to biodiversity and links to Policy 10.2.1.2 it does not link to Policy 10.2.1.7.

I note that the requirements around restoration and rehabilitation in terms of mining activities were covered in the Mining section 42A report.

Requests to remove Policy 10.2.1.7

Save the Otago Peninsula (STOP) (OS900.143) and Forest and Bird NZ (OS958.25) seek to remove Policy 10.2.1.7 because they consider it to be an assessment matter. I note also that STOP seeks the removal of Rule 16.5.11 because "STOP opposed mineral exploration if one did not then intend to grant a licence to mine ..." The submitters state that mineral exploration and prospecting are subject to policies 10.2.1.1, 10.2.1.2, 10.2.1.3 and 10.2.1.4. The submitters further state that "where consents are granted for mineral exploration or prospecting, restoration of any affected area of indigenous vegetation to re-establish the habitat that previously existed should be required" with the species being used "the same as those affected, and should aim to recreate the habitat".

Department of Conservation (DOC) (OS949.8) seeks the removal of Policy 10.2.1.7, because the submitter suggests that, rather than requiring restoration of vegetation specific to these activities, there should be an assessment of the effects of all activities on biodiversity values. The submitter requests that any adverse effects on biodiversity values is avoided, remedied or mitigated, or "where appropriate addressed through application of biodiversity offsetting". The submitter further states that this is provided for in Policy 10.2.1.3 "including amendments sought to that Policy". See section 5.1.3 for a recommendation on the related submission from DOC to replace the wording of Policy 10.2.1.3 with alternative wording including reference to biodiversity offsetting.

Recommendation (Amendments 1 and 2)

The detail and explanations by these submitters indicate they do not understand the primary role of this policy in terms of the performance standard on mineral exploration and prospecting where it is a permitted activity and this misunderstanding makes it difficult to respond to this submission and the relief sought. However, I agree that as written the policy would probably be read to also apply to the assessment of mineral exploration and prospecting where it requires resource consent, although I note it is not referenced as relevant in assessment Rule 10.7.2 (assessment of non-complying activities), therefore, I suggest amending the policy so it is clear it only applies in relation to the permitted activity performance standard.

As the submitters do not seem to focus on this as a permitted activity performance standard it is difficult to understand if they would want Policy 10.2.1.7 removed had they understood that. In my opinion, nonetheless, Policy 10.2.1.7 and its related rule, 16.5.11, are appropriate means to achieve the objective. With regard to STOP's request to remove Rule 16.5.11, I note that the reason given by the submitter is truncated in the submission but I have inferred that this request is linked to the related submission of STOP to change the activity status of mining in landscape and natural coastal character overlay zones and ASCVs, which is addressed in section 5.16.3.

In response to the request by STOP and Forest and Bird that species to be used in replanting would be the same as those removed, I consider that this would be a desirable outcome, although I consider that the use of the same species that would support the creation of habitat that is common to the area would also be desirable (where this might be different), noting that some species are difficult to access from commercial nurseries. I recommend an amendment to Rule to 16.5.11 Site Restoration to provide for the recreation of the pre-existing habitat, as shown below.

In response to the submission by DOC that there should be an assessment of the effects of all activities on biodiversity values, see the discussion in section 5.1.3 on this subject. With regard to the request to add reference to biodiversity offsetting, in my opinion this may be a useful approach in maintaining or enhancing indigenous biodiversity, however, I do not see how it can be written into a performance standard in a way that is certain and objective; instead in my opinion it should be considered in assessing consents to contravene this standard. Therefore, I have recommended a change to Rule 10.4.4.6, which is further discussed in relation to the submission immediately below.

Request to amend Policy 10.2.1.7

Oceana Gold (New Zealand) Limited (OS1088.35) seeks to amend Policy 10.2.1.7 because the submitter considers that, as presently worded, the policy is too restrictive and it "does not recognise that in some instances it may be impractical to restore indigenous vegetation where it existed before exploration and prospecting took place."

Recommendation – Amendment 3

I note again that this is a policy is primarily related to the performance standard for mineral exploration, which will be further clarified in the recommended amendments to the policy wording. In my opinion this policy and its related performance standard are appropriate, and note that contravention of the standard only results in a restricted discretionary activity status.

I consider that if a situation arises where the organisation undertaking the exploration or prospecting cannot meet the standard that it is appropriate that the activity is assessed as a restricted discretionary activity (performance standard contravention). In this case, it may be appropriate to consider biodiversity offsetting for instances where it is not practicable to carry out complete restoration of indigenous vegetation in the same place as it existed prior to the activity. I recommend amending Rule 10.4.4.6 to allow for biodiversity offsetting to be considered under general assessment guidance.

Request to add objectives and policies to Rule 10.4.4.6 and delete clause (ii)

STOP (OS900.80) and Forest and Bird NZ (OS958.87) seek to amend Rule 10.4.4.6 by adding to the relevant objectives and policies Objective 2.2.3 and policies 2.2.3.1, 2.2.3.2, 2.2.3.3 and Policy 10.2.1.1. They also seek to delete clause (ii): "Mineral exploration and prospecting replant indigenous vegetation where it existed prior to the activity commencing and where it has been cleared as part of the exploration or prospecting activity (Policy 10.2.1.7)". The submitters state that there "should be a general standard that applies in all situations where restoration is undertaken. Restoration should aim to re-establish the habitat that previously existed. The indigenous species used should be those that naturally occur or occurred in the area."

Federated Farmers of New Zealand (FS2449.207) opposes the STOP submission, stating that "The amendments proposed go significantly further than appropriate or required for performance standards in this area". Oceana Gold (New Zealand) Limited (FS2439.33) opposes the Forest and Bird submission, as it does not support the additional objectives and policies or the removal of the reference to mineral exploration and prospecting.

Recommendation:

As was introduced in the Plan Overview hearing, the 2GP is designed to have a direct and linear relationship between policies and rules in the plan, which is reinforced through the drafting protocol and the reference to related objectives and policies in assessment rules. This direct relationship is something that has been encouraged by the Environment Court. The assessment rules provide links to the objectives and policies that are most relevant to the assessment based on those that have a direct relationship with the provision. In terms of strategic directions policies, these set up the Plan's methods and are mainly referred to in the case of non-complying activities as they are important part of testing the effect of granting non-complying activities on plan integrity.

Policy 10.2.1.7 is correctly referenced as the policy that directly leads to the site restoration performance standard.

While Objective 2.2.3 and policies 2.2.3.1, 2.2.3.2, 2.2.3.3 are concerned with the retention, enhancement and restoration of indigenous biodiversity, none of these policies specifically introduce the site restoration standard or are directly related to it, though I note they are both related to the same broad topic of retaining, enhancing and restoring Dunedin's indigenous biodiversity. I am not recommending inclusion of these in Rule 10.4.4.6 as they are not directly relevant and because any indigenous vegetation clearance required as part of mineral exploration and prospecting will be subject to the vegetation clearance Rule 10.3.2, which will separately assess such objectives and policies.

I do not recommend that Policy 10.2.1.7 should be removed from Rule 10.4.4.6, as I have not recommended acceptance of the submissions by

the same submitters to remove this policy altogether from the 2GP, as discussed above. However, also as discussed above in response to submissions on Policy 10.2.1.7 by the same submitters, that species to be used in replanting would be the same as those removed, I have recommended an amendment to 16.5.11 as shown below.

Recommended amendment:

Amendment 1:

Amend Policy 10.2.1.7 as follows, and make consequential changes to assessment rules:

Require permitted mineral exploration and mineral prospecting to restore indigenous vegetation where it existed before the activity commenced and has been cleared as part of the exploration or prospecting activity. {NatEnv900.143, NatEnv958.25}

Amendment 2:

Amend 16.5.11 Site Restoration as follows:

~~Areas disturbed by mineral prospecting and mineral exploration must restore any areas disturbed to a standard not less than that existing prior to the activity commencing- {NatEnv900.143, NatEnv958.25} with respect to landform and productive potential. Restoration must be completed prior to the end of the lease, licence, or consent, whichever is earliest. Where indigenous vegetation clearance has occurred been conducted as part of the activity, replanting of indigenous vegetation must be conducted on at least the same parts of the site as where indigenous vegetation existed prior to the activity commencing the area cleared must be replanted with species that existed prior to the clearance, or with species that will support the restoration to a composition typical of remnant patches of indigenous vegetation in the area. {NatEnv900.143, NatEnv958.25}~~

Amendment 3

Amend Rule 10.4.4 Assessment of land use performance standard contraventions located in the management and major facility zones as follows:

Activity		Matters of discretion	Guidance on the assessment of resource consents
6.	Site restoration	a. Effects on biodiversity	<p><i>Relevant objectives and policies:</i></p> <ul style="list-style-type: none"> i. Objective 10.2.1 ii. Mineral exploration and prospecting replant indigenous vegetation where it existed prior to the activity commencing and where it has been cleared as part of the exploration or prospecting activity (Policy 10.2.1.7).

iii. Where it is not practicable to restore indigenous vegetation where it existed prior to mineral exploration and prospecting, enable the use of biodiversity offsetting where in accordance with the guidance in Policy 2.2.3.5, {NatEnv1088.35}

5.4.6 Policy 10.2.1.8

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
OS919.115	Federated Farmers of New Zealand	I support the provision	Retain Policy 10.2.1.8	Accept in part	Retain Policy 10.2.1.8, subject to amendments to provide for biodiversity offsets.
FS2267.17	Harboursides and Peninsula Preservation Coalition	I oppose the submission	Oppose OS919.115. Disallow submission and remove Policy 10.2.1.8.	Reject	Retain Policy 10.2.1.8, subject to amendments to provide for biodiversity offsets.
OS458.10	Saddle Views Estate Limited	I seek to have the above provision amended	Amend Rule 10.2.1.8 to refer to 'significant' indigenous vegetation and 'rehabilitation' of the quarry rather than restoration.	Reject	Retain Policy 10.2.1.8, subject to amendments to provide for biodiversity offsets.
FS2267.12	Harboursides and Peninsula Preservation Coalition	I oppose the submission	Oppose OS458.10. Disallow submission.	Accept	Retain Policy 10.2.1.8, subject to amendments to provide for biodiversity offsets.
OS874.12	Blackhead Quarries	I oppose the	Remove Policy 10.2.1.8.	Reject	Retain Policy

	Ltd	provision			10.2.1.8, subject to amendments to provide for biodiversity offsets.
OS900.145	Save The Otago Peninsula (STOP) Inc Soc	I oppose the provision	Remove Policy 10.2.1.8	Reject	Retain Policy 10.2.1.8, subject to amendments to provide for biodiversity offsets.
OS901.8	Tussock Top Farm Ltd	I oppose the provision	Remove Policy 10.2.1.8.	Reject	Retain Policy 10.2.1.8, subject to amendments to provide for biodiversity offsets.
OS949.9	Department of Conservation	I oppose the provision	Remove Policy 10.2.1.8	Reject	Retain Policy 10.2.1.8, subject to amendments to provide for biodiversity offsets.
OS958.26	Forest and Bird NZ	I oppose the provision	Remove Policy 10.2.1.8.	Reject	Retain Policy 10.2.1.8, subject to amendments to provide for biodiversity offsets.
OS1088.36	Oceana Gold (New Zealand) Limited	I oppose the provision	Remove Policy 10.2.1.8; and make consequential changes to assessment rules	Reject	Retain Policy 10.2.1.8, subject to amendments to provide for biodiversity offsets.

Background

Policy 10.2.1.8 states "Only allow mining and landfills where there is certainty that indigenous vegetation will be restored on land where it existed before the activity commenced and has been cleared as part of the mining or landfill activity".

The intent of Policy 10.2.1.8 is to ensure appropriate protections are provided for areas of indigenous vegetation which may be cleared due to

mining or landfill activities by requiring that they be restored following the activity.

The policy is linked to Rule 10.6.2.3 Assessment of discretionary activities (mining and landfills). In addition, Rural section Rule 16.11.2.4 (assessment of mining and landfills) refers back to section 10.6 for guidance on the assessment of resource consents in relation to Objective 10.2.1 and effects related to biodiversity.

Note that in response to a submission by Waste Management NZ (OS796.18) requesting that 'mitigation planting' be provided for in Policy 10.2.1.8, along with wider submissions on biodiversity offsets discussed in section 5.1.3, I have recommended that the policy (and consequential changes to Rule 10.6.2.3) be amended to read:

~~"Only allow mining and landfills where there is certainty adverse effects on biodiversity values are avoided or, where avoidance is not possible, minimised as far as practicable, with a preference given to restoration of indigenous vegetation and other biodiversity values on land where it existed before, but enabling the use of biodiversity offsets where this can not be achieved" that indigenous vegetation will be restored on land where it existed before the activity commenced and has been cleared as part of the mining or landfill activity {NatEnv796.18 }~~

Request to retain Policy 10.2.1.8

Federated Farmers of New Zealand (OS919.115) seek to retain Policy 10.2.1.8 "on the basis that definition of landfills specifically excludes farm landfills." This submission is opposed by Harboursides and Peninsula Preservation Coalition (FS2267.17) because "it would seem reasonable that there be certainty of restoration subsequent to mining/landfill".

Recommendation

I acknowledge the submission of FFNZ to retain the policy and accept the submission in part on the basis that the definition of landfills excludes farm landfills. It appears that the further submission by HPPC has misunderstood the intent of the FFNZ submission which does not object to the requirement for restoration following mining and landfills.

Requests to amend Policy 10.2.1.8 to refer to 'significant' indigenous vegetation

Saddle Views Estate Limited (OS458.10) request to amend Policy 10.2.1.8 to refer to 'significant' indigenous vegetation and 'rehabilitation' of the quarry rather than restoration. The submission is opposed by HPPC (FS2267.12) because the submitter considers that the "protection of natural landscapes and features as an overall objective should not be diluted by standard, uncompromised commercial interests."

Recommendations

I do not agree that Policy 10.2.1.8 should be amended to refer to 'significant' indigenous vegetation as requested by Saddle Views Estate Limited because, as discussed in section 5.4.2, I consider that the 2GP has a wider mandate to protect indigenous biodiversity that is not just limited to areas or habitats scheduled and considered significant as per RMA section 6(c). I also do not agree that the word 'rehabilitation' should replace 'restoration' in the policy. Although there was a change recommended in the Mining section 42A report to refer to 'rehabilitation' of mining sites in terms of landform and visual effects in rural zones, I consider that restoration is more appropriate terminology in relation to indigenous

vegetation. 'Restoration planting' is a commonly understood term used on a widespread basis in resource management plans and guidance documents in New Zealand. However, as noted in the background to this section, a change was recommended to Policy 10.2.1.8 as a result of submissions on biodiversity offsetting to recognise that it may not always be practicable to restore indigenous vegetation on land where it previously existed.

Requests to remove Policy 10.2.1.8

Oceana Gold (New Zealand) Limited (OS1088.36) seeks to remove Policy 10.2.1.8 because the submitter considers that this policy is impractical because "some mining features such as pits, water storage areas and tailings impoundments" will not be able to be restored with indigenous vegetation.

STOP (OS900.145) and Forest and Bird NZ (OS958.26) seek to remove Policy 10.2.1.8 as the submitters believe that it is an assessment matter and is not appropriate as policy. The submitters state that mining and landfills are subject to policies 10.2.1.1, 10.2.1.2, 10.2.1.3 and 10.2.1.4, subject to amendments requested. Further, the submitters state that the policy "fails to provide for Part II RMA matters, or maintain the district's biodiversity" and that the restoration of indigenous vegetation should aim to re-establish the habitat that previously existed with the species being used to be the same as those removed. The submitter also suggests the use of bonds.

The Department of Conservation (DOC) (OS949.9) seeks the removal of Policy 10.2.1.8, because the submitter suggests that, rather than requiring the restoration of vegetation specific to these activities, there should be an assessment of the effects of all activities on biodiversity values. The submitter requests that any adverse effects on biodiversity values is avoided, remedied or mitigated, or "where appropriate addressed through application of biodiversity offsetting". The submitter further states that this is provided for in Policy 10.2.1.3 "including amendments sought to that Policy.

Blackhead Quarries Ltd (OS874.12) and Tussock Top Farm Ltd (OS901.8) seek to remove Policy 10.2.1.8 as part of their full submissions, that the 2GP adequately recognise the importance of aggregate resources and provide for the development of new quarries and for appropriate protection for existing quarries.

Recommendations

In response to the submissions of STOP and Forest and Bird NZ, I disagree with the submitters that the policy "fails to provide for Part II RMA matters to maintain the district's biodiversity" as it is one of a suite of policies which include specific policies for areas of significant conservation value and urban conservation areas as well as for protected species. In relation to the submitters' request that restoration should involve a re-establishing of habitat, note that I have recommended that the site restoration rule (16.5.11) be amended to state that areas cleared must be replanted with species that existed prior to the clearance. I do not consider it necessary to include an additional assessment rule within the assessment rule for Policy 10.2.1.8 (Rule 16.11.2.4) because there is already a clause in the recommended additions to the general assessment guidance around the rehabilitation of mining and landfill sites (see Mining Activities section 42A report) that requires that vegetation cover appropriate to the local character is established. In addition I have proposed a new assessment rule to allow for biodiversity offsetting to be considered that refers to biodiversity offsetting guidance. This provides guidance around the requirement that offsets will be 'like for 'like'. With

regard to the use of bonds, this is already provided for under Rule 16.11.2.4.t as a condition that may be imposed.

With regard to the submissions made by STOP and Forest and Bird that the policy should be deleted because it is an assessment matter, I consider that it is necessary to have a policy that directly addresses requirements for mining and landfills as they are activities that are likely to involve substantial vegetation clearance. The policy links directly to Rule 10.6.2. (Assessment of discretionary activities) for mining and landfills and the requirement for restoration of indigenous vegetation where it has been removed by the activity.

With regard to DOC's submission, that there should be an assessment of the effects of all activities on biodiversity values provided for by Policy 10.2.1.3 and that Policy 10.2.1.8 should be deleted because it is specific to mining and landfills, I have recommended against amending Policy 10.2.1.3 in the manner sought by the submitter (see section 5.1.3 for discussion). However, I agree with DOC in so far as I consider that there should be an assessment of the effects of activities on biodiversity effects (outside of ASCVs and UCAs) where they contravene the maximum indigenous vegetation clearance performance standards or for activities requiring consent other than mining and landfills. I note that it is already a requirement under Rule 10.6.2 to consider Objective 10.2.1 when assessing any discretionary activity as well as restricted discretionary activities such as subdivision and earthworks. I do not consider it necessary to include specific reference to other activities within Policy 10.2.1.8 as mining and landfills are 'special cases' in that they may be associated with substantial, non-permanent clearance of indigenous vegetation. Other activities would be assessed on a case by case basis and any associated indigenous vegetation clearance above the maximum area allowed would be subject to assessment as a restricted discretionary activity (performance contravention), which requires that effects on biodiversity are considered.

With regard to Oceana Gold's submission, I consider that the way that Policy 10.2.1.8 is currently worded may not often be achievable in practice and would set a very high bar for mining and landfill activities to achieve. I acknowledge that in the case of some activities, as highlighted in Oceana Gold's submission, it may not be possible to restore indigenous vegetation on particular features. However, I do not consider that it is appropriate to delete the policy and instead prefer the amendment (and consequential amendments to assessment rules) recommended in section 5.1.3 to allow for biodiversity offsets as a potential management tool where it is not possible to restore indigenous vegetation where it was originally present.

With regard to the submission of Blackhead Quarries and Tussock Top Farm seeking greater recognition of aggregate resources, the Mining Activities section 42A report recommended amendments as a result of related submissions by the same submitters that acknowledge the role of such activities in the rural environment. In my opinion the 2GP recognises that mining activities may require more than minor/significant vegetation clearance while ensuring that these activities are subject to a requirement to restore indigenous vegetation where it has been removed.

Recommended amendment:

None.

5.4.7 Policies 10.2.1.9, 10.2.1.10 and 10.2.1.11

Sub pt #	Submitter Name	Support/Oppose/ Seek Amend	Summary Of Submission	Accept/Reject/ Accept in part	Staff Recommendation
OS900.32	Save The Otago Peninsula (STOP) Inc Soc	I oppose the provision	Remove Policy 10.2.1.9.	Accept in part	Amend Policy 10.2.1.9 as shown below.
OS949.10	Department of Conservation	I oppose the provision	Remove Policy 10.2.1.9.	Reject	Do not remove Policy 10.2.1.9 as requested.
OS958.27	Forest and Bird NZ	I oppose the provision	Remove Policy 10.2.1.9.	Accept in part	Amend Policy 10.2.1.9 as shown below.
OS900.33	Save The Otago Peninsula (STOP) Inc Soc	I oppose the provision	Remove Policy 10.2.1.10	Reject	Do not remove Policy 10.2.1.10 as requested.
OS949.11	Department of Conservation	I oppose the provision	Remove Policy 10.2.1.10	Reject	Do not remove Policy 10.2.1.10 as requested.
OS958.28	Forest and Bird NZ	I oppose the provision	Remove Policy 10.2.1.10.	Reject	Do not remove Policy 10.2.1.10 as requested.
OS900.34	Save The Otago Peninsula (STOP) Inc Soc	I oppose the provision	Remove Policy 10.2.1.11	Reject	Do not remove Policy 10.2.1.11 as requested.
OS949.12	Department of Conservation	I oppose the provision	Remove Policy 10.2.1.11	Reject	Do not remove Policy 10.2.1.11 as requested.
OS958.29	Forest and Bird NZ	I oppose the provision	Remove Policy 10.2.1.11.	Reject	Do not remove Policy 10.2.1.11 as requested.
OS592.7	Dianne Reid	I seek to have the	Amend Policy 10.2.1.9 as follows: 'Only	Reject	Do not amend Policy

		above provision amended	allow Enable subdivision activities where the subdivision is designed to ensure any future land use or development activities will: ... (b) avoid, or if avoidance is not possible, adequately mitigate adverse effects on protect other important areas of indigenous vegetation or the habitat of indigenous fauna'.		10.2.1.9 as requested
FS2473.7	David Hiom and Kerry Hiom	I oppose the submission	Oppose OS592.7. Disallow submission.	Accept	Do not amend Policy 10.2.1.9 as requested

Background

Policy 10.2.1.9 states:

"Only allow subdivision activities where the subdivision is designed to ensure any future land use or development activities will:

- maintain or enhance the biodiversity and conservation values associated with any Scheduled Area of Significant Conservation Value (ASCV) or an Urban Conservation Mapped Area (UCMA); and
- avoid or, if avoidance is not possible, adequately mitigate adverse effects on other important areas of indigenous vegetation or the habitat of indigenous fauna."

Policy 10.2.1.10, incorporating a minor amendment, a change recommended in the Network Utilities Section 42A report, and a change recommended above in response to submissions on Policy 10.2.1.2, states:

"Only allow network utilities poles and masts - small scale, on-site energy generation devices, network utility structures - large scale, community scale solar panels and wind generators, and energy resource investigation devices in a Scheduled Area of Significant Conservation Value (ASCV) {NU 576.62 and others} where adverse effects on the identified {NatEnv900.33} biodiversity values of the ASCV {NU 576.62 and others} can will {cl. 16} be avoided or, where avoidance is not possible, would be ~~insignificant~~ no more than minor {NU 576.62 and others}, with values including, but are not limited to, those values listed in Schedule A1.2". {NatEnv900.33}

Policy 10.2.1.11, incorporating a change recommended in the Network Utilities Section 42A report, and a change recommended above in response to submissions on Policy 10.2.1.2, states:

"Avoid wind generators - community scale, ~~biomass generators — stand alone~~ {NU 308.137 and others} and regional scale energy generation in a Scheduled Area of Significant Conservation Value (ASCV) unless there are no adverse effects on the ~~identified~~ biodiversity values of the Scheduled ASCV including, but not limited to, those biodiversity values listed in Schedule A1.2". {NatEnv900.34}

Submissions

STOP (OS900.32, OS900.33 and OS900.34) and Forest and Bird NZ (OS958.27, OS958.28 and OS958.29) seek to remove Policies 10.2.1.9, 10.2.1.10 and 10.2.1.11 because they believe these policies create confusion; in these submitters' view, the activities listed in these policies should be subject to Policies 10.2.1.1, 10.2.1.2, 10.2.1.3 and 10.2.1.4 and 10.2.1.5 as amended by their submissions. In the submitters' view, all activities should be subject to the same policies aimed to protect areas of significant indigenous vegetation and significant habitats of indigenous fauna, and maintain the district's indigenous biodiversity. The submitters also make the following specific points about Policies 10.2.1.9, 10.2.1.10 and 10.2.1.11:

- The matters referred to in Policy 10.2.1.9 should be included as assessment matters in Rule 10.5.2.2
- It is not clear what "other important areas of indigenous vegetation and habitats" (Policy 10.2.1.9) refers to
- It is not clear what "identified biodiversity values" (Policy 10.2.1.10) are. If this policy is not deleted, the submitters request that the policy be amended to spell this out
- Why are the activities referred to Policy 10.2.1.11 are subject to a policy of avoidance when mining is not subject to a policy of this kind?

Department of Conservation (OS949.10, OS949.11 and OS949.12) seeks to remove Policies 10.2.1.9, 10.2.1.10 and 10.2.1.11 because they believe addressing individual land use activities separately overcomplicates the provisions of the 2GP with regard to indigenous vegetation clearance. In DOC's view, the provisions should focus on determining and addressing the effects of land use activities on biodiversity as a result of vegetation clearance.

Recommendation – Accept in part (Amendment 1)

With respect to STOP, Forest and Bird, and DOC's requests that Policies 10.2.1.9, 10.2.1.10 and 10.2.1.11, which relate to subdivision, and to network utilities activities, be removed, and that these activities instead be subject to Policies 10.2.1.1 to 10.2.1.5:

- I note that Policies 10.2.1.1 to 10.2.1.5 relate to the activity status of, and performance standards applying to, land use and development activities in ASCVs, and are, therefore, not relevant either to subdivision activities or to network utilities activities. Both "subdivision activities" and "network utilities activities" have their own provisions in the 2GP, which are separate from those that apply to "land use activities" and "development activities". (For further information, see 2GP Section 1.3 Nested Tables.) As a result, I consider that it is necessary to retain Policies 10.2.1.9, 10.2.1.10 and 10.2.1.11, in order to provide a policy framework for the activity statuses of subdivision and network utilities activities in ASCVs. The activity status of subdivision in ASCVs is set out in the management and major facility zone sections of the plan, while those for network utilities are set out in Rule 5.3.2, which is the activity status table for Section 5: Network Utilities and Energy Generation. In accordance with the 2GP drafting protocol, the "only allow" phrasing, in Policies 10.2.1.9 and 10.2.1.10, applies to activities that are restricted discretionary or discretionary in ASCVs, and the "avoid... unless" phrasing, in Policy 10.2.1.11, applies to activities that are non-complying in ASCVs.

I agree with STOP and Forest and Bird's comment that the meaning of "other important areas of indigenous vegetation and habitats" (Policy 10.2.1.9) is unclear. I recommend that the word "important" should be removed, to clarify that any subdivision activity should achieve Objective 10.2.1 by considering the potential for adverse effects on indigenous vegetation or the habitat of indigenous fauna and how these might be mitigated.

With respect to STOP and Forest and Bird's comments on the wording of Policies 10.2.1.10 and 10.2.1.11, which relate to network utilities and

energy generation activities:

- I agree with STOP and Forest and Bird that the phrase "identified biodiversity values", which appears in Policy 10.2.1.10 as notified, is unclear. I note that changes to this policy recommended in both the Network Utilities Section 42A report, and in this report in response to a submission from the Yellow-Eyed Penguin Trust on Policy 10.2.1.2 (see recommended changes set out in the background section above), would clarify the meaning of this phrase. I consider that these changes also provide the clarification sought by STOP and Forest and Bird; therefore, I do not consider that any further amendment is necessary in response to their submissions.
- In relation to the question of why mining is not subject to a policy of avoidance in ASCVs, I refer the submitters to the response to their submissions on Policy 10.2.1.2 in section 5.4.4 above.

Submission to enable subdivision and ensure it will "protect" important areas of indigenous vegetation

Dianne Reid (OS592.7) seeks to amend Policy 10.2.1.9 to 'enable' subdivision activities as shown in the table above, as she considers the current policies are restrictive rather than supportive. The submitter states that "given the importance of retention, maintenance and enhancement of indigenous biodiversity (within section 31) it is appropriate to actually incentivise people to achieve this rather than simply restrict development."

The submission is opposed by David Hiom and Kerry Hiom (FS2473.7) in relation to the submitters' overall opposition to more intensive zoning and a higher intensity of use in the vicinity of their property at Saddle Hill Road.

Recommendations

I do not consider that it is appropriate to amend Policy 10.2.1.9 to 'enable' subdivision activities as this wording is used in the 2GP for permitted activities, whereas subdivision has restricted discretionary status and the words "avoid or, if avoidance is not possible, adequately mitigate adverse effects..." reflect a medium level of strictness, recognising that subdivision has the potential to adversely affect indigenous vegetation or the habitat of indigenous fauna.

Recommended amendment:

Amendment One

Amend Policy 10.2.1.9 as follows, and make consequential changes to assessment rules:

"Only allow subdivision activities where the subdivision is designed to ensure any future land use or development activities will:

- a. maintain or enhance the biodiversity and conservation values associated with any Scheduled Area of Significant Conservation Value (ASCV) or an Urban Conservation Mapped Area (UCMA); and
- b. avoid or, if avoidance is not possible, adequately mitigate adverse effects on other ~~important~~ {NatEnv900.32} areas of indigenous vegetation or the habitat of indigenous fauna".

Note that amendments to Policies 10.2.1.10 and 10.2.1.11 are recommended in response to other submissions, in section 5.4.4 above.

5.4.8 Objective 10.2.2

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
OS690.9	Yellow-eyed Penguin Trust	I support the provision	Retain Objective 10.2.2	Accept	Retain Objective 10.2.2
OS893.18	Ravensdown Limited	I support the provision	Retain Objective 10.2.2.	Accept	Retain Objective 10.2.2
OS900.36	Save The Otago Peninsula (STOP) Inc Soc	I seek to have the above provision amended	Amend Objective 10.2.2 as follows: The biodiversity values and natural character of the coast and riparian margins are preserved, maintained and enhanced	Reject	Do not amend Objective 10.2.2 as requested
OS958.30	Forest and Bird NZ				
FS2140.25, FS2140.5	John Scott	I oppose the submission	Oppose OS900.36, OS958.30. Disallow submissions and do not make changes as requested by submitters.	Reject	Do not amend Objective 10.2.2 as requested
FS2279.25, FS2279.5	Ben Graham	I oppose the submission	Oppose OS900.36, OS958.30. Disallow submissions and do not make changes as requested by submitters.	Reject	Do not amend Objective 10.2.2 as requested
FS2300.25, FS2300.5	Mathew O'Connell	I oppose the submission	Oppose OS900.36, OS958.30. Disallow submissions and do not make changes as requested by submitters.	Reject	Do not amend Objective 10.2.2 as requested
FS2391.47, FS2391.80	Geoff Scurr Contracting Limited	I oppose the submission	Oppose OS900.36, OS958.30. Disallow submissions and retain Objective 10.2.2 as proposed in the 2GP.	Reject	Do not amend Objective 10.2.2 as requested
FS2416.25, FS2416.5	Alan Brown, Carrowmore Properties Limited,	I oppose the submission	Oppose OS900.36 and OS958.30. Disallow submissions and retain the word "maintain" in Objective 10.2.2 as proposed in the 2GP.	Reject	Do not amend Objective 10.2.2 as requested

	Robyn and Stephan Smith and Rick and Jill Clarke ("Pigeon Flat Road Group")				
FS2449.92, FS2449.94	Federated Farmers of New Zealand	I oppose the submission	Oppose OS900.36 and OS958.30. Disallow submissions.	Reject	Do not amend Objective 10.2.2 as requested
OS951.3	Timothy George Morris	I seek to have the above provision amended	Amend Objective 10.2.2 so that not at odds with other objectives, policies and rules of the plan	Reject	Do not amend Objective 10.2.2 as requested
OS1054.3	Timothy Morris (on behalf of RG and SM Morris Family Trust)	I seek to have the above provision amended	Amend Objective 10.2.2 so that not at odds with other objectives, policies and rules of the plan	Reject	Do not amend Objective 10.2.2 as requested
FS2391.24	Geoff Scurr Contracting Limited	I support the submission	Support OS1054.3. Allow submission.	Reject	Do not amend Objective 10.2.2 as requested
OS1088.37	Oceana Gold (New Zealand) Limited	I seek to have the above provision amended	Amend Objective 10.2.2 as follows: 'The <u>significant</u> biodiversity values and natural character of the coast and riparian margins are maintained and enhanced.'; and make consequential changes to assessment rules	Reject	Do not amend Objective 10.2.2 as requested
OS900.43 OS958.61	Save The Otago Peninsula (STOP) Inc Soc Forest and Bird NZ	I seek to have the above provision amended	Add new policy under Objective 10.2.2 as follows: <u>Significant adverse effects of the use and development on habitats of indigenous birds in wetlands, beds of rivers and lakes and their margins for breeding, roosting, feeding and migration are avoided and other effects are avoided, remedied or mitigated.</u>	Reject	Addressed with related submission points in section 5.2.6
FS2391.110	Geoff Scurr Contracting Limited	I oppose the submission	Oppose OS900.43. Disallow submission.	Accept	Addressed with related submission points in section 5.2.6

FS2439.19, FS2439.20	Oceana Gold (New Zealand) Limited	I support the submission	Support OS900.43 and OS958.61 (part). Allow submissions with amendment placing appropriate focus on identified significant indigenous birds and/or identified areas of significant habitat.	Reject	Addressed with related submission points in section 5.2.6
FS2449.93, FS2449.95	Federated Farmers of New Zealand	I oppose the submission	Oppose OS900.43 and OS958.61. Disallow submissions.	Accept	Addressed with related submission points in section 5.2.6

Background

Objective 10.2.2 states “The biodiversity values and natural character of the coast and riparian margins are maintained and enhanced”.

This objective and its policies lead to rules that manage:

- the location of activities in relation to the coast and water bodies (Rule 10.3.3 Setback from Coast and Water Bodies)
- vegetation clearance in coastal and riparian margins (Rule 10.3.2.3 Protected areas)
- earthworks near the coast and water bodies (the earthworks sediment control rule in all zone sections)
- the creation of esplanade reserves or strips when subdivision occurs adjacent to the coast and water bodies (Rule 10.3.1 Esplanade Reserves and Strips)
- assessment of the effects of hazard mitigation earthworks and structures on the coast and water bodies (Rules 8.5.2.1 and 10.6.2.2)

Submissions on Policies 10.2.2.2, 10.2.2.3 and 10.2.2.5, which link to Rules 10.3.1, 10.3.2.2 and 10.3.3, are discussed alongside submissions on these rules, in sections 5.7.4, 5.8.7.2 and 5.6.2 below.

Submissions in support

Yellow-eyed Penguin Trust (OS690.9) seeks to retain Objective 10.2.2 because they believe protection of indigenous biodiversity and coastal values are requirements of the Act.

Ravensdown Limited (OS893.18) seeks to retain Objective 10.2.2 because they support the objective which represents good resource management practice and will promote the sustainable management of natural and physical resources.

Requests to replace word “maintained” with “preserved”

STOP (OS900.36) and Forest and Bird NZ (OS958.30) seek to amend Objective 10.2.2 as follows: “The biodiversity values and natural character of the coast and riparian margins are preserved, ~~maintained~~ and enhanced”. The submitters believe the objective does not meet the requirements of Part II RMA or the NZ Coastal Policy Statement.

John Scott (FS2140.25, FS2140.5), Ben Graham (FS2279.25, FS2279.5), Mathew O’Connell (FS2300.25, FS2300.5), Geoff Scurr Contracting

Limited (FS2391.47, FS2391.80), the Pigeon Flat Road Group (FS2416.25, FS2416.5) and Federated Farmers of New Zealand (FS2449.92, FS2449.94) oppose STOP (OS900.36) and Forest and Bird NZ (OS958.30). John Scott, Ben Graham, Mathew O'Connell and the Pigeon Flat Road Group believe the deletion of "maintain" and use of "preserve" unduly prejudices farming activities. Geoff Scurr Contracting prefers the original wording. FFNZ believe the amendments unnecessary and go further than the RMA intended.

Recommendations

The use of the words "preserved" and "maintained" was discussed in section 5.2.12 above, in relation to Objective 2.4.5. As discussed there, the meanings are similar although I consider "preserved" has a more absolute connotation than "maintained", as it seems to imply locking something up or setting it in stone. I consider this terminology works best at the strategic level when considering natural character at an overall scale (i.e. Objective 2.4.5). However, at this level and particularly when used in conjunction with "values", I consider that "maintained" and "enhanced" offer better terminology to allow for the variation in quality of natural character across different parts of the coast and riparian margins – in other words, that preservation may not be appropriate where natural character is poor.

While strategic Objective 2.4.5 is solely concerned with the natural character of the coast, Objective 10.2.2 is concerned with both biodiversity values and the natural character of the coast and also riparian margins. While ecological aspects are a component of natural character, the word "preserved" may be problematic in respect of biodiversity values as these will be prone to change.

I note that Policy 3.1.2 of the pORPS-dv specifies "maintain or enhance natural character" in relation to the management of the beds of rivers, lakes, wetlands, their margins, and riparian vegetation. The pORPS-dv seeks to "preserve or enhance" natural character when it is considered in outstanding or high natural character areas of the coast (policies 3.2.9, 3.2.10).

Requests to amend Objective 10.2.2 so that not at odds with other provisions

Timothy George Morris (OS951.3) and Timothy Morris (on behalf of RG and SM Morris Family Trust) (OS1054.3) seek to amend Objective 10.2.2 so that it is not at odds with other objectives, policies and rules of the plan, believing there is potential for these provisions to be applied in a manner inconsistent with other plan provisions. Geoff Scurr Contracting Limited (FS2391.24) supports Timothy Morris (OS1054.3) because they agree that there are incompatibilities which need to be addressed.

Recommendations

I do not consider Objective 10.2.2 to be at odds with other 2GP provisions. I realise that there may sometimes be tension between activities such as farming and the objective to maintain or enhance areas biodiversity and natural character. However, I consider these tensions can be addressed by ensuring the rules associated with this objective and its policies allow for appropriate exemptions.

In the absence of more specific examples of the conflict between Objective 10.2.2 and other provisions, or any proposed wording from the submitters, I do not recommend this submission is accepted.

Request to amend Objective 10.2.2 to "significant biodiversity values"

Oceana Gold (New Zealand) Limited (OS1088.37) seeks to amend Objective 10.2.2 as follows: 'The significant biodiversity values and natural character of the coast and riparian margins are maintained and enhanced". The submitter believes the proposed amendment is more appropriate to achieve the purpose of the RMA.

Recommendations

Objective 10.2.2 leads via Policy 10.2.2.3 to Rule 10.3.2.3 which controls all vegetation clearance, including indigenous vegetation clearance, in coastal and riparian margins. This policy and rule do not limit clearance to those areas deemed to contain "significant" biodiversity. Therefore, the objective as written better aligns with the existing rule framework.

I consider this approach (objective and rule framework) is appropriate to give effect to the 2GP strategic Objective 2.2.3 to retain, enhance and restore indigenous biodiversity with improved connections and resilience. As noted above under section 5.4.2, the 2GP has a wider mandate to protect indigenous biodiversity not just limited to areas or habitats that are scheduled and considered significant as per RMA section 6(c), a mandate supported by Policy 3.1.9 of the pORPS-dv. Policy 3.1.2 of the pORPS-dv also seeks to manage riparian vegetation to "maintain or enhance ecosystem health and indigenous biological diversity" without restricting this to significant biological diversity.

Coastal and riparian margins can provide critical areas for biodiversity, including the opportunity for enhanced biodiversity connections and improved resilience of ecosystems. The control of indigenous vegetation clearance in these margins also contributes to the preservation or enhancement of natural character. I do not recommend the objective is amended as requested.

Recommended amendment:

None.

5.4.9 Policy 10.2.2.1

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
OS900.37	Save The Otago Peninsula (STOP) Inc Soc	I seek to have the above provision amended	Amend Policy 10.2.2.1 as follows: Encourage <u>the retention and enhancement of indigenous vegetation and habitats including restoration to increase resilience, buffering and connectivity and provide for conservation activity in coastal and riparian margins.</u> (Inferred: "in coastal and riparian margins" rather than "in all zones")	Reject	Retain Policy 10.2.2.1
OS958.31	Forest and Bird NZ				

FS2391.53	Geoff Scurr Contracting Limited	I oppose the submission	Oppose OS900.37. Disallow submission and retain Policy 10.2.2.1 as proposed in the 2GP.	Accept	Retain Policy 10.2.2.1
FS2439.17	Oceana Gold (New Zealand) Limited	I oppose the submission	Oppose OS900.37. Disallow submission and retain Policy 10.2.2.1 as proposed in the 2GP.	Accept	Retain Policy 10.2.2.1
FS2449.97	Federated Farmers of New Zealand	I oppose the submission	Oppose OS900.37. Disallow submission.	Accept	Retain Policy 10.2.2.1
FS2439.18	Oceana Gold (New Zealand) Limited	I oppose the submission	Oppose OS958.1. Disallow submission and retain Policy 10.2.2.1 as proposed in the 2GP.	Accept	Retain Policy 10.2.2.1
FS2449.98	Federated Farmers of New Zealand	I oppose the submission	Oppose OS958.31. Disallow submission.	Accept	Retain Policy 10.2.2.1

Background

Policy 10.2.2.1 states “Encourage conservation activity in coastal and riparian margins”. The policy is linked to the permitted activity status for conservation in all management and nearly all major facility zones.

Submissions

STOP (OS900.37) and Forest and Bird NZ (OS958.31) seek to amend Policy 10.2.2.1 as follows: “Encourage the retention and enhancement of indigenous vegetation and habitats including restoration to increase resilience, buffering and connectivity and provide for conservation activity in coastal and riparian margins”. The submitters state that the policy needs to provide guidance as to how it will be achieved.

Geoff Scurr Contracting Limited (FS2391.53) opposes STOP (OS900.37) because they prefer the original wording. Oceana Gold (New Zealand) Limited (FS2439.17, FS2439.18) opposes STOP (OS900.37) and Forest and Bird NZ (OS958.31) as they support the policy in its current form in the 2GP. Federated Farmers of New Zealand (FS2449.97, FS2449.98) opposes STOP (OS900.37) and Forest and Bird NZ (OS958.31) because they believe the amendment unnecessarily verbose and the meaning is lost amongst the proposed additional wording.

Recommendations

I do not support the submissions of STOP and Forest and Bird as it would make the policy misaligned with the rule framework and overly complicated. As stated in the background, the purpose of this policy is to set up the permitted activity status of conservation activity across all zones. Other policies in the Plan, such as Policy 10.2.1.3 and 10.2.1.4 relate to the indigenous vegetation clearance rule framework which seeks the retention of indigenous vegetation and habitats. I believe it is important to keep the policy and rule framework aligned and avoid overlap which would create confusion for plan users.

Recommended amendment:

None.

5.4.10 Policy 10.2.2.4

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
OS322.33	KiwiRail Holdings Limited	I seek to have the above provision amended	Amend Policy 10.2.2.4 as follows: Require earthworks to minimise the risk of sediment entering the sea or water bodies by: a. being set back an adequate distance from the coast and water bodies <u>where practicable</u> - and b. by using appropriate sediment control techniques to ensure sediment does not enter waterbodies or the sea.	Accept in part	Amend Policy 10.2.2.4 as shown below.
FS2481.4	Ravensdown Limited	I support the submission	Support OS322.33. Allow submission	Accept in part	Amend Policy 10.2.2.4 as shown below.
OS893.20	Ravensdown Limited	I support the provision	Retain Policy 10.2.2.4.	Accept in part	Retain Policy 10.2.2.4, subject to amendments as shown below.
OS900.40 OS958.34	Save The Otago Peninsula (STOP) Inc Soc Forest and Bird NZ	I seek to have the above provision amended	Amend Policy 10.2.2.4 as follows: "Require earthworks to avoid <u>minimise</u> the risk of sediment entering the sea or water bodies by..."	Reject	Do not amend Policy 10.2.2.4 as requested.
FS2140.30	John Scott	I oppose the submission	Oppose OS900.40. Disallow submission and do not make changes as requested by submitter.	Accept	Do not amend Policy 10.2.2.4 as requested.
FS2279.30	Ben Graham	I oppose the submission	Oppose OS900.40. Disallow submission and do not make changes as requested by	Accept	Do not amend Policy 10.2.2.4 as

			submitter.		requested.
FS2300.30	Mathew O'Connell	I oppose the submission	Oppose OS900.40. Disallow submission and do not make changes as requested by submitter.	Accept	Do not amend Policy 10.2.2.4 as requested.
FS2391.56	Geoff Scurr Contracting Limited	I oppose the submission	Oppose OS900.40. Disallow submission.	Accept	Do not amend Policy 10.2.2.4 as requested.
FS2416.30	Alan Brown, Carrowmore Properties Limited, Robyn and Stephan Smith and Rick and Jill Clarke ("Pigeon Flat Road Group")	I oppose the submission	Oppose OS900.40. Disallow submission and retain word "minimise" in Policy 10.2.2.4 as proposed in the 2GP.	Accept	Do not amend Policy 10.2.2.4 as requested.
FS2449.107	Federated Farmers of New Zealand	I oppose the submission	Oppose OS900.40. Disallow submission.	Accept	Do not amend Policy 10.2.2.4 as requested.
FS2481.14	Ravensdown Limited	I oppose the submission	Oppose OS900.40. Disallow submission	Accept	Do not amend Policy 10.2.2.4 as requested.
FS2140.10	John Scott	I oppose the submission	Oppose OS958.34. Disallow submission and do not make changes as requested by submitter.	Accept	Do not amend Policy 10.2.2.4 as requested.
FS2202.6	Clifton Trust	I oppose the submission	Oppose OS958.34. Disallow submission and do not make changes as requested by submitter.	Accept	Do not amend Policy 10.2.2.4 as requested.
FS2279.10	Ben Graham	I oppose the submission	Oppose OS958.34. Disallow submission and do not make changes as requested by submitter.	Accept	Do not amend Policy 10.2.2.4 as requested.
FS2300.10	Mathew O'Connell	I oppose the submission	Oppose OS958.34. Disallow submission and do not make changes as requested by submitter.	Accept	Do not amend Policy 10.2.2.4 as requested.

FS2391.85	Geoff Scurr Contracting Limited	I oppose the submission	Oppose OS958.34. Disallow submission.	Accept	Do not amend Policy 10.2.2.4 as requested.
FS2416.10	Alan Brown, Carrowmore Properties Limited, Robyn and Stephan Smith and Rick and Jill Clarke ("Pigeon Flat Road Group")	I oppose the submission	Oppose OS958.34. Disallow submission and retain the word 'minimise' in Policy 10.2.2.4.	Accept	Do not amend Policy 10.2.2.4 as requested.
FS2449.108	Federated Farmers of New Zealand	I oppose the submission	Oppose OS958.34. Disallow submission.	Accept	Do not amend Policy 10.2.2.4 as requested.
FS2481.21	Ravensdown Limited	I oppose the submission	Oppose OS958.34. Disallow submission	Accept	Do not amend Policy 10.2.2.4 as requested.
OS919.26	Federated Farmers of New Zealand	I seek to have the above provision amended	Amend Policy 10.2.2.4 as follows: 'Require <u>large scale</u> earthworks to minimise the risk of sediment entering the sea or water bodies...'	Accept in part	Amend clause a of Policy 10.2.2.4 to clarify setbacks only apply to large scale earthworks.
FS2140.36	John Scott	I support the submission	Support OS919.26. Allow submission and make changes requested by submitter.	Accept in part	Amend clause a of Policy 10.2.2.4 to clarify setbacks only apply to large scale earthworks.
FS2267.18	Harboursides and Peninsula Preservation Coalition	I oppose the submission	Oppose OS919.26. Disallow submission and instead allow amendments to Policy 10.2.2.4 as proposed by submission 900.40.	Accept in part	Amend clause a of Policy 10.2.2.4 to clarify setbacks only apply to large scale earthworks.
FS2279.36	Ben Graham	I support the submission	Support OS919.26. Allow submission and make changes requested by submitter.	Accept in part	Amend clause a of Policy 10.2.2.4 to clarify setbacks only

					apply to large scale earthworks.
FS2300.36	Mathew O'Connell	I support the submission	Support OS919.26. Allow submission and make changes requested by submitter.	Accept in part	Amend clause a of Policy 10.2.2.4 to clarify setbacks only apply to large scale earthworks.
FS2416.40	Alan Brown, Carrowmore Properties Limited, Robyn and Stephan Smith and Rick and Jill Clarke ("Pigeon Flat Road Group")	I support the submission	Support OS919.26. Allow submission and make changes as requested by submitter.	Accept in part	Amend clause a of Policy 10.2.2.4 to clarify setbacks only apply to large scale earthworks.
FS2481.19	Ravensdown Limited	I support the submission	Support OS919.26 Allow submission	Accept in part	Amend clause a of Policy 10.2.2.4 to clarify setbacks only apply to large scale earthworks.
FS2482.23	Forest and Bird NZ	I oppose the submission	Oppose OS919.26. Disallow submission.	Accept in part	Amend clause a of Policy 10.2.2.4 to clarify setbacks only apply to large scale earthworks.
OS1088.40	Oceana Gold (New Zealand) Limited	I seek to have the above provision amended	Amend Policy 10.2.2.4 as follows: 'Require earthworks to minimise the risk of sediment entering the sea or water bodies by: a. being set back an adequate distance from the coast and water bodies <u>where practicable</u> ; and b.by using appropriate sediment control techniques to <u>ensure sediment does not enter</u> <u>minimise the amount of sediment that enters</u> water bodies or the sea.'; and make consequential changes to assessment rules.	Accept in part	Amend Policy 10.2.2.4 and the Sediment control rule (in all management and major facility zone sections) as shown below.

OS908.27	Otago Regional Council	I seek to have the above provision amended	Amend the relevant rules of Chapter 10 Natural Environment to provide more certainty on when a consent application may be rejected on account of erosion risk and/or insufficient sediment control. Add appropriate advice notes to raise awareness of the requirements of Otago Water Plan.	Accept in part	Amend Policy 10.2.2.4, the Sediment control rule (in all management and major facility zone sections), and Rule 10.5.2.1 as shown below
FS2439.27	Oceana Gold (New Zealand) Limited	I support the submission	Support OS908.27. Allow submission.	Accept in part	Amend Policy 10.2.2.4, the Sediment control rule (in all management and major facility zone sections), and Rule 10.5.2.1 as shown below

Background

Policy 10.2.2.4 states:

“Require earthworks to minimise the risk of sediment entering the sea or water bodies by:

- a. being set back an adequate distance from the coast and water bodies; and
- b. by using appropriate sediment control techniques to ensure sediment does not enter water bodies or the sea”.

I note that, like Policy 10.2.2.4.a, Policy 10.2.2.2 also requires earthworks – large scale “to be set back from the coast and water bodies an adequate distance” for the purpose of maintaining or enhancing the biodiversity and natural character values of coastal and riparian margins. Submissions on Policy 10.2.2.2 are discussed in section 5.7.4 of this report.

I note that, like Policy 10.2.2.4.b, Earthworks Policy 2 (which is located in all management and major facility zone sections) also requires all earthworks to be managed to minimise sediment run-off.

Both Policy 10.2.2.4.a and Policy 10.2.2.2 are implemented by performance standard Rule 10.3.3 (Setback from Coast and Water Bodies), which specifies minimum setbacks for “earthworks – large scale”.

Both Policy 10.2.2.4.b and Earthworks Policy 2.b are implemented by a sediment control rule in management and major facilities zones and applies to all earthworks (e.g. Rule 16.6.1.7 in Section 16 Rural Zones). This rule applies to both small and large scale earthworks, and reads as follows: “Earthworks must be undertaken in a way that prevents sediment entering water bodies, stormwater networks or going across property boundaries.”

I note that “effects-based” rules like the sediment control rule are not commonly used in the 2GP. District plans tend to focus on rules that can be easily assessed when building consents are lodged, to ensure compliance without a costly monitoring process. Rules that are difficult to monitor and enforce are inherently both less effective and less efficient in terms of section 32 of the RMA. However, this rule was included in the plan as a reinforcement of other obligations that are in place under the Regional Plan: Water for Otago (Rule 12.C.2 requires consent for the discharge of sediment to water bodies, where standards set out in Rule 12.C.1 are not met), and – in terms of effects on neighbours – under the common law principle of ‘natural servitude’.

Submissions in support

Ravensdown Limited (OS893.20) seeks to retain Policy 10.2.2.4 because the submitter considers that the policy “represents good resource management practice” below.

Request to add “where practicable” to Policy 10.2.2.4.a

KiwiRail Holdings Limited (OS322.33) seeks to amend Policy 10.2.2.4 by adding the words ‘where practicable’ to the requirement to be set back from coast and water bodies, to recognise that there are constraints in relation to earthworks setbacks (also see submissions by the same submitter on Policies 10.2.2.2 and 10.2.2.3, which are considered in, respectively, sections 5.7.4 and 5.8.7.2 of this report). This submission is supported by Ravensdown Limited (FS2481.4) because the proposed amendment is “pragmatic and appropriate”.

Oceana Gold (OS1088.40) makes the same request, on the basis that the setback required is “not always possible for major mining earthworks and should only be a requirement in circumstances where it is practicable to do so”.

Recommendation – Amendment 1

I do not recommend that the wording of the policy should be amended exactly as sought by submitters, but I agree, as has been raised and recommended in other hearings, that “practicability” is a relevant consideration where the word “minimise” is used in policies – given that minimise means “reduce to the smallest extent possible”, and that what is possible might not always be practicable. Determining what is “practicable” requires consideration of feasibility and costs as well as gains in terms of improved outcomes – including, for example, consideration of situations where compliance with performance standards may result in very high costs, but result in only negligible improvements in outcomes.

In my view, amending the wording to “set back an adequate distance from the coast and water bodies where practicable”, as requested by KiwiRail Holdings and Oceana Gold, would take the focus away from requiring a setback that is adequate to “minimise the risk of sediment entering the sea or water bodies”. If the policy were amended as sought by the submitters, I consider that the focus would instead be on imposing a setback that is “practicable”.

Instead, I recommend that these submissions be addressed by amending the policy wording to “Require earthworks to minimise, as far as practicable, the risk of sediment entering the sea or water bodies by...”, as shown below.

I consider that this wording would reflect the fact that the provisions that implement the policy have been designed so that the setback does not apply in many cases where it may not be “practicable” to meet it. As notified, Rule 10.3.3 does not apply to “earthworks - small scale”. There are also a number exemptions to this rule for some types of “earthworks – large scale”, including (of relevance to Kiwirail) earthworks for structures such as bridges and culverts.

Of relevance to Oceana Gold, I also note that earthworks associated with mining activities are excluded from the definition of earthworks and, therefore, are not subject to the setback requirements under Rule 10.3.3, instead being subject to the overall assessment of mining as discretionary activities (in rural zones). In addition, where Rule 10.3.3 is contravened, in assessing resource consent applications Rule 10.4.3.10 allows for the consideration of sediment and erosion control techniques that will ensure sediment remains on site and away from water. I consider that this provides for the setback to be modified taking into account the individual circumstances of the earthworks activity.

Request to amend “minimise the risk” to “avoid the risk”

STOP (OS900.40) and Forest and Bird NZ (OS958.34) seek to amend Policy 10.2.2.4 so it refers to sedimentation being avoided rather than minimised, due to the significant adverse effects of sedimentation on biodiversity in rivers and in the sea. These submissions are opposed by John Scott (FS2140.30, FS2140.10), Ben Graham (FS2279.30, FS2279.10), Mathew O’Connell (FS2300.30, FS2300.10), Geoff Scurr Contracting Limited (FS2391.56, FS2391.85), Pigeon Flat Road Group (FS2416.30, FS2416.10), Clifton Trust (FS2202.6, in relation to Forest and Bird’s submission), who believe this requested change would be “prejudicial to farming activities”. The submissions are also opposed by Federated Farmers of New Zealand (FS2449.107, FS2449.108), referring to the NZ King Salmon case, where “avoid” is taken as “prohibit”, and “it is unworkable for the provision to require all risks of erosion to be eliminated”. Ravensdown Limited (FS2481.14, FS2481.21) opposes the submissions because it considers the policy provides the “appropriate level of management of risks associated with sediment entering water”.

Recommendations

I do not consider it appropriate to replace the word “minimise” with “avoid”. In my opinion requiring earthworks to avoid the risk of sedimentation entering water sets an unrealistically high standard in creating an expectation that there will be no risk at all. I consider that the setbacks and sediment control techniques required by the policy appropriately manage the risk of sedimentation associated with earthworks near water bodies and the sea.

Request that the policy applies to large scale earthworks only

Federated Farmers of New Zealand (OS919.26) seeks to amend Policy 10.2.2.4 so that it refers to large scale earthworks, as the submitter notes that the policy may capture small scale earthworks which would not be expected to have “significant adverse effects”.

The submission is supported by John Scott (FS2140.36), Ben Graham (FS2279.36), Mathew O’Connell (FS2300.36) and the Pigeon Flat Road Group (FS2416.40) because the proposed amendments are “more realistic and cognisant of every day farming operations”. Similarly, Ravensdown Limited (FS2481.19) support the submission because it is “pragmatic” and “appropriate”.

The submission is opposed by HPPC (FS2267.18) because “even activity smaller than ‘large’ can inflict damage” and Forest and Bird NZ

(FS2482.23) because the amendments sought are “not consistent” with the Part II RMA purpose, or provisions of the 2GP or NZCPS.

Recommendations – Amendment 2

As already noted, Rule 10.3.3, which implements the setback requirement in Policy 10.2.2.4.a, does not apply to ‘earthworks - small scale’. However, Policy 10.2.2.4.b is implemented by the sediment control rule that, as outlined in the background, applies to all earthworks. Therefore, I do not recommend that the whole policy should be amended to apply only to large scale earthworks, as requested by FFNZ. However, I agree that the policy should be amended to clarify that only large scale earthworks are subject to the setback rule.

Request to replace “ensure sediment does not enter water bodies or the sea” with “minimise the amount of sediment that enters water bodies or the sea”

Oceana Gold (New Zealand) Limited (OS1088.40) seeks to amend Policy 10.2.2.4.b as shown above because “complete avoidance of sediment entering water or the sea is impractical.”

Recommendations – Amendments 3 and 4

As noted above, both Policy 10.2.2.4.b and Earthworks Policy 2 (which appears in all management and major facility zone sections) are implemented by the sediment control rule that is included in all management and major facility zone sections. Therefore, it is relevant to note that, in the Earthworks Section 42A report, Paul Freeland recommends the following amendment to Earthworks Policy 2 and associated assessment rules:

Require earthworks and any associated retaining structures to be designed and located to minimise adverse effects on surrounding sites and the wider area, including by:

- a. limiting the scale of earthworks that are provided for as a permitted activity; and
- b. requiring earthworks to be managed to ensure that avoid {EW 1071.104 and others} sediment run-off, including onto any property, or into any stormwater pipes, drains, channels or soakage systems or the coastal marine area, is avoided or, if avoidance is not practicable, mitigated to the point that adverse effects would be no more than minor. {EW 1071.104 and others}

Mr Freeland makes this recommendation on the basis that, as pointed out by BP Oil NZ Ltd, Mobil Oil NZ Ltd and Z Energy Ltd in a further submission considered in the earthworks report (FS2487.110), the “avoidance” of sedimentation effectively means that no earthworks can be carried out, because there will generally be some sediment in the discharge – albeit at an acceptable level (i.e. a sample with 100mg/l of TSS still contains sediment, even though it is essentially clear water).

I consider that there is a similar concern with the wording “ensure sediment does not enter water bodies or the sea”. Therefore, I agree with the point raised by Oceana Gold. To avoid repetition, I consider that it would be most appropriate simply to delete the phrase “to ensure sediment does not enter water bodies or the sea”, given that the first line of the policy already includes the phrase “to minimise the risk of sediment entering the sea or water bodies.” I also recommend that, for the sake of consistency, the sediment control rule in all relevant sections of the 2GP should be amended as shown below, to reflect the emphasis of Policy 10.2.2.4 and Earthworks Policy 2 (in both cases, including amendments recommended in response to submissions) on managing earthworks to minimise sediment run-off, rather than on preventing sediment entering the water altogether. In order to provide better guidance to plan users about appropriate methods of sediment control, I consider that the rule should refer to “best practice sediment control management”, as set out in the “Sediment in Water” factsheet, which is

available on the ORC website. Finally, I recommend that addition of a note to plan users, as shown below, to clarify that controls outside the District Plan also apply to sediment entering water bodies and stormwater networks, and going across property boundaries. The Otago Regional Council's submission (OS908.27) discussed below, requests the addition of a note of this kind.

Request to amend Natural Environment section to provide more certainty over control of erosion risk and sediment control

Otago Regional Council (OS908.27) requests greater clarity regarding how the 2GP seeks to manage erosion risk and sediment control, and also the inclusion of an advice note to raise awareness of related requirements in the Regional Plan: Water. The submitters seeks that the relevant rules of Section 10 Natural Environment be amended to provide more certainty on when a consent application may be rejected due to erosion risk and/or insufficient sediment control. ORC are concerned that the rules in Section 10 are inconsistent with 12.C.O.3 of the ORC Water Plan which prohibits sediment discharges from disturbed land where no sediment control measure has been undertaken.

Oceana Gold (New Zealand) Limited (FS2439.27) supports this submission because the submitter considers that it provides plan users with greater certainty.

Recommendation – Amendment 5

In my view, the amendments recommended above, in response to Kiwirail, FFNZ and Oceana Gold, will improve the clarity of 2GP provisions on erosion risk and sediment control, as requested by the ORC. These amendments include the addition of an advice note to advise plan users that Regional Plan: Water for Otago rules also apply. I do not consider that the 2GP rules, as amended by the recommendations shown below, are inconsistent with the Water Plan.

With regard to erosion, Policy 10.2.2.3 requires that vegetation clearance is set back an adequate distance from the coast and water bodies to minimise the risk of erosion. This policy is implemented by Rule 10.3.2.3 which manages vegetation clearance and indigenous vegetation clearance along the margins of the coast and water bodies. See discussion of these provisions in section 5.8.7 of this report.

With regard to the request to amend the rules of Section 10 in order to provide more certainty on when a consent application may be rejected due to erosion risk and/or insufficient sediment control, large scale earthworks within proximity to water bodies or MHWS are subject to restricted discretionary resource consents with matters of discretion being the effects on biodiversity and natural character of riparian margins and the coast as well as public access. Guidance is given on the assessment of resource consents, with Objective 10.2.2 listed as a relevant objective as well as Policy 10.2.2.2 that activities including buildings, structures, storage and earthworks – large scale are set back an adequate distance. However, although there is reference to Policy 10.2.2.4 in Rule 10.4.4.5 Assessment of performance standard contraventions for Sediment Control, the sediment control rule is not referred to in the restricted discretionary assessment rules for large scale earthworks. I consider that it would be appropriate to also refer to Policy 10.2.2.4 in Rule 10.5.2.1 as shown below so that it is made clear that the sediment control rule also forms part of the restricted discretionary assessment for large scale earthworks. I consider that this will provide an appropriate signal to resource consent applicants that measures must be taken to minimise sediment runoff.

Recommended amendment:

Amendments One and Two

Amend Policy 10.2.2.4 as follows, and make consequential changes to assessment rules:

Require earthworks to minimise, as far as practicable, {NatEnv 322.33} the risk of sediment entering the sea or water bodies by:

- a. ~~setting earthworks – large scale back being set back~~ an adequate distance from the coast and water bodies {NatEnv919.26}; and
- b. ~~by using appropriate sediment control techniques to ensure sediment does not enter water bodies or the sea~~ {NatEnv1088.40}.

Amendment Three

Amend Sediment control rule in all management and major facility zone sections as follows:

Earthworks must be undertaken using best practice sediment control management to ~~in a way that~~ prevents sediment entering water bodies, stormwater networks or going across property boundaries. {NatEnv1088.40}

Add the following definition of “Best practice sediment control management”:

Sediment control undertaken in accordance with the Otago Regional Council’s “Sediment in water (Factsheet 2)”. {NatEnv1088.40}

Amendment Four

Add the following note to plan users to the Earthworks Standards rule in all management and major facility zone sections as follows:

Note X.X [numbering will vary] - Other requirements outside the District Plan

- 1. Discharges of sediment, or of water containing sediment, may require resource consent under the Regional Plan: Water for Otago.
- 2. Discharges of sediment that cross property boundaries may be contrary to the common law principle of natural servitude. {NatEnv908.27}

Amendment Five

Amend 10.5.2.1 Assessment of restricted discretionary activities as follows:

<ul style="list-style-type: none"> • Earthworks- large scale that exceed scale thresholds within 20m of a water body or MHWS (rural zones and Invermay and Hercus Zone) 	<ul style="list-style-type: none"> a. Effects on biodiversity and natural character of riparian margins and the coast 	<p>Relevant objectives and policies:</p> <ul style="list-style-type: none"> i. Objective 10.2.2 ii. Earthworks - large scale are set back an adequate distance from the coast and water bodies to maintain or enhance the biodiversity and natural character values of riparian and coastal margins (Policy 10.2.2.2).
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<ul style="list-style-type: none"> Earthworks- large scale that exceed scale thresholds within 5m of a water body or MHWS (all other zones) 		<p>iii. <u>Earthworks minimise the risk of sediment entering the sea or water bodies by using appropriate sediment control techniques (Policy 10.2.2.4). {NatEnv908.27}</u></p> <p>Potential circumstances that may support a consent application:</p> <p>iv. The earthworks are associated with conservation activity</p>	
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5.4.11 Policy 10.2.2.6

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
OS900.42	Save The Otago Peninsula (STOP) Inc Soc	I support the provision	Retain Policy 10.2.2.6	Accept	Retain Policy 10.2.2.6
OS958.36	Forest and Bird NZ	I support the provision	Retain Policy 10.2.2.6.	Accept	Retain Policy 10.2.2.6
OS951.8	Timothy George Morris	I seek to have the above provision amended	Amend Policy 10.2.2.6 so that the hazard threshold is appropriate.	Reject	Do not amend policy as requested.
OS1054.8	Timothy Morris (on behalf of RG and SM Morris Family Trust)	I seek to have the above provision amended	Amend Policy 10.2.2.6 so that the hazard threshold is appropriate	Reject	Do not amend policy as requested.

Background

Policy 10.2.2.6 as notified states "Only allow hazard mitigation earthworks and hazard mitigation structures where there are no significant adverse effects on the biodiversity and natural character values of coastal and riparian margins".

Submissions in support

STOP (OS900.42) and Forest and Bird NZ (OS958.36) seek to retain Policy 10.2.2.6.

Request to amend policy

Timothy George Morris (OS951.8) and Timothy Morris (on behalf of RG and SM Morris Family Trust) (OS1054.8) seek to amend Policy 10.2.2.6 as they believe that it is important that the hazard threshold is not too high.

Recommendations

I am unsure of the outcome sought by submitters in this case, because Policy 10.2.2.6 does not contain a “hazard threshold”. I have considered these points on the assumption the meaning of these submission points is: “it is important that the standard to which hazard mitigation works are held in coastal and riparian margins is not too high”.

I agree that it is important to provide for hazard mitigation works in coastal and riparian margins. However, the biodiversity and natural character values of coastal and riparian margins must also be adequately protected, given that section 6(a) of the RMA and Policy 13 of the NZCPS seek the preservation of these values. I consider an appropriate balance is achieved by the notified discretionary activity status for hazard mitigation earthworks and hazard mitigation structures throughout the city.

Recommended amendment:

None.

5.4.12 Objective 10.2.3 and policies

Before responding to submissions on the policy suite under Objective 10.2.3 and Objective 10.2.5, I would like to draw the Panel’s attention to a number of issues with respect to these policies as follows:

- The drafting of the policies does not always follow the 2GP drafting protocol. For example, Policy 10.2.5.2 is an “avoid” policy with no “unless” qualifier, implying prohibited activity status.
- The tests applied to effects-based policies appear inconsistent both within these policies and in comparison to other policies across the 2GP – as an example, sometimes the most stringent tests of “no material” or “insignificant” effects are applied to restricted discretionary activities (e.g. policies 10.2.3.3, 10.2.5.6).
- Some policies (e.g. policies 10.2.3.5 and 10.2.5.5) contain multiple effects tests and consequently are difficult to understand.
- There is duplication of or unnecessary policies, for example it appears that both policies 10.2.3.5 and 10.2.5.5 could be incorporated into other policies.

Prior to dealing with more detailed aspects of the submissions, I have made recommendations in the following table, in response to these broader issues, as to how these policies could be redrafted and set out. I consider that this proposed redrafting provides for a more consistent and clear approach to policy drafting and the effects tests that should be applied to activities in different types of overlay zones.

The approach would provide for better and more consistent differentiation between the:

- different activity statuses and the policy wording and effects-tests that should be applied; and
- different types of overlay zones and the policy wording and effects-tests that should be applied.

I consider that if these policies were to be redrafted in this manner, there should also be subsequent reordering of policies to assist plan clarity. For instance, all policies for each overlay zone should be alongside each other where possible.

I have not considered the two subdivision policies (10.2.3.7, 10.2.5.11) as part of this reworked approach. I consider these policies, which integrate all different types of overlay zone, differ in approach as outcome-focused policies and are separate to the other activity-based policies discussed here. I note that the policy numbers referenced within these subdivision policies would have to be amended as a consequential change.

I note that the Network Utilities Section 42A Report recommended amendments to a number of the policies under Objectives 10.2.3 and 10.2.5. Some of the amendments that I recommend to drafting of policies under these objectives to improve the clarity and consistency of policies, as described above, will override these earlier amendments. In particular, I note that the Network Utilities report recommends that the policy test in policies that manage certain network utilities activities be amended, so that these activities may be granted consent even if they do not meet the test that normally applies in the policy (i.e. requirements for “insignificant” or “no more than minor” effects), but only if “there are no practicable alternative locations” **and** effects on the relevant values “are adequately mitigated”. The Network Utilities report recommended that Policies 10.2.3.10, (new) 10.2.5.7, and (new) 10.2.5.9 be amended in this way. These policies apply to various network utilities activities that are restricted discretionary or discretionary in NCCs, SNLs and ONLs.

If my amendments recommended below are implemented, there would be no longer be any need for this alternative policy test for activities with “no practicable alternative locations” in NCCs or SNLs, because the policy test that applies to all RD/D activities in these areas would be that effects are “avoided or, if avoidance is not possible, adequately mitigated”. With respect to ONLs, I recommend that the alternative policy test relating to “no practicable alternative locations” should be applied to **all** RD/D activities in these areas (not only network utilities), to recognise that some of these activities cannot avoid effects that are “no more than minor” even where mitigation is applied, but may still need to locate in an ONL for operational reasons (e.g. large farm buildings, new roads, community-scale hydro).

As shown in the recommended amendments tables in this section and in section 5.4.22, the scope to the recommended changes is provided by a range of submissions on specific provisions, and also by Otago Regional Council’s submission (OS908.14), which notes the “inconsistent use” of phrases to describe the threshold of acceptable effects (e.g. “no material effects”, “insignificant”, “no more than minor”) in policies under Objective 10.2.3.

The following table sets out the general approach that I consider should be taken to the policies with different activity status in different natural coastal character overlay zones. More specific recommendations follow the table.

Natural Coastal Character Policies

Activity Type/ Overlay Zones	Current Policies	Suggested Wording	Activities
Non-complying in ONCC, HNCC overlays	Policy 10.2.3.2, also non-complying rural and community activities in Policy 10.2.3.1	Avoid non-complying land use, development and network utilities activities in the Outstanding Natural Coastal Character (ONCC) and High Natural Coastal Character (HNCC) overlay zones unless there are no material effects on the natural character values, as identified in Appendix A5.	Multiple land use and development activities Network utilities activities listed in Policy 10.2.3.2 (incorporating amendments recommended in Network Utilities Section 42A report), i.e.: network utility structures - large scale, on-site energy generation, community scale energy generation, regional scale energy generation, and energy resource investigation devices
Non-complying in NCC overlays	Policy 10.2.3.11	Avoid ... in the Natural Coastal Character Overlay Zone (NCC) unless adverse effects on the natural character values, as identified in Appendix A5, are insignificant.	Wind generators – community scale, regional scale energy generation
Restricted Discretionary, Discretionary in ONCC, HNCC overlays	Policy 10.2.3.3, part Policy 10.2.3.5	Only allow...where adverse effects on the natural character values identified in Appendix A5 will be avoided or, if avoidance is not possible, no more than minor.	Earthworks – large scale, tree planting, public amenities. Discretionary natural hazard mitigation & transport activities. Network utilities activities listed in Policy 10.2.3.3 (incorporating amendments recommended in Network Utilities Section 42A report), i.e.: amateur radio configurations, network utilities structures – small scale, and network utilities poles and masts – small scale.
Restricted Discretionary, Discretionary in NCC overlays	Policies 10.2.3.4, part policies 10.2.3.5 and 10.2.3.10	Only allow...where adverse effects on the natural character values identified in Appendix A5 will be avoided or, if avoidance is not possible, adequately mitigated.	Forestry, buildings & structures >60m ² , indigenous vegetation clearance, earthworks – large scale, tree planting, public amenities. Mining, landfills, discretionary natural hazard mitigation & transport activities.

			<p>Network utilities activities listed in Policy 10.2.3.10 (incorporating amendments recommended in Network Utilities Section 42A report), i.e.: network utilities poles and masts-small scale, on-site energy generation devices, network utility structures - large scale, solar panels – community scale, hydro generators – community scale, and energy resource investigation devices</p>
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I consider the following amendments should be made to the policies under Objective 10.2.3.

1. Revise Policy 10.2.3.1 as it is has no effects test, is not linked to assessment rules, is inconsistent with Policy 10.2.3.2 and is unclear as to which activities it applies to. As there is no scope to remove this policy, I recommend that it be reworded as shown below, so that it no longer applies to activities that require consent.
2. Reword Policy 10.2.3.2 to refer to “non-complying land use, development and network utilities activities” rather than specifically listing all activities which I consider makes the policy too lengthy.
3. Change the policy test in Policy 10.2.3.3 as I consider having a very strict test of “insignificant” effects with restricted discretionary and discretionary activities to be very stringent and too difficult a test for this type of activity status, where activities may be anticipated to occur subject to an assessment of scale, location and form. Change to the medium strictness test of avoided or, if avoidance is not possible, no more than minor. Integrate the citywide activities from Policy 10.2.3.5 into Policy 10.2.3.3.
4. Change the policy test in Policy 10.2.3.4 to differentiate from restricted discretionary and discretionary activities in ONCC and HNCC overlay zones, and to recognise that these activities may generate more than minor effects, but that adequate mitigation may be achievable. Integrate the citywide activities from Policy 10.2.3.5 into Policy 10.2.3.4. Integrate the network utilities activities from Policy 10.2.3.10 into Policy 10.2.3.4.
5. Remove Policy 10.2.3.5.
6. Remove Policy 10.2.3.10.
7. Change the effects test in Policy 10.2.3.11 to “insignificant effects” from “no material effects”. While these both correspond to the highest tests and are both applied to non-complying activities, I consider the allowance for insignificant effects to be slightly more lenient than no material effects, as it allows for the possibility of some effects albeit very small. I consider this small change would allow for some differentiation between NCC overlay zones and the more natural ONCC/HNCC overlay zones.

Recommended amendments:

1. Amend Policy 10.2.3.1 as follows, , and make consequential changes to assessment rules:
Limit rural and community activities in the Outstanding Natural Coastal Character (ONCC) and High Natural Coastal Character (HNCC) overlay zones to those which do not require buildings or involve a change to the landform. Enable rural and community activities in the Outstanding Natural Coastal Character (ONCC) and High Natural Coastal Character (HNCC) overlay zones that do not require buildings or involve a change to the landform. {NatEnv919.27}
2. Amend Policy 10.2.3.2 as follows, and make consequential changes to assessment rules:
"Avoid buildings and structures, residential, commercial, industrial and major facility activities, network utility structures – large scale, on-site energy generation, community scale energy generation, regional scale energy generation, energy resource investigation devices, and biomass generators – stand alone {NU 308.137 and NU 308.468} non-complying land use, development and network utilities activities {C116} in the Outstanding Natural Coastal Character (ONCC) and High Natural Coastal Character (HNCC) overlay zones unless there are no material effects on the natural character values, as identified in Appendix A5."
3. Amend Policy 10.2.3.3 as follows, and make consequential changes to assessment rules:
"Only allow indigenous vegetation clearance, tree planting, ~~new network utilities or additions to network utilities~~ amateur radio configurations, network utilities structures – small scale, network utilities poles and masts – small scale, {CL16} and earthworks – large scale, natural hazard mitigation activities, transportation activities, and public amenities {NatEnv908.14} in the Outstanding Natural Coastal Character (ONCC) and High Natural Coastal Character (HNCC) overlay zones where adverse effects on the natural character values identified in Appendix A5 ~~are insignificant~~ will be avoided or, if avoidance is not possible, no more than minor." {NatEnv908.14}
4. Amend Policy 10.2.3.4 as follows, and make consequential changes to assessment rules:
"Only allow mining, landfills, large buildings and structures, forestry, earthworks – large scale, and indigenous vegetation clearance, natural hazard mitigation activities, transportation activities, public amenities, {NatEnv908.14} network utilities poles and masts-small scale, on-site energy generation devices, network utility structures – large scale, community scale solar panels and wind generators solar panels – community scale, hydro generators – community scale, {NU308.122 and others} and energy resource investigation {NatEnv908.14} devices in the Natural Coastal Character Overlay Zone (NCC) where adverse effects on the natural character values identified in Appendix A5 ~~can~~ will {cl. 16} be avoided or, if avoidance is not possible, ~~no more than minor~~ adequately mitigated." {NatEnv908.14}
5. Remove Policy 10.2.3.5. {NatEnv908.14}
6. Remove Policy 10.2.3.10. {NU576.9 and NatEnv908.14}
7. Amend Policy 10.2.3.11 as follows, and make consequential changes to assessment rules:
"Avoid wind generators – community scale, ~~biomass generators – stand alone~~ {NU 308.137 and NU 308.468} and regional scale energy generation in the Natural Coastal Character Overlay Zone (NCC) unless ~~there are no material~~ effects on the natural character values, as identified in Appendix A5, are insignificant." {NU308.462}"

5.4.13 Objective 10.2.3

Sub pt #	Submitter Name	Support/Oppose/ Seek Amend	Summary Of Submission	Accept/Reject/ Accept in part	Staff Recommendation
OS447.17	Harboursides and Peninsula Preservation Coalition	I seek to have the above provision amended	Amend Objective 10.2.3 as follows: Areas of outstanding natural coastal character (ONCC), high natural coastal character (HNCC), and natural coastal character (NCC) <u>and the Hill Slope Rural Zone</u> are protected from inappropriate use and development and their values, as identified in Appendix A5, are maintained or enhanced.	Reject	Do not amend Objective 10.2.3 as requested
FS2373.13	Howard Saunders	I oppose the submission	Oppose OS447.17. Disallow submission to amend Objective 10.2.3.	Accept	Do not amend Objective 10.2.3 as requested
FS2391.1	Geoff Scurr Contracting Limited	I oppose the submission	Oppose OS447.17. Disallow submission.	Accept	Do not amend Objective 10.2.3 as requested
FS2449.111	Federated Farmers of New Zealand	I oppose the submission	Oppose OS447.17. Disallow submission.	Accept	Do not amend Objective 10.2.3 as requested
OS900.44	Save The Otago Peninsula (STOP) Inc Soc	I seek to have the above provision amended	Amend Objective 10.2.3 as follows: Areas of outstanding natural coastal character (ONCC), high natural coastal character (HNCC), and natural coastal character (NCC) <u>and the Hill slope Rural Zone</u> are protected from inappropriate use and development and their values, as identified in Appendix A5, are preserved maintained or enhanced.	Reject	Do not amend Objective 10.2.3 as requested

FS2391.121	Geoff Scurr Contracting Limited	I oppose the submission	Oppose OS900.44, Disallow submission.	Accept	Do not amend Objective 10.2.3 as requested
FS2449.113	Federated Farmers of New Zealand	I oppose the submission	Oppose OS900.44. Disallow submission.	Accept	Do not amend Objective 10.2.3 as requested
OS958.37	Forest and Bird NZ	I seek to have the above provision amended	Amend Objective 10.2.3 as follows: Areas of outstanding natural coastal character (ONCC), high natural coastal character (HNCC), and natural coastal character (NCC) are protected from inappropriate use and development and their values, as identified in Appendix A5, are <u>preserved</u> maintained or enhanced.	Reject	Do not amend Objective 10.2.3 as requested
FS2449.115	Federated Farmers of New Zealand	I oppose the submission	Oppose OS958.37. Disallow submission.	Accept	Amend Objective 10.2.3 as shown below
OS690.10	Yellow-eyed Penguin Trust	I seek to have the above provision amended	Amend Objective 10.2.3 to clarify that conservation activities are not restricted by these requirements and make consequential changes to Rule 16.2 (activity status), performance standards, assessment rules, maps and any other relevant Plan provisions	Reject	Do not amend Objective 10.2.3 as requested
OS447.22, OS900.54	Harboursides and Peninsula Preservation Coalition, Save The Otago Peninsula (STOP) Inc Soc	I seek to have the above provision amended	Add a new policy under Objective 10.2.3 as follows: <u>In ONCC and HNCC areas only allow plantation forestry, landfills and mining activities if the effects on the environment are very insignificant, meaning bordering on the unidentifiable.</u>	Reject	Do not add new policy as requested
FS2391.98, FS2391.111	Geoff Scurr Contracting Limited	I oppose the submission	Oppose OS447.22 and OS900.54. Disallow submissions.	Accept	Do not add new policy as requested
FS2439.22, FS2439.23	Oceana Gold (New Zealand) Limited	I oppose the submission	Oppose OS447.22 and OS900.54. Disallow submissions.	Accept	Do not add new policy as requested

FS2444.14, FS2444.42	Waste Management (NZ) Limited	I oppose the submission	Oppose OS447.22 and OS900.54. Disallow submissions.	Accept	Do not add new policy as requested
FS2449.112, FS2449.114	Federated Farmers of New Zealand	I oppose the submission	Oppose OS447.22 and OS900.54. Disallow submissions.	Accept	Do not add new policy as requested
OS717.10	Robyn and Stephan Smith, Rick and Jill Clarke, Alan Brown, Carrowmore Properties Ltd (on behalf of the "Pigeon Flat Road Group")	I seek to have the above provision amended	Add a new policy under Objective 10.2.3 as follows: ' <u>Recognise that rural activities often require buildings of a large scale in order to function efficiently. Buildings of this nature are anticipated within the Rural Zone and therefore measures to manage these effects may be employed, but will not prevent the establishment of such buildings.</u> '	Reject	Do not add new policy as requested
FS2449.116	Federated Farmers of New Zealand	I support the submission	Support OS717.10. Allow submission.	Reject	Do not add new policy as requested

Background

Objective 10.2.3 states:

"Areas of outstanding natural coastal character (ONCC), high natural coastal character (HNCC), and natural coastal character (NCC) are protected from inappropriate use and development and their values, as identified in Appendix A5, are maintained or enhanced".

This objective and its policies lead to rules that manage:

- activity status of land use, development, subdivision and city-wide activities in ONCCs, HNCCs and NCCs
- reflectivity of buildings, structures and network utilities in NCCs (Rule 10.3.6)
- minimum building separation in NCCs (Rule 10.3.5)
- location and design of ancillary signs in ONCCs, HNCCs and NCCs (Rule 16.6.8)

Submissions on Policies 10.2.3.6 and 10.2.3.8, which link to Rules 10.3.5 and 10.3.6, are discussed alongside submissions on these rules in sections 5.11.3.1 and 5.11.2.1 below.

Requests to amend Objective 10.2.3 to add the Hill Slopes Rural Zone

HPPC (OS447.17) and STOP (OS900.44) seek to amend Objective 10.2.3 to add the Hill Slopes Rural Zone, as shown in the table above. The submitters believe that the Hill Slope Rural Zone is the most visually prominent of the seven rural zones because it combines the higher visibility

of a slope, compared to flatter areas, with the zones' proximities to sizeable resident populations who have those slopes in view.

Howard Saunders (FS2373.13), Geoff Scurr Contracting Limited (FS2391.1) and Federated Farmers of New Zealand (FS2449.11) oppose HPPC (OS447.17) and FFNZ also opposes STOP (OS900.44). Geoff Scurr Contracting and FFNZ believe it is inappropriate to include the Hill Slope Rural Zone in the objective, which relates to areas of outstanding and high natural character. Howard Saunders considers the amendment confuses zones with overlays and in this case would have the effect of treating all rural land on the peninsula as being of highest landscape value and subject to maximum protection from development.

Recommendations

I do not agree that Objective 10.2.3 should be expanded to include the Hill Slopes Rural Zone. This objective relates to the protection of the natural character of the coastal environment. The coastal environment was identified and assessed by a group of consultants including coastal geomorphologists, ecologists and landscape architects. The methodology for defining the coastal environment and assessing natural character is informed by the New Zealand Coastal Policy Statement and also by policies 3.2.7 and 3.2.8 of the pORPS-dv.

I do not consider it appropriate for this objective to apply to an entire rural zone, large parts of which do not meet the criteria for being part of the coastal environment. The submitters raise concerns in relation to the visibility of the Hill Slopes Rural Zone. I note that large parts of the Hill Slopes Rural Zone are in landscape overlay zones. I note also that Objective 16.2.3 and its policies address the maintenance or enhancement of the rural character values and amenity of the rural zones.

Submissions to replace word "maintained" with "preserved"

STOP (OS900.44) seeks to amend Objective 10.2.3 to replace the word "maintained" with "preserved" as shown in the table above, as the submitter believes the objective does not meet the requirements of Part II RMA or the NZ Coastal Policy Statement and wish. Forest and Bird NZ (OS958.37) also seeks to amend Objective 10.2.3 to replace the word "maintained" with "preserved" for the same reasons as STOP.

Geoff Scurr Contracting Limited (FS2391.121) opposes the submission of STOP because of concern about the implications of the term "preserve" in the context of the plan and the belief that definitions may be required. Federated Farmers of New Zealand (FS2449.113, FS2449.115) opposes the submissions of both STOP and Forest and Bird.

Recommendations

I do not recommend this amendment – refer discussion under Objective 10.2.2 in section 5.4.8.

Submission to amend Objective 10.2.3 to exempt conservation activities

Yellow-eyed Penguin Trust (OS690.10) seek to amend Objective 10.2.3 to clarify that conservation activities are not restricted by this, and to make consequential changes to activity status rules and other rules and provisions. The submitter believes that that while the protection of coastal character is generally appropriate, there may be cases where conservation activities will have an effect on character, particularly in the short term (e.g. structures, earthworks, vegetation clearance), in which case the conservation values should have priority.

Recommendations

I do not agree that Objective 10.2.3 should be amended to clarify that conservation activities are not restricted by natural character provisions. I note that conservation is a permitted activity in natural coastal character overlay zones, and that the proposed vegetation clearance rules contain a number of exemptions relating to conservation activity. Other than these rules which do provide for conservation activities, I do not consider that buildings and structures or earthworks associated with conservation should be exempt from consideration under Objective 10.2.3 or its linked policies and rules.

Submissions to add new policy for forestry, landfills and mining

HPPC (OS447.22) and STOP (OS900.54) seek to add a new policy under Objective 10.2.3 as follows: "In ONCC and HNCC areas only allow plantation forestry, landfills and mining activities if the effects on the environment are very insignificant, meaning bordering on the unidentifiable." The submitters believe that high visual impact activities should not be permitted in areas of outstanding or high natural character.

Geoff Scurr Contracting Limited (FS2391.98, FS2391.111), Oceana Gold (New Zealand) Limited (FS2439.22, FS2439.23), Waste Management (NZ) Limited (FS2444.14, FS2444.42) and Federated Farmers of New Zealand (FS2449.112, FS2449.114) oppose HPPC (OS447.22) and STOP (OS900.54). Geoff Scurr Contracting believes that the policy proposed is unnecessary. FFNZ considers the proposed new policy is unnecessary and covered at a higher level in other policies. Waste Management (NZ) Limited considers that the normal tests under the RMA should apply in regards to effects. Oceana Gold (New Zealand) Limited is opposed to the specific reference to mining activities in this submission and believe that locationally constrained developments such as mining should not be captured by the proposed policy.

Recommendation

I note that all three rural activities are already non-complying in ONCCs or HNCCs and are directly covered by Policy 10.2.3.1 as follows: "Limit rural and community activities in the Outstanding Natural Coastal Character (ONCC) and High Natural Coastal Character (HNCC) overlay zones to those which do not require buildings or involve a change to the landform." Policy 10.2.3.2 then covers buildings and structures and other categories of activities that are always non-complying. However, I also note that Policy 10.2.3.1 is not specified in the non-complying assessment Rule 10.7.2.4, while Policy 10.2.3.2 is.

The use of "limit" in conjunction with non-complying activities is unusual in the 2GP, and was used as an alternative to the approach in 10.2.3.2 because some rural and all community activities are provided for, meaning specifically listing the fairly large number of remaining non-complying rural and community activities in 10.2.3.2 was considered too wordy. However, I find this separation from Policy 10.2.3.2 and its critical policy test confusing for plan users and instead suggest an alternate approach below to try to achieve the intent of minimising the wordiness of the policy, but linking all land use activities that are non-complying to the appropriate policy test.

Note that I am recommending removal of Policy 10.2.3.1 and amendment to Policy 10.2.3.2, as discussed in section 5.4.12 above. This will incorporate the three activities raised by the submitters under Policy 10.2.3.2, and apply the strictest "no material effects" policy test to these. I consider this the appropriate policy approach for these activities, and do not recommend adding a new policy as requested.

Submissions to add new policy to recognise that rural activities require buildings of a large scale

The Pigeon Flat Road Group (OS717.10) seeks to add a new policy under Objective 10.2.3 as follows: "Recognise that rural activities often require buildings of a large scale in order to function efficiently. Buildings of this nature are anticipated within the Rural Zone and therefore measures to manage these effects may be employed, but will not prevent the establishment of such buildings." The submitter states that their land largely falls within a Significant Natural Landscape, and, in terms of the objectives, there is no distinction between the objectives for areas identified as possessing outstanding character and areas possessing only significant character. This is inconsistent with Part 2 of the Act.

Federated Farmers of New Zealand (FS2449.116) supports Pigeon Flat Road Group (OS717.10) because they believe that structures associated with everyday farming activities are to be expected within the rural zone and are an appropriate part of the rural landscape and that provision for such buildings should be provided for within the Plan.

Recommendations

I accept the view of the submitters that large buildings are to be expected in the rural environment, and will be required for rural activities to function efficiently. I do not consider it is the intention of the 2GP to prevent the establishment of such buildings in the rural zones, as suggested by the proposed policy. However, ONCCs and HNCCs have been assessed as areas of outstanding or high natural coastal character, partly due to the absence of buildings and structures in these areas, while NCCs are areas where some management of buildings or structures over a certain scale is considered appropriate to manage effects on natural character.

I do not consider there is a need for a new policy as suggested as I do not consider that all buildings and structures should always be permitted in a natural coastal character overlay, which the suggested policy seems to imply. I do not recommend this new policy is added.

Recommended amendment:

None.

5.4.14 Policy 10.2.3.1

Sub pt #	Submitter Name	Support/Oppose/ Seek Amend	Summary Of Submission	Accept/Reject/ Accept in part	Staff Recommendation
OS958.38	Forest and Bird NZ	I support the provision	Retain Policy 10.2.3.1.	Accept in part	Amend Policy 10.2.3.1 as set out in section 5.4.12 above
OS447.18,	Harboursides and Peninsula	I seek to have the above provision	Amend Policy 10.2.3.1 by appending the following: <u>Building and structures too</u>	Reject	Do not amend Policy 10.2.3.1 as requested

OS900.45	Preservation Coalition, Save The Otago Peninsula (STOP) Inc Soc	amended	<u>densely developed have the potential to have significant adverse effects on the value of coastal character. Therefore, in ONCC, HNCC and NCC, a greater than 10% contravention of density and minimum site size performance standards outlined in 2GP Section 16 and 17 would be contrary to the Objectives and Policies of the District Plan and, therefore, shall be avoided.</u>		
FS2391.117	Geoff Scurr Contracting Limited	I oppose the submission	Oppose OS900.45. Disallow submission.	Accept	Do not amend Policy 10.2.3.1 as requested
FS2449.117, FS2449.118	Federated Farmers of New Zealand	I oppose the submission	Oppose OS447.18 and OS900.45. Disallow submissions.	Accept	Do not amend Policy 10.2.3.1 as requested
OS588.2	Otago Peninsula Community Board	I seek to have the above provision amended	Amend Policy 10.2.3.1 to provide for structures associated with tourism, visitor accommodation and farming (inferred not stated)	Reject	Do not amend Policy 10.2.3.1 as requested
FS2449.119	Federated Farmers of New Zealand	I support the submission	Support OS588.2. Allow submission.	Reject	Do not amend Policy 10.2.3.1 as requested
OS919.27	Federated Farmers of New Zealand	I seek to have the above provision amended	Amend Policy 10.2.3.1 as follows: <u>Limit The potential adverse effects of rural and community activities in the on Outstanding Natural Coastal Character (ONCC) and High Natural Coastal Character (HNCC) overlay zones are appropriately managed to those which do not require buildings or involve a change to the landform.</u>	Reject	Do not amend Policy 10.2.3.1 as requested
FS2482.24	Forest and Bird NZ	I oppose the submission	Oppose OS919.27. Disallow submission.	Accept	Do not amend Policy 10.2.3.1 as requested

Background

Policy 10.2.3.1 states "Limit rural and community activities in the Outstanding Natural Coastal Character (ONCC) and High Natural Coastal Character (HNCC) overlay zones to those which do not require buildings or involve a change to the landform". This policy links to the activity status rules that apply in ONCC and HNCC overlay zones.

Note that in section 5.4.12 above I am recommending amending this policy.

Submission in support

Forest and Bird NZ (OS958.38) seeks to retain Policy 10.2.3.1 with no specific reason given.

Requests to amend policy to avoid a greater than 10% contravention of density and minimum site size standards

HPPC (OS447.18) and STOP (OS900.45) seek to amend Policy 10.2.3.1 by appending the following: “Building and structures too densely developed have the potential to have significant adverse effects on the value of coastal character. Therefore, in ONCC, HNCC and NCC, a greater than 10% contravention of density and minimum site size performance standards outlined in 2GP Section 16 and 17 would be contrary to the Objectives and Policies of the District Plan and, therefore, shall be avoided.” The submitters state the “protection of landscapes requires certain rules regarding buildings and structures which, if contravened, create a non-complying activity that is contrary in a defined manner. This will serve to secure the application of upper limits and insure that precautionary principles apply in Dunedin’s most important natural places defined by landscape, coastal overlays, etc.”

Federated Farmers of New Zealand (FS2449.117, FS2449.118) opposes these submissions because they believe the proposed addition is too specific and complex for a policy, and overall is too restrictive to be workable. Geoff Scurr Contracting Limited (FS2391.117) opposes STOP (OS900.45) because of concern about the implications of the term “avoid” in the context of the plan and believe definitions may be required.

Recommendations

The HPPC and STOP submissions seek to avoid greater than 10% contravention of density and minimum site size standards. I assume this submission relates in particular to the effects caused by residential activity, which is already non-complying in ONCC and HNCC overlay zones. I note also Policy 10.2.3.2 which seeks to avoid residential activity in ONCC and HNCC overlay zones, unless there are no material effects on natural character values. Unless residential is made a prohibited activity, it is difficult to see how this relief can be granted. While residential activity is permitted in NCC overlay zones, contravention of density and minimum site size standards is non-complying, which I consider to be appropriate. I do not recommend this policy is amended as requested by the submitters.

Requests to amend policy to provide for structures associated with tourism, visitor accommodation and farming, and to not limit activities and “appropriately manage” adverse effects

Otago Peninsula Community Board (OS588.2) seeks to amend the policy to provide for structures associated with tourism, visitor accommodation and farming. The submitter is concerned that “this policy may have limitations on the development of eco-tourism and accommodation operations in these zones and care needs to be taken that the rules do not limit suitable and sympathetic development in these areas. Similar concerns can also be made in regards to farming operations in these zones.”

Federated Farmers of New Zealand (OS919.27) seeks to amend Policy 10.2.3.1 as follows: “Limit The potential adverse effects of rural and community activities in the on Outstanding Natural Coastal Character (ONCC) and High Natural Coastal Character (HNCC) overlay zones are appropriately managed to those which do not require buildings or involve a change to the landform.” The submitter believes that Policy 10.2.3.1

is very onerous and states that some rural buildings, or rural practices which require smaller scale buildings, may be compatible with these coastal environments. Where there is some risk to the natural character of these areas, the focus should be on effectively managing these risks, rather than limiting land use altogether. Forest and Bird NZ (FS2482.24) oppose this submission because they believe that the amendments sought are not consistent with the purpose of Part II RMA or the provisions of the 2GP, or the NCPS.

Recommendations

Farming and rural tourism-small scale are permitted activities in ONCC and HNCC overlay zones. However, it is expected that any associated buildings would not be located on the ONCC or HNCC, with the typically small and pristine nature of these areas meaning that such development would be inappropriate and should be accommodated elsewhere (for example, elsewhere on a farm property). For this reason, I do not recommend the policy is amended as requested, although I note that I am recommending to change Policy 10.2.3.1 to an “enable” policy in section 5.4.12 above.

Recommended amendment:

None, but note recommended amendment in section 5.4.12 above.

5.4.15 Policy 10.2.3.2

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
OS447.19	Harboursides and Peninsula Preservation Coalition	I seek to have the above provision amended	Amend Policy 10.2.3.2 by appending: <u>Building and structures have the potential to have significant adverse effects on the value of coastal character. Therefore, building and structures in the ONCC and HNCC which contravene performance standards for building size and quantity, building and structure screening, landscape building platform, indigenous vegetation removal, or reflectivity would be contrary to the objectives and policies of the District Plan (10.2 and 16.2) and therefore shall be avoided.</u>	Reject	Do not amend Policy 10.2.3.2 as requested
FS2449.120	Federated Farmers	I oppose the	Oppose OS447.19. Disallow submission.	Accept	Do not amend Policy

	of New Zealand	submission			10.2.3.2 as requested
OS900.46 OS958.39	Save The Otago Peninsula (STOP) Inc Soc Forest and Bird NZ	I seek to have the above provision amended	Amend Policy 10.2.3.2 as follows: Avoid <u>land use and development including but not limited to: forestry, new or additions to buildings and structures, residential, commercial, industrial and major facility activities, network utilities-utility structures</u> – large scale, on-site energy generation, community scale energy generation, regional scale energy generation, energy resource investigation devices, and biomass generators – stand-alone in the Outstanding Natural Coastal Character (ONCC) and High Natural Coastal Character (HNCC) overlay zones unless there are no material effects on the <u>adverse effects</u> on natural character <u>and biodiversity</u> values, as identified in Appendix A5.	Accept in part	Amend Policy 10.2.3.2 as shown in section 5.4.12 above
FS2391.58	Geoff Scurr Contracting Limited	I oppose the submission	Oppose OS900.46. Disallow submission.	Reject	Amend Policy 10.2.3.2 as shown in section 5.4.12 above
FS2444.41	Waste Management (NZ) Limited	I oppose the submission	Oppose OS900.46. Disallow submission	Reject	Amend Policy 10.2.3.2 as shown in section 5.4.12 above
FS2449.121, FS2449.122	Federated Farmers of New Zealand	I oppose the submission	Oppose OS900.46 and OS958.39. Disallow submissions.	Reject	Amend Policy 10.2.3.2 as shown in section 5.4.12 above
OS949.16	Department of Conservation	I seek to have the above provision amended	Amend Policy 10.2.3.2 to give effect to New Zealand Coastal Policy Statement Policy 13	Reject	Do not amend Policy 10.2.3.2 as requested
FS2482.38	Forest and Bird NZ	I support the submission	Support OS949.16. Allow submission.	Reject	Do not amend Policy 10.2.3.2 as requested
<u>Background</u> Policy 10.2.3.2 states “Avoid buildings and structures, residential, commercial, industrial and major facility activities, network utility structures –					

large scale, on-site energy generation, community scale energy generation, regional scale energy generation, energy resource investigation devices, and biomass generators – stand-alone {NU 308.137 and NU 308.468} in the Outstanding Natural Coastal Character (ONCC) and High Natural Coastal Character (HNCC) overlay zones unless there are no material effects on the natural character values, as identified in Appendix A5”.

Note the strike-through change as a result of the Network Utilities hearing. This policy links to the activity status rules for these activities in the ONCC and HNCC overlay zones.

Request to amend policy to specify mitigation standards and require contraventions to be avoided

HPPC (OS447.19) seeks to amend Policy 10.2.3.2 by appending the following: “Building and structures have the potential to have significant adverse effects on the value of coastal character. Therefore, building and structures in the ONCC and HNCC which contravene performance standards for building size and quantity, building and structure screening, landscape building platform, indigenous vegetation removal, or reflectivity would be contrary to the objectives and policies of the District Plan (10.2 and 16.2) and therefore shall be avoided.”

The submitter believes the upper limit definitions are needed for vague terms such as ‘insignificant’. Protection of landscapes requires certain rules regarding buildings and structures which, if contravened, create a non-complying activity that is contrary in a defined manner. This will serve to secure the application of upper limits and insure that precautionary principles apply in Dunedin’s most important natural places defined by landscape, coastal overlays, etc.

Federated Farmers of New Zealand (FS2449.120) opposes HPPC (OS447.19) stating that the amendment is unnecessary, an incoherent addition and that some buildings will be required in coastal areas.

Recommendation

This request relates to the activity status where a number of performance standards relating to buildings and structures and indigenous vegetation clearance are contravened. As buildings and structures are non-complying activities in ONCC and HNCC overlay zones, the proposed amendment to the policy is unnecessary, as performance standards for buildings and structures do not apply in these overlay zones. I do not recommend that this submission is accepted.

Requests to amend policy to avoid land use and development activities and include biodiversity effects

STOP (OS900.46) and Forest and Bird NZ (OS958.39) seek to amend Policy 10.2.3.2 as follows: “Avoid land use and development including but not limited to: forestry, new or additions to buildings and structures, residential, commercial, industrial and major facility activities, network utilities-utility structures – large scale, on-site energy generation, community scale energy generation, regional scale energy generation, energy resource investigation devices, and biomass generators – stand-alone in the Outstanding Natural Coastal Character (ONCC) and High Natural Coastal Character (HNCC) overlay zones unless there are no material effects on the adverse effects on natural character and biodiversity values, as identified in Appendix A5.”

The submitters believe that the policy does not meet the requirements of Part II RMA or the NZ Coastal Policy Statement. They state “Specifying activities limits the application of this policy. It is not possible to anticipate all potential activities that may have adverse effects in these zones. We agree that all activities that involve modification of natural character values and clearance of indigenous vegetation be avoided in ONCC and HNCC and this needs to be clearer in this suite of policies”.

Geoff Scurr Contracting Limited (FS2391.58) and Waste Management (NZ) Limited (FS2444.41) oppose STOP (OS900.46). Geoff Scurr Contracting believe that encompassing all land uses and development is too broad. Federated Farmers of New Zealand (FS2449.121, FS2449.122) opposes STOP (OS900.46) and Forest and Bird NZ (OS958.39) because they believe that it is inappropriate and against the purpose and principles of the RMA to avoid (prohibit) all land uses in ONCC and HNCC, unless there are no adverse effects on natural character and biodiversity.

Recommendation

I consider the amendment proposed in section 5.4.12 above provides some relief to this submitter by effectively incorporating those rural activities implicitly covered by the existing Policy 10.2.3.1, such as forestry, within Policy 10.2.3.2. The proposed amendment to Policy 10.2.3.2 also does not list out activities, but refers to those assigned a non-complying activity status. However, I note a relatively small number of land use and development activities are permitted in ONCC and HNCC areas, namely farming, grazing, rural ancillary retail, rural tourism – small scale, rural research – small scale, conservation, community and leisure – small scale and fences. These activities are limited to those that may be supportive of, or not detract from, natural character values. In some situations these activities may contribute to the preservation and enhancement of the natural character of these areas.

I do not support the inclusion of biodiversity values in the policy as suggested by the submitters. Ecological aspects are a component of natural character values and these are listed in Appendix A5. I do not consider that biodiversity values need to be listed separately in the policy as I think this would detract from plan clarity. I note, however, that Policy 10.2.2.2 manages the effect of buildings, structures and network activities on the biodiversity and natural character values of coastal margins, regardless of whether they are in natural coastal character overlay zones.

Submission to amend policy to give effect to NZCPS Policy 13

Department of Conservation (OS949.16) seeks to amend Policy 10.2.3.2 to give effect to New Zealand Coastal Policy Statement Policy 13, because they believe the policies need to provide for the NZCPS requirement to avoid adverse effects on areas of outstanding natural character and avoid significant adverse effects on natural character in all other areas of the coastal environment. Forest and Bird NZ (FS2482.38) supports Department of Conservation (OS949.16) because they believe the Plan needs to give effect to the NZCPS.

Recommendations

I do not recommend the policy is amended as I consider it already gives effect to NZCPS Policy 13. The policy seeks to avoid land use, development and network utilities activities in ONCC and HNCC overlay zones unless there are “no material effects” on natural character values. This corresponds to a very low tolerance of effects under the 2GP drafting protocol, which I consider gives effect to NZCPS Policy 13 through stipulating the avoidance of adverse effects on natural character.

I do not consider that the 2GP policies should merely restate the NZCPS or the pORPS-dv policies on natural character. I consider that Policy 10.2.3.2 is directive, clear and provides certainty in terms of specifying activities that are to be avoided in ONCC and HNCC overlay zones.

Recommended amendment:

None, but note recommended amendment in section 5.4.12 above.

5.4.16 Policy 10.2.3.3

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
OS900.47 OS958.40	Save The Otago Peninsula (STOP) Inc Soc Forest and Bird NZ	I seek to have the above provision amended	Amend Policy 10.2.3.3 as follows: Only allow Avoid indigenous vegetation clearance, tree planting, new network utilities or additions to network utilities, and earthworks –large scale in the Outstanding Natural Coastal Character (ONCC) and High Natural Coastal Character (HNCC) overlay zones where unless there are no adverse effects on the <u>biodiversity and</u> natural character values identified in Appendix A5. are insignificant.	Reject	Do not amend Policy 10.2.3.3 as requested
FS2391.59	Geoff Scurr Contracting Limited	I oppose the submission	Oppose OS900.47. Disallow submission.	Accept	Do not amend Policy 10.2.3.3 as requested
FS2449.123, FS2449.124	Federated Farmers of New Zealand	I oppose the submission	Oppose OS900.47 and OS958.40. Disallow submissions.	Accept	Do not amend Policy 10.2.3.3 as requested
FS2379.4	Department of Conservation	I support the submission	Support OS958.40. Allow submission and amend Policy 10.2.3.3 as requested by submitter.	Reject	Do not amend Policy 10.2.3.3 as requested
OS949.17	Department of Conservation	I seek to have the above provision amended	Amend Policy 10.2.3.3 to give effect to New Zealand Coastal Policy Statement Policy 13	Reject	Do not amend Policy 10.2.3.3 as requested
FS2482.39	Forest and Bird NZ	I support the	Support OS949.17. Allow submission.	Reject	Do not amend Policy

	submission		10.2.3.3 as requested
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Background

Policy 10.2.3.3 states “Only allow indigenous vegetation clearance, tree planting, ~~new network utilities or additions to network utilities~~ amateur radio configurations, network utilities structures – small scale, network utilities poles and masts – small scale, {CL16} and earthworks – large scale in the Outstanding Natural Coastal Character (ONCC) and High Natural Coastal Character (HNCC) overlay zones where adverse effects on the natural character values identified in Appendix A5 are insignificant”.

This policy links to the activity status rules for these restricted discretionary and discretionary activities in the ONCC and HNCC overlay zones.

Requests to amend policy to “avoid” activities and include biodiversity effects

STOP (OS900.47) and Forest and Bird NZ (OS958.40) seek to amend Policy 10.2.3.3 as follows: “~~Only allow~~ Avoid indigenous vegetation clearance, tree planting, ~~new network utilities or additions to network utilities,~~ and earthworks –~~large scale~~ in the Outstanding Natural Coastal Character (ONCC) and High Natural Coastal Character (HNCC) overlay zones ~~where unless there are no~~ adverse effects on the biodiversity and natural character values identified in Appendix A5 are insignificant.”

The submitters believe this policy does not meet the requirements of Part II RMA or the NZ Coastal Policy Statement. This policy could conflict with Policy 10.2.3.2, as most of the activities to be avoided are likely to require vegetation clearance. Policy 10.2.3.2 would allow these if there are no material effects on natural character values and Policy 10.2.3.3 allows vegetation clearance if adverse effects are insignificant. All activities in ONCC and HNCC should have the same test.

Geoff Scurr Contracting Limited (FS2391.59) opposes STOP (OS900.47) because they disagree with the inclusion of small scale earthworks. Federated Farmers of New Zealand (FS2449.123, FS2449.124) opposes STOP (OS900.47) and Forest and Bird NZ (OS958.40) because as a result of the NZ King Salmon case, ‘avoid’ is taken as ‘prohibit’; it is inappropriate to prohibit vegetation clearance and tree planting in the ONCC and HNCC zones unless there are no adverse effects; this is inconsistent with the sustainable management purpose and principles of the RMA. Department of Conservation (FS2379.4) support Forest and Bird NZ (OS958.40) because they believe the amendments suggested will better give effect to the NZCPS.

Recommendation

I do not consider the wording of this policy should be amended to an “avoid” policy as the activities listed are restricted discretionary or discretionary, not non-complying and therefore the policy wording reflects the appropriate drafting protocol for these activities. I note that there are other submissions on the activity status of certain of the activities in Policy 10.2.3.3, which are considered in section 5.16 below.

I do not agree with the submitters that the activities to be avoided in Policy 10.2.3.2 will necessarily require vegetation clearance, as I note that some of the ONCC and HNCC areas identified in the 2GP are currently in grazed pasture. I do not support the inclusion of biodiversity values in the policy as suggested by the submitters, for the same reasons as given above to the same submitters in response to Policy 10.2.3.2.

I do not recommend acceptance of these submissions.

Request to amend policy to give effect to NZCPS Policy 13

Department of Conservation (OS949.17) seek to amend Policy 10.2.3.3 because they believe it currently does not adequately demonstrate how effect is given to Policy 13 and the need to avoid adverse effects on areas of outstanding natural character and avoid significant adverse effects on natural character in all other areas of the coastal environment. Forest and Bird NZ (FS2482.39) support Department of Conservation (OS949.17) because they believe the Plan needs to give effect to the NZCPS.

Recommendations

I consider that Policy 10.2.3.3 is part of a suite of policies under Objective 10.2.3 that give effect to NZCPS Policy 13. These policies are directive in respect of the activities that are anticipated in the coastal overlay zones as well as specifying the level of effects that will be tolerated in the different coastal overlay zones. Rather than merely restating the RMA or NZCPS Policy 13, I consider that this policy set provides clarity and certainty to plan users as to what is expected in the coastal overlay zones.

Recommended amendment:

None, but note recommended amendment in section 5.4.12 above.

5.4.17 Policies 10.2.3.4, 10.2.3.10 and 10.2.3.11

Sub pt #	Submitter Name	Support/Oppose/ Seek Amend	Summary Of Submission	Accept/Reject/ Accept in part	Staff Recommendation
OS447.20	Harboursides and Peninsula Preservation Coalition	I seek to have the above provision amended	Amend Policy 10.2.3.4 as follows: Only allow mining, landfills, large buildings and structures, forestry...in the Natural Coastal Character Overlay Zone (NCC) where adverse effects...can be avoided or, if avoidance is not possible, be no more than minor would be insignificant.	Reject	Do not amend Policy 10.2.3.4 as requested
FS2391.8	Geoff Scurr Contracting Limited	I oppose the submission	Oppose OS447.20. Disallow submission and retain Policy 10.2.3.4 as proposed in the 2GP.	Accept	Do not amend Policy 10.2.3.4 as requested
FS2449.125	Federated Farmers of New Zealand	I oppose the submission	Oppose OS447.20. Disallow submission.	Accept	Do not amend Policy 10.2.3.4 as requested
OS458.11	Saddle Views	I seek to have the	Amend Policy 10.2.3.4 as follows: Only	Reject	Do not amend Policy

	Estate Limited	above provision amended	allow mining, landfills, large buildings and structures, forestry, earthworks large scale, and indigenous vegetation clearance in the Natural Coastal Character Overlay Zone (NCC) where <u>significant</u> adverse effects on the natural character values identified in Appendix A5 can be avoided or, if avoidance is not possible, be no more than minor. Remedied or mitigated.		10.2.3.4 as requested.
OS874.13 OS901.9	Blackhead Quarries Ltd Tussock Top Farm Ltd	I oppose the provision	Amend Policy 10.2.3.4 to read 'Only allow mining, landfills, large buildings and structures, forestry, earthworks large scale, and indigenous vegetation clearance in the Natural Coastal Character Overlay Zone (NCC) where <u>significant</u> adverse effects on the natural character values identified in Appendix A5 can be avoided or, if avoidance is not possible, be no more than minor. Remedied or mitigated'.	Reject	Do not amend Policy 10.2.3.4 as requested.
OS900.48 OS958.41	Save The Otago Peninsula (STOP) Inc Soc Forest and Bird NZ	I seek to have the above provision amended	Combine Policies 10.2.3.4, 10.2.3.10 and 10.2.3.11 into one policy that requires all land use and development activities to be avoided unless there are no material effects on either natural character or biodiversity values. However, if separate policies 10.2.3.4 and 10.2.3.10 are retained, amend the wording of these policies as follows: "only allow...where adverse effects... can be avoided or, if avoidance is not possible, be no more than minor, <u>and can be remedied or mitigated.</u> "	Reject	Do not amend Policies 10.2.3.4, 10.2.3.10 and 10.2.3.11 as requested.
FS2391.57	Geoff Scurr Contracting Limited	I oppose the submission	Oppose OS900.48. Disallow submission.	Accept	Do not amend Policies 10.2.3.4, 10.2.3.10 and 10.2.3.11 as requested.
FS2449.126	Federated Farmers	I oppose the	Oppose OS900.48. Disallow submission.	Accept	Do not amend Policies

	of New Zealand	submission			10.2.3.4, 10.2.3.10 and 10.2.3.11 as requested.
FS2449.127	Federated Farmers of New Zealand	I oppose the submission	Oppose OS958.41. Disallow submission.	Accept	Do not amend Policies 10.2.3.4, 10.2.3.10 and 10.2.3.11 as requested.
OS949.18	Department of Conservation	I seek to have the above provision amended	Amend Policy 10.2.3.4 to give effect to New Zealand Coastal Policy Statement Policy 13	Reject	Do not amend Policy 10.2.3.4 as requested
FS2482.40	Forest and Bird NZ	I support the submission	Support OS949.18. Allow submission.	Reject	Do not amend Policy 10.2.3.4 as requested
OS457.55	Aurora Energy Limited	I support the provision	Retain Policy 10.2.3.10	Reject	Remove Policy 10.2.3.10 as set out in section 5.4.12 above

Background

Policy 10.2.3.4 states:

"Only allow mining, landfills, large buildings and structures, forestry, earthworks – large scale, and indigenous vegetation clearance in the Natural Coastal Character Overlay Zone (NCC) where adverse effects on the natural character values identified in Appendix A5 ~~can~~ will {cl. 16} be avoided or, if avoidance is not possible, no more than minor".

Policy 10.2.3.10, including changes recommended in the Network Utilities Section 42A report, states:

"Only allow network utilities poles and masts-small scale, on-site energy generation devices, network utility structures – large scale, ~~community scale solar panels and wind generators~~ solar panels – community scale, hydro generators – community scale, {NU 308.122 and others} and energy resource investigation devices in the Natural Coastal Character Overlay Zone (NCC) where adverse effects on the natural character values identified in Appendix A5:

- a. ~~can be~~ are avoided or, if avoidance is not possible, ~~be~~ no more than minor; or {NU 576.9 and others}
- b. where there are no practicable alternative locations, are adequately mitigated {NU 576.9 and others}"

Policy 10.2.3.11, including a change recommended in the Network Utilities Section 42A report, states:

"Avoid wind generators – community scale, ~~biomass generators – stand alone~~ {NU 308.137 and NU 308.468} and regional scale energy generation in the Natural Coastal Character Overlay Zone (NCC) unless there are no material effects on the natural character values, as identified in Appendix A5."

Policy 10.2.3.4 applies to land use and development activities that are restricted discretionary or discretionary in NCC overlay zones. These are mining, landfills, large buildings and structures, forestry, earthworks – large scale, and indigenous vegetation clearance.

Policy 10.2.3.10 applies to city-wide network utilities activities that are restricted discretionary or discretionary in NCC overlay zones. These are network utilities poles and masts – small scale, on-site energy generation devices, network utility structures – large scale, solar panels – community scale, hydro generators – community scale, and energy resource investigation devices.

Policy 10.2.3.11 applies to city-wide network utilities activities that are non-complying in NCC overlay zones. These are wind generators – community scale and regional scale energy generation.

Request to remove mining, landfills, large buildings/structures from Policy 10.2.3.4, and to require adverse effects to be insignificant

HPPC (OS447.20) seeks to amend Policy 10.2.3.4 as follows: “Only allow ~~mining, landfills, large buildings and structures~~, forestry....in the Natural Coastal Character Overlay Zone (NCC) where adverse effects....can be avoided or, if avoidance is not possible, ~~be no more than minor~~ would be insignificant.” HPPC believes that building and structure size would be controlled by the new performance standard requested by this submitter that relates to the size and number of permitted buildings and structures (see discussion in section 5.11.6). They are concerned that the use of the word ‘minor’ will be confused with the specific definition of ‘minor’ in RMA case law, pertaining to section 104D, a topic which is different from describing a 2GP policy.

Geoff Scurr Contracting Limited (FS2391.8) opposes this submission as they believe these activities do need to be provided for. Federated Farmers of New Zealand (FS2449.125) opposes the submission as the proposed amendments are inappropriate as there may be a need to place some buildings and structures, and carry out other appropriate mining and landfill activities which have only minor adverse effects in the NCC zone.

Recommendations

I do not recommend the removal of mining, landfills and large buildings and structures from Policy 10.2.3.4. These are restricted discretionary or discretionary activities and the policy assists with an assessment of when they may be acceptable.

I also note that I am not recommending acceptance of the submitters’ new performance standard for building and structure size (refer section 5.11.6), and do not support a change to activity status for large buildings and structures.

I do not favour the use of “would be insignificant” in relation to adverse effects, as this corresponds to the most strict policy level in the 2GP drafting protocol in terms of a very low tolerance of effects, and is more suitably used with “avoid” policies and non-complying activities.

Requests to amend Policy 10.2.3.4 to avoid, remedy or mitigate “significant” adverse effects

Saddle Views Estate Limited (OS458.11) seeks to amend Policy 10.2.3.4 as follows: “~~Only~~ allow mining, landfills, large buildings and structures, forestry, earthworks large scale, and indigenous vegetation clearance in the Natural Coastal Character Overlay Zone (NCC) where significant adverse effects on the natural character values identified in Appendix A5 can be avoided ~~or, if avoidance is not possible, be no more than minor~~.”

Remedied or mitigated." The submitter believes that the imperatives of the policy do not create the balance in considering the positive effects associated with mining. The approach is considered to undermine the opportunity for communities to source sustained supplies of aggregates.

Blackhead Quarries Ltd (OS874.13) and Tussock Top Farm Ltd (OS901.9) seek to make the same amendment as Saddle Views Estates, without the deletion of the word "Only" at the start of the policy. The submitters believe that the proposed District Plan does not provide adequate recognition of the importance of aggregate to the community and does not provide the appropriate level of protection for existing quarries or make adequate provision for the development of new quarries.

Recommendations

I do not support the deletion of the word "only" from the start of Policy 10.2.3.4. The "only allow" policy wording is consistent with the 2GP drafting protocol and leads to the use of restricted discretionary and discretionary activity status.

The submitters seek to change the policy to consider only "significant" adverse effects. Policy 13(1)(b) of the NZCPS requires, for areas that are not of outstanding natural character, to "avoid significant adverse effects and avoid, remedy or mitigate other adverse effects of activities on natural character in all other areas of the coastal environment". I consider that in seeking to preserve natural character, this provides a mandate to also consider and manage effects deemed less than significant. However, I do not consider the policy wording should be amended to "avoid, remedy or mitigate" adverse effects for the same reason as given in section 5.2.9 above in response to Saddle View Estates' submission on Objective 2.4.4.

Requests to: combine Policies 10.2.3.4, 10.2.3.10 and 10.2.3.11 so that a single policy applies to all land use and development activities in NCC overlay zones; include biodiversity effects; and remedy or mitigate adverse effects

STOP (OS900.48) and Forest and Bird NZ (OS958.41) seek that Policies 10.2.3.4, 10.2.3.10 and 10.2.3.11 be combined into one policy that requires all land use and development activities to be avoided unless there are no material effects on either natural character or biodiversity values. However, if separate policies 10.2.3.4 and 10.2.3.10 are retained, the submitters seek that the wording of these policies be amended as follows: "only allow [the various activities in question] where adverse effects... can be avoided or, if avoidance is not possible, be no more than minor, and can be remedied or mitigated."

In the submitters' view:

- Policies 10.2.3.4 and 10.2.3.10 as notified do not meet the requirements of Part II RMA or the NZ Coastal Policy Statement.
- "It is not clear why community scale wind generators etc. in Policy 10.2.3.11 are avoided unless there are no material effects and why large scale earthworks, mining, onsite energy generation devices etc. are allowed if adverse effects can be avoided or no more than minor... The difference in the tests is not clear."

Geoff Scurr Contracting Limited (FS2391.57) opposes STOP (OS900.48) because they believe that encompassing all land uses and development is too broad.

Federated Farmers of New Zealand (FS2449.126, FS2449.127) opposes STOP (OS900.48) and Forest and Bird NZ (OS958.41) based on the view

that it is inappropriate and against the sustainable management purpose and principles of the RMA to “only allow land uses and development” in the NCC where there are no adverse effects on biodiversity and natural character.

Recommendations

I address the three component parts of the submissions as follows:

Applying a single “avoid, unless” policy to all land use and development activities in NCC overlay zones

I do not consider that this is appropriate, because, based on 2GP drafting protocol, it would imply that all land use and development activities are non-complying in NCC overlay zones. This is not the case, as activities are variously permitted, restricted discretionary, discretionary or non-complying in these areas.

I note that I am recommending in section 5.4.12 above that Policy 10.2.3.10 is removed, and the activities it addresses combined into Policy 10.2.3.4 – both policies consider restricted discretionary and discretionary activities in NCC overlay zones. I consider that Policy 10.2.3.11 should remain as a separate policy as it addresses non-complying activities in NCC overlay zones. I note that I am also recommending changes to the policy tests in policies 10.2.3.4 and 10.2.3.11 in section 5.4.12.

Biodiversity values

I do not support the inclusion of biodiversity values in the policy as requested by the submitters, for the same reason as given in response to the same submitters with respect to Policy 10.2.3.2 above.

Remedied or mitigated

I do not support the phrasing as suggested by the submitters. I consider it better than the more generic “avoid, remedy or mitigate” suggested elsewhere as it gives some preference for avoidance of effects. However, the suggested wording does not give any preference between remediation and mitigation, and also does not give any guidance as to an acceptable level of mitigation.

Request to amend Policy 10.2.3.4 to give effect to NZCPS Policy 13

Department of Conservation (OS949.1) seeks to amend Policy 10.2.3.4 because they believe it currently does not adequately demonstrate how effect is given to Policy 13 and the need to avoid adverse effects on areas of outstanding natural character and avoid significant adverse effects on natural character in all other areas of the coastal environment. Forest and Bird NZ (FS2482.40) supports Department of Conservation (OS949.1) because they believe the Plan needs to give effect to the NZCPS.

Recommendations

Reject – refer response to same submitter in section 5.4.16 above.

Submission in support of Policy 10.2.3.10

Aurora Energy Limited (OS457.55) seeks to retain Policy 10.2.3.10, but comments that it is not always possible to locate Regionally Significant

Infrastructure in areas with the least visibility.

Recommendations

Although I recommend that this policy be removed, I consider that my other recommendations are consistent with the point made in Aurora’s submission. In section 5.4.12 above, I recommend that Policy 10.2.3.10 is removed and Policy 10.2.3.4 is amended so that it applies to all restricted discretionary and discretionary activities in NCC overlay zones (including the utilities activities previously provided for in Policy 10.2.3.10). The test that I recommend for this policy, as shown in section 5.4.12, is that effects be “avoided or, if avoidance is not possible, adequately mitigated”. I consider that the term “adequately” provides for consideration of the technical and operational requirements that influence the location of utilities.

Recommended amendment:

None.

5.4.18 Policy 10.2.3.5

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
OS900.49	Save The Otago Peninsula (STOP) Inc Soc	I seek to have the above provision amended	Amend Policy 10.2.3.5 as follows: ‘Only allow natural hazard mitigation activities <u>for public purposes, public</u> transportation activities, and public amenities in Outstanding Natural Coastal Character (ONCC), High Natural Coastal Character (HNCC) and Natural Coastal Character (NCC) overlay zones where any adverse effects on the <u>biodiversity and natural character</u> values identified in Appendix A5 are minimised as far as practicable...’	Reject	Remove Policy 10.2.3.5 as shown in section 5.4.12 above
OS958.42	Forest and Bird NZ				Addition of word biodiversity dealt with in section 5.4.15
FS2391.60	Geoff Scurr Contracting Limited	I oppose the submission	Oppose OS900.49. Disallow submission.	Accept	No amendment required
FS2449.128, FS2449.129	Federated Farmers of New Zealand	I oppose the submission	Oppose OS900.49 and OS958.42. Disallow submissions.	Accept	No amendment required
OS949.19	Department of Conservation	I seek to have the above provision	Amend Policy 10.2.3.5 to give effect to New Zealand Coastal Policy Statement Policy 13	Reject	Remove Policy 10.2.3.5 as shown in

		amended			section 5.4.12 above
FS2482.41	Forest and Bird NZ	I support the submission	Support OS949.19. Allow submission.	Reject	Remove Policy 10.2.3.5 as shown in section 5.4.12 above

Background

Policy 10.2.3.5 states “Only allow natural hazard mitigation activities, transportation activities, and public amenities in Outstanding Natural Coastal Character (ONCC), High Natural Coastal Character (HNCC) and Natural Coastal Character (NCC) overlay zones where any adverse effects on the values identified in Appendix A5 are minimised as far as practicable; and if effects are more than insignificant if in an ONCC or HNCC, or more than minor if in a NCC, there are no practicable alternative locations”.

This policy is linked to restricted discretionary and discretionary city-wide activities in natural coastal character overlay zones. The activity status for these activities in these overlay zones is provided for in Rule 8.3 (natural hazard mitigation), Rule 6.3 (transportation) and Rule 3.3 (public amenities).

Requests to limit hazard mitigate and transportation activities to public activities

STOP (OS900.49) and Forest and Bird NZ (OS958.42) seek to amend Policy 10.2.3.5 as shown in the table above, as they believe there is a need to distinguish between activities for public and private purposes. There are instances where people undertake private and often inappropriate actions to prevent coastal erosion. New roads should only be considered in the ONCC and HNCC Zones if they are for the public transport network.

Geoff Scurr Contracting Limited (FS2391.60) opposes STOP (OS900.49) because they believe that “private land should have the same rights”. Federated Farmers of New Zealand (FS2449.128, FS2449.129) opposes STOP (OS900.49) and Forest and Bird NZ (OS958.42) as the proposed additions are unnecessary and the wording of ‘public purposes’ is inconsistent with RMA language and terminology.

Recommendation

I do not consider that the natural hazard mitigation or transportation activities in Policy 10.2.3.5 should be limited to those that are for public purposes only. The policy seeks to manage the effects of these activities on natural coastal character overlay zones and I consider the effects on natural character that need to be assessed will be the same for public or private activities. In response to the submitters’ comments about coastal erosion I note that, except in the case of emergency natural hazard mitigation or repair and maintenance of existing hazard mitigation features or structures, hazard mitigation activities are discretionary activities. This discretionary assessment under Rule 8.5.2 provides guidance across a range of matters including the amenity and character of the surrounding area and the effects on biodiversity and natural character of the coast (Policy 10.2.2.6), as well as the effectiveness in terms of managing the risk from natural hazards.

I note that I am recommending the removal of this policy in section 5.4.12 above, with the activities to be managed under policies 10.2.3.3 and 10.2.3.4 as appropriate.

Request to amend policy to give effect to NZCPS Policy 13

Department of Conservation (OS949.19) seeks to amend Policy 10.2.3.5 to give effect to New Zealand Coastal Policy Statement Policy 13. They believe that the policies need to provide for the NZCPS requirement to avoid adverse effects on areas of outstanding natural character and avoid significant adverse effects on natural character in all other areas of the coastal environment. Forest and Bird NZ (FS2482.41) supports Department of Conservation (OS949.19) because they believe the Plan needs to give effect to the NZCPS.

Recommendation

Note recommended removal of policy and integration of activities into policies 10.2.3.3 and 10.2.3.4. This same submission point addressed under these policies.

Recommended amendment:

None, but note recommended removal of policy in section 5.4.12 above.

5.4.19 Policy 10.2.3.7

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
OS900.50	Save The Otago Peninsula (STOP) Inc Soc	I seek to have the above provision amended	Amend Policy 10.2.3.7 as follows: Only allow subdivision activities in Outstanding Natural Coastal Character (ONCC), High Natural Coastal Character (HNCC) and Natural Coastal Character (NCC) overlay zones where the subdivision is designed to ensure that any future land use or development activities will preserve maintain or enhance, on an on-going basis, the natural character <u>and biodiversity</u> values identified in Appendix A5 and will be in accordance with Policies 10.2.3.1- 10.2.3.5.	Reject	Do not amend Policy 10.2.3.7 as requested
OS958.43	Forest and Bird NZ				
FS2391.122	Geoff Scurr Contracting Limited	I oppose the submission	Oppose OS900.50. Disallow submission.	Reject	Amend Policy 10.2.3.7 as shown

					below
FS2449.131	Federated Farmers of New Zealand	I oppose the submission	Oppose OS900.50. Disallow submission.	Reject	Amend Policy 10.2.3.7 as shown below
FS2449.132	Federated Farmers of New Zealand	I oppose the submission	Oppose OS958.43. Disallow submission.	Reject	Amend Policy 10.2.3.7 as shown below

Background

Policy 10.2.3.7 states “Only allow subdivision activities in Outstanding Natural Coastal Character (ONCC), High Natural Coastal Character (HNCC) and Natural Coastal Character (NCC) overlay zones where the subdivision is designed to ensure that any future land use or development activities will maintain or enhance, on an on-going basis, the natural character values identified in Appendix A5 and will be in accordance with Policies 10.2.3.1-10.2.3.5”.

Requests to replace “maintain” with “preserve” and add biodiversity values

STOP (OS900.50) and Forest and Bird NZ (OS958.43) seek to amend Policy 10.2.3.7 as shown in the table above, as they believe this policy does not meet the requirements of Part II RMA or the NZ Coastal Policy Statement.

Geoff Scurr Contracting Limited (FS2391.122) opposes STOP (OS900.50) because they are concerned about the implications of the term “preserve” in the context of the plan and believe definitions may be required. Federated Farmers of New Zealand (FS2449.131, FS2449.132) opposes STOP (OS900.50) and Forest and Bird NZ (OS958.43) as they believe that biodiversity values are covered elsewhere and that maintenance is the more appropriate and accepted term under the RMA.

Recommendations

Request to change “maintain” to “preserve” – I do not recommend this amendment; refer discussion under Objective 10.2.2 in section 5.4.8.

Request to include biodiversity values – I do not recommend this amendment; refer discussion under Policy 10.2.3.2 in section 5.4.15. I note, however, that Policy 10.2.2.5 manages the effect of subdivision on the biodiversity and natural character values of coastal margins, regardless of whether they are in natural coastal character overlay zones.

Recommended amendment:

None

5.4.20 Objective 10.2.4

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
OS690.11	Yellow-eyed Penguin Trust	I seek to have the above provision amended	Retain Objective 10.2.4	Accept	No amendment required
OS893.21	Ravensdown Limited	I support the provision	Retain Objective 10.2.4.	Accept	No amendment required
OS1088.41	Oceana Gold (New Zealand) Limited	I seek to have the above provision amended	Amend Objective 10.2.4 to clarify the meaning of 'identified water bodies'	Accept	Amend Objective 10.2.4 and Policy 2.2.3.4 as shown below

Background

Objective 10.2.4 states:

"Subdivision and development activities maintain and enhance access to coastlines, identified water bodies and other parts of the natural environment, including for the purposes of gathering of food and mahika kai".

This objective and its policies lead to rules that manage:

- the location of activities in relation to the coast and water bodies (Rule 10.3.3 Setback from Coast and Water Bodies)
- the creation of esplanade reserves or strips when subdivision occurs adjacent to the coast and water bodies (Rule 10.3.1 Esplanade Reserves and Strips)
- assessment of the effects of hazard mitigation earthworks and structures on the coast and water bodies (Rules 8.5.2.1 and 10.6.2.2).

Submissions on Policies 10.2.4.1 and 10.2.4.3#1 (note that the policy numbering 10.2.4.3 was inadvertently used twice in the provisions as notified), which link to Rules 10.3.1 and 10.3.3, are discussed alongside submissions on these rules, in sections 5.7.5 and 5.6.3 below.

Submissions in support

Ravensdown Limited (OS893.21) seeks to retain Objective 10.2.4 as they support the objective which represents good resource management practice and will promote the sustainable management of natural and physical resources. Yellow-eyed Penguin Trust (OS690.11) also seeks to retain Objective 10.2.4.

Request to clarify the meaning of "identified water bodies"

Oceana Gold (New Zealand) Limited (OS1088.41) seek to amend Objective 10.2.4 as they believe they cannot support the objective because "identified water bodies" are not defined or listed.

Recommendations – Amendments 1 and 2

I consider that the inclusion of the word 'identified' detracts from the clarity of the objective. Its inclusion relates to the fact that esplanade strip and esplanade reserve requirements only pertain to the coast and those water bodies identified in Rule 10.3.1. However, Objective 10.2.4 covers other more general policies, such as the requirement under Policy 10.2.4.1 for setbacks from the coast and all water bodies. I recommend Objective 10.2.4 is amended to remove the word 'identified' to improve its clarity.

I also note that strategic Policy 2.2.3.4 also contains two instances of the same phrase "identified water bodies", one of which in clause (c) relates to the use of esplanade rules where water bodies are identified in Rule 10.3.1, and the other in clause (d) relates to setback rule 10.3.3 for buildings, structures and earthworks which applies to water bodies in general. I recommend that, if the Hearing considers there is scope from this submission, that the word "identified" is also removed from clause (d) of Policy 2.2.3.4.

Recommended amendment:

Amendment One:

Amend Objective 10.2.4 as follows:

"Subdivision and development activities maintain and enhance access to coastlines, ~~identified~~ water bodies and other parts of the natural environment, including for the purposes of gathering of food and mahika kai." {NatEnv1088.41}

Amendment Two:

Amend Policy 2.2.3.4 as follows, and make consequential changes to assessment rules:

"...d. rules that require buildings, structures and earthworks to be set back from the coast and ~~identified~~ {NatEnv1088.41} water bodies."

5.4.21 Policy 10.2.4.3 #2

Sub pt #	Submitter Name	Support/Oppose/ Seek Amend	Summary Of Submission	Accept/Reject/ Accept in part	Staff Recommendation
OS360.156	Dunedin City Council	I seek to have the above provision	Renumber second instance of Policy 10.2.4.3 to Policy 10.2.4.4.	Accept	Renumber Policy to 10.2.4.4 and make

		amended			consequential amendments
OS360.157	Dunedin City Council	I seek to have the above provision amended	Amend Rule 10.6.2.2.b to end “....to the coast and riparian margins (Policy 10.2.4.34)”.	Accept	Amend Rule 10.6.2.2 as requested
OS322.35	KiwiRail Holdings Limited	I seek to have the above provision amended	Amend Policy 10.2.4.3 as follows: ‘Only allow hazard mitigation earthworks or structures where practicable public access to the coast and riparian margins is maintained or enhanced.’	Accept in Part	Amend Rule 10.6.2.2 as shown below

Background

Policy 10.2.4.3 (the second instance) states “Only allow hazard mitigation earthworks or structures where public access to the coast and riparian margins is maintained or enhanced”.

Request to amend policy numbering error

Dunedin City Council (OS360.156) seeks to renumber the second instance of Policy 10.2.4.3 to Policy 10.2.4.4 because there is currently a double-up of numbering. Dunedin City Council (OS360.157) also seeks to amend assessment Rule 10.6.2.2.b to end “....to the coast and riparian margins (Policy 10.2.4.34)” to reflect this numbering change.

Recommendation – Amendment 1

I recommend that the submission of Dunedin City Council to renumber this policy to 10.2.4.4 is accepted as this would improve plan clarity. I also recommend acceptance of amendment to assessment Rule 10.6.2.2.b to reflect this policy renumbering.

Request to amend policy to provide for “practicable” public access

KiwiRail Holdings Limited (OS322.35) seeks to amend Policy 10.2.4.3 by including the word “practicable” prior to public access. The submitter seeks that recognition be given to the purpose and function of the hazard mitigation structures and earthworks – in the event that these are to protect the rail corridor from natural hazards, public access will not be able to be provided for health and safety reasons.

Recommendation – Amendment 2

KiwiRail seeks to moderate the policy to allow for health and safety considerations when determining whether public access should be maintained or enhanced. This policy supports the assessment of natural hazard mitigation earthworks and structures which are a discretionary activity assessed under Rule 8.5.2.1 and, in the case of public access, under Rule 10.6.2.2.

As with the discussion above of Policy 10.2.4.1, it is my opinion that plan clarity is improved if policies can solely focus on achieving the

outcomes sought by the objective under which they sit, rather than introducing matters that relate to the achievement of other objectives. Further, the addition of the word “practicable” sought by KiwiRail does not of itself provide any clarity that it is the health and safety aspects of public access that are of concern. I acknowledge, however, that health and safety should be a consideration when hazard mitigation activities and the provision of public access are proposed, and have proposed an amendment to Rule 10.6.2.2 below.

Recommended amendment:

Amendment One:

Renumber the second instance of Policy 10.2.4.3 (hazard mitigation earthworks or structures) to 10.2.4.4 and make consequential renumbering changes. {NatEnv360.156}

Amendment Two:

Amend Rule 10.6.2.2 by adding the following:

“Potential circumstance that may support a consent application include:
d. Restricting access is necessary to protect public health and safety.” {NatEnv322.35}

5.4.22 Objective 10.2.5 and policies

I refer back to the discussion under section 5.4.12 regarding drafting inconsistencies and anomalies in the policy suites under objectives 10.2.3 and 10.2.5. The following table sets out the general approach that I consider should be taken to the policies with different activity status in different landscape overlay zones. More specific recommendations follow the table.

Landscape Policies

Activity Zones	Type/Overlay	Current Policies	Suggested Wording	Activities
Non-complying in ONF overlays		Policy 10.2.5.2, 10.2.5.4 also non-complying rural and community activities in Policy 10.2.5.1	Avoid non-complying land use, development and network utilities activities in the Outstanding Natural Feature (ONF) overlay zone unless there are no material effects on the landscape values, as identified in Appendix A3	Multiple land use and development activities Network utilities activities listed in Policy 10.2.5.4 (incorporating amendments recommended in the Network Utilities Section 42A report), i.e.: network utilities structures - large scale, on-site energy generation, energy resource investigation devices, and

			community and regional scale energy generation.
Non-complying in ONL overlays	Policy 10.2.5.17#1 (new)	Avoid ... in the Outstanding Natural Landscape (ONL) overlay zone unless adverse effects on the landscape values, as identified in Appendix A3, are insignificant.	Mining, Landfills Network utilities activities listed in in 10.2.5.17 (incorporating amendments recommended in the Network Utilities Section 42A report), i.e.: wind generators - community scale and regional scale energy generation
Non-complying in SNL overlays	Policy 10.2.5.16	Avoid ... in the Significant Natural Landscape (SNL) overlay zone unless adverse effects on the landscape values, as identified in Appendix A3, are insignificant.	Regional-scale Energy Generation
Restricted Discretionary, Discretionary in ONF overlays	Policy 10.2.5.3, part Policy 10.2.5.5, Policy 10.2.5.17#2	Only allow... in the Outstanding Natural Feature (ONF) overlay zone where adverse effects on the landscape values identified in Appendix A3 will be avoided or, if avoidance is not possible, no more than minor	Earthworks – large scale, tree planting, public amenities. Discretionary natural hazard mitigation & transport activities. Network utilities activities listed in Policy 10.2.5.17#2 (incorporating amendments recommended in the Network Utilities Section 42A report), i.e.: amateur radio configurations, network utilities structures - small scale, network utilities poles and masts - small scale
Restricted Discretionary, Discretionary in ONL overlays	Policy 10.2.5.6, part Policy 10.2.5.5, (new) Policy 10.2.5.7	Only allow... in the Outstanding Natural Landscape (ONL) overlay zone where adverse effects on the landscape values identified in Appendix A3: a. will be avoided or, if avoidance is not possible, no more than minor, <u>or</u> b. <u>where there are no practicable alternative locations, are adequately mitigated.</u>	Forestry, buildings & structures >60m2, earthworks – large scale. Public amenities. Discretionary natural hazard mitigation & transport activities. Network utilities activities listed in (new) Policy 10.2.5.7 (incorporating amendments recommended in the Network Utilities Section 42A report), i.e.: network utilities poles

			and masts - small scale, network utilities structures – large scale, on-site energy generation devices, energy resource investigation devices, solar panels – community scale, hydro generators – community scale
Restricted Discretionary, Discretionary in SNL overlays	Policy 10.2.5.7 (notified version), part Policy 10.2.5.5, (new) Policy 10.2.5.9	Only allow...where adverse effects on the landscape values identified in Appendix A3 will be avoided or, if avoidance is not possible, adequately mitigated	Forestry, buildings & structures >60m2, earthworks – large scale. Public amenities. Mining, landfills, discretionary natural hazard mitigation & transport activities. Network utilities activities listed in (new) Policy 10.2.5.9 (incorporating amendments recommended in the Network Utilities Section 42A report), i.e.: network utilities poles and masts - small scale, network utilities structures - small scale, network utilities structures – large scale, on-site energy generation, community scale energy generation, and energy resource investigation devices

I consider the following amendments should be made to the policies under Objective 10.2.5.

1. Revise Policy 10.2.5.1 as it has no effects test, is not linked to assessment rules, is inconsistent with Policy 10.2.5.2 and 10.2.5.4 and is unclear as to which activities it applies to. As there is no scope to remove this policy, I recommend that it be reworded as shown below, so that it no longer applies to activities that require consent.
2. Combine Policy 10.2.5.2 and Policy 10.2.5.4 to provide a single policy for non-complying activities in ONFs, and to resolve the current drafting of 10.2.5.2 which is an “avoid” policy with no “unless” qualifier. Refer to “non-complying land use, development and network utilities activities” rather than specifically listing all activities which I consider makes the policy too lengthy.
3. Change the policy test in Policy 10.2.5.3 as I consider having a very strict test of “insignificant” effects with restricted discretionary and discretionary activities to be very stringent and too difficult a test for this type of activity status, where activities may be anticipated to occur subject to an assessment of scale, location and form. Change to the medium strictness test of avoided or, if avoidance is not

possible, no more than minor. Integrate the citywide activities from Policy 10.2.5.5 into Policy 10.2.5.3, and the network utilities activities from Policy 10.2.5.16 (notified policy numbering).

4. Change the policy test in Policy 10.2.5.6 to differentiate from restricted discretionary and discretionary activities in ONF overlay zones, and to recognise that these activities may generate minor adverse effects. Add the alternative policy test “where there are no practicable alternative locations, [effects] are adequately mitigated” to recognise that some of the activities provided for in this policy may have more than minor adverse effects even where mitigation measures are undertaken, but may need to locate within ONLs for operational reasons. Integrate the citywide activities from Policy 10.2.5.5 into Policy 10.2.5.6. Integrate the network utilities activities from (recommended) Policy 10.2.5.7 into Policy 10.2.5.6.
5. Remove Policy 10.2.5.5.
6. Remove Policy 10.2.5.7 (version inserted by Network Utilities hearing).
7. Amend (notified version) Policy 10.2.5.7 to differentiate from restricted discretionary and discretionary activities in ONL overlay zones, and to recognise that these activities may generate more than minor effects, but that adequate mitigation may be achievable. Integrate the citywide activities from Policy 10.2.5.5 into Policy 10.2.5.7. Integrate the network utilities activities from Policy 10.2.5.9 (version inserted by Network Utilities hearing) into Policy 10.2.5.7.
8. Remove Policy 10.2.5.9 (version inserted by Network Utilities hearing).
9. Amend (recommended version) of Policy 10.2.5.17 to change the effects test to “insignificant effects” from “no material effects”. While these both correspond to the highest tests and are both applied to non-complying activities, I consider the allowance for insignificant effects to be slightly more lenient than no material effects, as it allows for the possibility of some effects albeit very small. I consider this small change would allow for some differentiation between ONF overlay zones and the larger ONL overlay zones which may be able to absorb slightly higher effects. Note that this policy should sit alongside other ONL policies as part of a wider policy re-numbering.

Recommended amendments:

1. Amend Policy 10.2.5.1 as follows, and make consequential changes to assessment rules:
~~Limit rural and community activities in the Outstanding Natural Feature Overlay Zone (ONF) to those which do not require buildings or involve a change to the landform.~~ Enable rural and community activities in the Outstanding Natural Feature Overlay Zone (ONF) that do not require buildings or involve a change to the landform. {NatEnv919.30}
2. Remove Policy 10.2.5.2 {NatEnv874.14}, renumber Policy 10.2.5.4 as Policy 10.2.5.2 and amend as follows, and make consequential changes to assessment rules:
~~“Avoid buildings and structures, network utilities structures (CL16) → large scale, on-site energy generation, biomass generators → stand-alone {NU 308.137 and others}, energy resource investigation devices, and community and regional scale energy generation non-complying land use, development and network utilities activities {C116} in the Outstanding Natural Feature Overlay Zone (ONF), unless there are no material effects on the landscape values of the ONF as identified in Appendix A3.”~~
3. Amend Policy 10.2.5.3 as follows, and make consequential changes to assessment rules:

"Only allow tree planting, and earthworks - large scale, natural hazard mitigation activities, transportation activities, public amenities, amateur radio configurations, network utilities structures - small scale, network utilities poles and masts - small scale {NatEnv458.19} in the Outstanding Natural Feature Overlay Zone (ONF) where the adverse effects on the landscape values of the ONF, as identified in Appendix A3, would be insignificant will be avoided or, if avoidance is not possible, no more than minor. {NatEnv458.19}

4. Remove Policy 10.2.5.5 {NatEnv458.19}.

5. Amend Policy 10.2.5.6 as follows (note that the text below shows the proposed amendment to notified Policy 10.2.5.6; this overrides the amendment recommended in the Network Utilities Section 42A report in response to NU576.9, for reasons explained in section 5.4.12 above), and make consequential changes to assessment rules:

Only allow mining, {NatEnv900.110} forestry, landfills, {NatEnv900.110} large buildings and structures, earthworks - large scale, network utilities poles and masts - small scale, network utilities structures - small scale, on-site energy generation devices, energy resource investigation devices, and community scale hydro generators and solar panels natural hazard mitigation activities, transportation activities, public amenities, {NatEnv919.12} in the Outstanding Natural Landscape Overlay Zone (ONL) where any adverse effects on the landscape values of the ONL, as identified in Appendix A3, would be insignificant will be
a. avoided or, if avoidance is not possible, no more than minor; or
b. where there are no practicable alternative locations, adequately mitigated." {NatEnv874.15}

6. Remove Policy 10.2.5.7 (as inserted by Network Utilities s42). {NU576.9 and NatEnv908.1}

7. Amend Policy 10.2.5.7 (notified version) as follows (note that the text below shows the proposed amendment to notified Policy 10.2.5.7; this overrides the amendment recommended in the Network Utilities Section 42A report in response to NU576.9, for reasons explained in section 5.4.12 above) and make consequential changes to assessment rules:

"Only allow forestry, mining, landfills, large buildings and structures, and earthworks - large scale, network utilities poles and masts - small scale, network utilities structures - small large scale {CI16}, on-site energy generation devices, energy resource investigation devices, and community scale hydro generators and solar panels, community scale energy generation, {NU308.122} natural hazard mitigation activities, transportation activities and public amenities, {NatEnv458.12} in the Significant Natural Landscape Overlay Zone (SNL) where any adverse effects on the landscape values of the SNL, as identified in Appendix A3, will be avoided or, if avoidance is not possible, be no more than minor adequately mitigated." {NatEnv458.12}

8. Amend Policy 10.2.5.17 (recommended version) as follows, and make consequential changes to assessment rules:

"Avoid {NU764.1 and others} mining, landfills, {NatEnv900.110} wind generators - community scale, biomass generators - stand-alone and regional scale energy generation in Outstanding Natural Landscape (ONL) overlay zones {NU764.1 and others} unless adverse effects on the landscape values of the ONL, as identified in Appendix A3, are insignificant." {NU308.462}

5.4.23 Objective 10.2.5

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
OS447.23 OS900.55	Harboursides and Peninsula Preservation Coalition Save The Otago Peninsula (STOP) Inc Soc	I seek to have the above provision amended	Amend Objective 10.2.5 as follows: <u>For highly visible rural zones and</u> Outstanding Natural Features (ONFs), Outstanding Natural Landscapes (ONLs) and Significant Natural Landscapes (SNLs) are protected from inappropriate development...	Reject	Retain Objective 10.2.5
FS2373.14	Howard Saunders	I oppose the submission	Oppose OS447.23. Disallow submission to amend Objective 10.2.5.	Accept	Retain Objective 10.2.5
FS2391.2	Geoff Scurr Contracting Limited	I oppose the submission	Oppose OS447.23. Disallow submission and retain Objective 10.2.5 as proposed in the 2GP.	Accept	Retain Objective 10.2.5
FS2373.48	Howard Saunders	I oppose the submission	Oppose OS900.55. Disallow submission to amend Objective 10.2.5.	Accept	Retain Objective 10.2.5
FS2391.62	Geoff Scurr Contracting Limited	I oppose the submission	Oppose OS900.55. Disallow submission.	Accept	Retain Objective 10.2.5
FS2444.43	Waste Management (NZ) Limited	I oppose the submission	Oppose OS900.55. Disallow submission	Accept	Retain Objective 10.2.5
FS2449.139	Federated Farmers of New Zealand	I oppose the submission	Oppose OS900.55. Disallow submission.	Accept	Retain Objective 10.2.5
OS690.12	Yellow-eyed Penguin Trust	I seek to have the above provision amended	Amend Objective 10.2.5 to clarify that conservation activities are not restricted by these requirements and make consequential changes to Rule 16.2 (activity status), performance standards, assessment rules, maps and any other relevant Plan provisions	Reject	Retain Objective 10.2.5
OS1088.43	Oceana Gold (New	I seek to have the	Amend Objective 10.2.5 as follows:	Reject	Retain Objective

	Zealand) Limited	above provision amended	'Outstanding Natural Features (ONFs), Outstanding Natural Landscapes (ONLs) and Significant Natural Landscapes (SNLs) are protected from inappropriate development (<u>excluding locationally constrained development</u>) and their values, as identified in Appendix A3, are maintained or enhanced.'		10.2.5
OS919.28	Federated Farmers of New Zealand	I seek to have the above provision amended	Amend Objective 10.2.5 as follows: 'Outstanding Natural Features (ONFs), <u>and</u> Outstanding Natural Landscapes (ONLs) and Significant Natural Landscapes (SNLs) are protected from inappropriate development and their values, as identified in Appendix A3, are maintained or enhanced.'	Reject	Do not amend Objective 10.2.5 as requested
FS2140.37	John Scott	I support the submission	Support OS919.28. Allow submission and make changes requested by submitter.	Reject	Do not amend Objective 10.2.5 as requested
FS2279.37	Ben Graham	I support the submission	Support OS919.28. Allow submission and make changes requested by submitter.	Reject	Do not amend Objective 10.2.5 as requested
FS2300.37	Mathew O'Connell	I support the submission	Support OS919.28. Allow submission and make changes requested by submitter.	Reject	Do not amend Objective 10.2.5 as requested
FS2416.41	Alan Brown, Carrowmore Properties Limited, Robyn and Stephan Smith and Rick and Jill Clarke ("Pigeon Flat Road Group")	I support the submission	Support OS919.28. Allow submission.	Reject	Do not amend Objective 10.2.5 as requested
FS2482.25	Forest and Bird NZ	I oppose the submission	Oppose OS919.28. Disallow submission.	Accept	Do not amend Objective 10.2.5 as requested

OS447.28 OS900.64	Harboursides and Peninsula Preservation Coalition, Save The Otago Peninsula (STOP) Inc Soc	I seek to have the above provision amended	Add new policy under Objective 10.2.5 as follows: <u>In ONF, ONL and SNL areas only allow plantation forestry, landfills, and mining activities if the effects on the environment are insignificant.</u>	Reject	Do not add new policy as requested
FS2391.100, FS2391.113	Geoff Scurr Contracting Limited	I oppose the submission	Oppose OS447.28, OS900.64. Disallow submissions.	Accept	Do not add new policy as requested
FS2439.24, FS2439.25	Oceana Gold (New Zealand) Limited	I oppose the submission	Oppose OS447.28, OS900.64. Disallow submissions.	Accept	Do not add new policy as requested
FS2444.17, FS2444.46	Waste Management (NZ) Limited	I oppose the submission	Oppose OS447.28, OS900.64. Disallow submissions.	Accept	Do not add new policy as requested
FS2449.137, FS2449.141	Federated Farmers of New Zealand	I oppose the submission	Oppose OS447.28, OS900.64. Disallow submissions.	Accept	Do not add new policy as requested
OS447.27 OS900.63	Harboursides and Peninsula Preservation Coalition Save The Otago Peninsula (STOP) Inc Soc	I seek to have the above provision amended	Add new policy under Objective 10.2.5 as follows: <u>Require new buildings and structures in a landscape and coastal overlay zone, ONFs and Hill Slope Rural Zones to incorporate mitigating measures for building and structure size and quantity, building and structure screening, landscape building platform or indigenous vegetation removal. Buildings and structures have the potential to have significant adverse effects on the value of these areas. Therefore, activity development and subdivisions in these areas which contravene performance standards for building size and quantity, building and structure screening, landscape building platform, indigenous vegetation removal or reflectivity would be contrary to the objectives and policies of the District Plan (10.2 and 16.2) and therefore shall be</u>	Reject	Do not add new policy as requested

			<u>avoided.</u>		
FS2373.16, FS2373.54	Howard Saunders	I oppose the submission	Oppose OS447.27 and OS900.63. Disallow submissions to add a new policy under Objective 10.2.5.	Accept	Do not add new policy as requested
FS2391.99, FS2391.112	Geoff Scurr Contracting Limited	I oppose the submission	Oppose OS447.27 and OS900.63. Disallow submissions.	Accept	Do not add new policy as requested
FS2449.136, FS2449.140	Federated Farmers of New Zealand	I oppose the submission	Oppose OS447.27 and OS900.63. Disallow submissions.	Accept	Do not add new policy as requested
OS447.29 OS900.65	Harboursides and Peninsula Preservation Coalition Save The Otago Peninsula (STOP) Inc Soc	I seek to have the above provision amended	Add new policy under Objective 10.2.5 as follows: <u>Buildings and structures too densely developed have the potential to have significant adverse effects on landscape values. Therefore, in ONLs, ONFs and SNLs, a greater than 10% contravention of density and minimum site size performance standards outlined in 2GP Section 16 and 17 would be contrary to the Objectives and Policies of the District Plan and, therefore, shall be avoided.</u>	Reject	Do not add new policy as requested
FS2373.17, FS2373.55	Howard Saunders	I oppose the submission	Oppose OS447.29 and OS900.65. Disallow submissions to add new Policy under Objective 10.2.5.	Accept	Do not add new policy as requested
FS2391.102, FS2391.114	Geoff Scurr Contracting Limited	I oppose the submission	Oppose OS447.29 and OS900.65. Disallow submissions.	Accept	Do not add new policy as requested
FS2449.138, FS2449.142	Federated Farmers of New Zealand	I oppose the submission	Oppose OS447.29 and OS900.65. Disallow submissions.	Accept	Do not add new policy as requested
OS717.9	Robyn and Stephan Smith, Rick and Jill Clarke, Alan Brown, Carrowmore Properties Ltd (on behalf of the "Pigeon Flat Road	I seek to have the above provision amended	Add a new policy under Objective 10.2.5 as follows: <u>'Manage the effect of rural activities within the Significant Natural Landscape Overlay Zone by considering scale, location and materials used.'</u>	Reject	Do not add new policy as requested

	Group")				
OS919.29	Federated Farmers of New Zealand	I seek to have the above provision amended	Add a new policy under Objective 10.2.5 as follows: <u>Recognise that large parts of the District's Outstanding Natural Landscapes include working farms and accept that viable farming involves activities which may modify the landscape, providing the quality and character of the Outstanding Natural Landscape is not adversely affected.</u>	Reject	Do not add new policy as requested
FS2140.38	John Scott	I support the submission	Support OS919.29. Allow submission and make changes requested by submitter.	Reject	Do not add new policy as requested
FS2279.38	Ben Graham	I support the submission	Support OS919.29. Allow submission and make changes requested by submitter.	Reject	Do not add new policy as requested
FS2300.38	Mathew O'Connell	I support the submission	Support OS919.29. Allow submission and make changes requested by submitter.	Reject	Do not add new policy as requested
FS2416.42	Alan Brown, Carrowmore Properties Limited, Robyn and Stephan Smith and Rick and Jill Clarke ("Pigeon Flat Road Group")	I support the submission	Support OS919.29. Allow submission and add new policy under Objective 10.2.5 as requested by submitter.	Reject	Do not add new policy as requested
FS2482.26	Forest and Bird NZ	I oppose the submission	Oppose OS919.29. Disallow submission.	Accept	Do not add new policy as requested
OS361.12 OS364.8	Ben Graham Mathew O'Connell	I seek to have the above provision amended	Add new policies under Objective 10.2.5 as follows: <u>'Recognise that rural activities often require buildings of a large scale in order to function efficiently. Buildings of this nature are anticipated within the Rural Zone and therefore measures to manage these effects may be employed, but will not prevent the establishment of such buildings'</u> and <u>'Manage the effects of buildings and structures associated with rural activities</u>	Reject	Do not add new policies as requested

			<u>within the Outstanding Natural landscape Overlay Zone by considering scale, location and materials used</u> '.		
FS2449.134, FS2449.135	Federated Farmers of New Zealand	I support the submission	Support OS361.12 and OS364.8. Allow submissions.	Reject	Do not add new policies as requested

Background

Objective 10.2.5 states:

"Outstanding Natural Features (ONFs), Outstanding Natural Landscapes (ONLs) and Significant Natural Landscapes (SNLs) are protected from inappropriate development and their values, as identified in Appendix A3, are maintained or enhanced".

This objective and its policies lead to rules that manage:

- activity status of land use, development, subdivision and city-wide activities in ONFs, ONLs and SNLs
- reflectivity of buildings, structures and network utilities in ONLs and SNLs (Rule 10.3.6)
- minimum building separation in ONFs, ONLs and SNLs (Rule 10.3.5)

Submissions on Policies 10.2.5.8 (which is renumbered 10.2.5.10 in a recommendation in the Network Utilities Section 42A report) and 10.2.5.12 (renumbered 10.2.5.13 in a recommendation in the same report), which link to Rules 10.3.5 and 10.3.6, are discussed alongside submissions on these rules, in sections 5.11.3.2 and 5.11.2.1 below.

Requests to amend Objective 10.2.5 to add "highly visible rural zones"

HPPC (OS447.23) and STOP (OS900.55) seek to amend Objective 10.2.5 as follows: "For highly visible rural zones and Outstanding Natural Features (ONFs), Outstanding Natural Landscapes (ONLs) and Significant Natural Landscapes (SNLs) are protected from inappropriate development..." The submitters believe protection is warranted for rural slopes near urban and township areas.

Howard Saunders (FS2373.14) opposes HPPC (OS447.23) and STOP (OS900.55) because he believes that additional description is unnecessary and inappropriate, as areas in need of protection are well covered by the landscape overlay zones. Geoff Scurr Contracting Limited (FS2391.2) opposes HPPC (OS447.23) because the objective is focussed on outstanding and significant landscapes. Geoff Scurr Contracting Limited (FS2391.62) opposes STOP (OS900.55) as "highly visible rural zones" is too broad and vague.

Waste Management (NZ) Limited (FS2444.43) opposes STOP (OS900.55) as the normal tests under the RMA should apply in regards to effects. Federated Farmers of New Zealand (FS2449.139) opposes STOP (OS900.55) because structures associated with everyday farming activities are to be expected within the rural zone and are an appropriate part of the landscape.

Recommendation

I do not agree that Objective 10.2.5 should be expanded to include "highly visible rural zones". This objective relates to the protection of landscapes and features which were identified and assessed by a consultant landscape architect according to a methodology and criteria that

have been well-traversed in case law. I do not consider it appropriate for this objective to apply to those parts of rural zones that do not meet the criteria to be considered “outstanding” or “significant”, regardless of their level of visibility. I note, however, that Objective 16.2.3 and its policies address the maintenance or enhancement of the rural character values and amenity of the rural zones.

Request to amend Objective 10.2.5 to exempt conservation activities

Yellow-eyed Penguin Trust (OS690.12) seek to amend Objective 10.2.5 to clarify that conservation activities are not restricted by this, and to make consequential changes to activity status rules and other rules and provisions. The submitter believes that the protection of natural features and landscapes is generally appropriate, but there may be cases where conservation activities will have an effect on them, particularly in the short term (e.g. structures, earthworks, vegetation clearance), in which case the conservation values should have priority.

Recommendation

I do not agree that Objective 10.2.5 should be amended to clarify that conservation activities are not restricted by landscape provisions. Both incorporate matters covered under sections 6 and 7 of the RMA, and by relevant objectives in the pORPS-dv and strategic directions of the 2GP. I do not consider there is any presumption of any hierarchy in any of these provisions between conservation (indigenous vegetation and the habitats of indigenous fauna) and landscape protection. I note also that conservation is a permitted activity in landscape overlay zones, and that the proposed vegetation clearance rules contain a number of exemptions relating to conservation activity. I do not consider that buildings and structures or earthworks associated with conservation should necessarily be exempt from consideration under Objective 10.2.5 or its linked policies and rules.

Request to amend Objective 10.2.5 to exclude locationally constrained development

Oceana Gold (New Zealand) Limited (OS1088.43) seeks to amend Objective 10.2.5 as follows: “Outstanding Natural Features (ONFs), Outstanding Natural Landscapes (ONLs) and Significant Natural Landscapes (SNLs) are protected from inappropriate development (excluding locationally constrained development) and their values, as identified in Appendix A3, are maintained or enhanced.” The submitter believes the objective should recognise that important and desirable activities such as mining, which are locationally constrained by the presence of minerals, are not inappropriate development activities.

Recommendation

I do not agree with the submission that Objective 10.2.5 should provide an exemption for locationally constrained development such as mining. I acknowledge that activities such as mining or quarrying are constrained by the location of the minerals or aggregate. However, I note that as a discretionary activity in certain landscape overlay zones, any mining application is subject to a wide range of assessment matters, which may also include its contribution to the economic and social wellbeing of people and communities under part II of the RMA. This discretionary status allows the opportunity to consider and weigh up a wide range of positive and negative effects and mitigation measures. I note, however, the recommendation to change the activity status of mining to non-complying in ONLs in section 5.12.3 below.

Requests to remove SNLs from Objective 10.2.5

Federated Farmers of New Zealand (OS919.28) seek to amend Objective 10.2.5 as follows: “Outstanding Natural Features (ONFs), and Outstanding Natural Landscapes (ONLs) and Significant Natural Landscapes (SNLs) are protected from inappropriate development and their values, as identified in Appendix A3, are maintained or enhanced.” FFNZ believes that development that is inappropriate for these areas should be defined and addressed through the district plan, however, there is an important distinction to be made between ONLs which are outstanding, and the lower tier SNLs (regarded for their significance). SNLs occur on private farmland in the rural zone where farming should be both expected and supported, and these working areas are subject to constant change which underpins, rather than adversely impacts, the landscape character and visual amenity values.

John Scott (FS2140.37), Ben Graham (FS2279.37), Mathew O'Connell (FS2300.37) and Pigeon Flat Road Group (FS2416.41) support FFNZ, as they support the deletion of the protection in Significant Natural Landscapes. They agree that many of these landscapes occur on private farmland where farming should be expected and supported.

Forest and Bird NZ (FS2482.25) opposes FFNZ, as the amendments sought are not consistent with the purpose of Part II RMA or the provisions of the 2GP, or the NCPS.

Recommendation

I do not consider that SNLs should be removed from Objective 10.2.5. I agree with the submitter that there is a distinction between ONLs and SNLs, and consider that this is provided in the level of effects tolerated for these different types of landscape overlay zones in the policies that sit under Objective 10.2.5.

As stated elsewhere, I consider that the identification of SNLs and the management of the effects of activities in SNLs is the 2GP response to RMA sections 7(c) and 7(f) concerning maintenance and enhancement of amenity values and the quality of the environment. I note that Policy 3.2.5 of the pORPS-dv states: “Identify natural features, landscapes and seascapes, which are highly valued for their contribution to the amenity or quality of the environment but which are not outstanding”, while Policy 3.2.6 seeks to protect or enhance these highly valued natural features, landscapes and seascapes. I consider that these regional policies provide a requirement for the 2GP to identify and set objectives and policies in relation to SNLs, which equate to highly-valued landscapes, bearing in mind that these policies are currently under appeal.

In response to the concerns of the submitters, I note that farming and grazing are permitted activities in SNLs, with forestry being the only land use activity with a more restrictive activity status. However, a resource consent requirement as a restricted discretionary activity is proposed for buildings and structures over 60m², while earthworks standards are more restrictive in SNLs than in rural zones not within a landscape overlay zone.

Requests to add a new policy for forestry, landfills and mining

HPPC (OS447.28) and STOP (OS900.64) seek to add a new policy under Objective 10.2.5 as follows: “In ONF, ONL and SNL areas only allow plantation forestry, landfills, and mining activities if the effects on the environment are insignificant.” The submitters believe that high visual impact activities should not be permitted in areas of outstanding or high natural character.

Geoff Scurr Contracting Limited (FS2391.100, FS2391.113), Oceana Gold (New Zealand) Limited (FS2439.24, FS2439.25), Waste Management (NZ) Limited (FS2444.17, FS2444.46) and Federated Farmers of New Zealand (FS2449.137, FS2449.141) oppose these submissions. Geoff Scurr Contracting and FFNZ list the same reasons in opposition as above in relation to OS447.27 and OS900.63. Waste Management (NZ) Limited opposes OS447.28 and OS900.64 as the normal tests under the RMA should apply in regards to effects. Oceana Gold opposes the specific reference to mining activities in this submission because of locational constraints of the activity, and believes that mining should not be captured by the proposed policy.

Recommendation – Amendments 1 and 2

I note that none of the activities listed by the submitters are permitted in ONFs, ONLS or SNL, with forestry being restricted discretionary and landfills and mining discretionary activities in ONLs and SNLs (except in rural residential zones where mining and landfills are non-complying). I note that there is a recommendation in section 5.12.3 below to make mining and landfills non-complying in ONLs. All three activities are non-complying in ONFs.

In relation to ONFs, Policy 10.2.5.1 limits rural activities to those that do not require buildings or involve a change to the landform. However, this does not appear to capture non-complying activities well, and I note that it is not specified in non-complying assessment Rule 10.7.2.5. The use of “limit” in conjunction with non-complying activities is unusual in the 2GP, and seems an alternative to specifically listing the fairly large number of non-complying rural activities in conjunction with an “avoid” policy, or having a more general “avoid rural and community activities” policy which may be too restrictive of certain activities.

I note that I am recommending in section 5.4.22 that Policy 10.2.5.1 is amended, Policy 10.2.5.2 deleted, and Policy 10.2.5.4 clarified and expanded to clearly cover the instances where activities are non-complying in an ONF with an appropriately strict policy test. With regard to other policies that cover these land use activities in ONLs and SNLs (10.2.5.6 and 10.2.5.7), I note that I am also recommending amendments to these policies in section 5.4.22, and refer these submitters to this discussion.

I do not recommend the addition of this new policy, as I consider these activities are already covered by existing policies under Objective 10.2.5.

Requests to add a new policy to avoid a greater than 10% contravention of density and minimum site size standards

HPPC (OS447.27) and STOP (OS900.63) seek to add a new policy under Objective 10.2.5 as follows: “Buildings and structures too densely developed have the potential to have significant adverse effects on landscape values. Therefore, in ONLs, ONFs and SNLs, a greater than 10% contravention of density and minimum site size performance standards outlined in 2GP Section 16 and 17 would be contrary to the Objectives and Policies of the District Plan and, therefore, shall be avoided.” The submitters believe the protection of landscapes requires certain rules regarding buildings and structures which, if contravened, create a non-complying activity that is contrary in a defined manner. This will serve to secure the application of upper limits and insure that precautionary principles apply in Dunedin’s most important natural places defined by landscape, coastal overlays, etc.

Howard Saunders (FS2373.16, FS2373.54), Geoff Scurr Contracting Limited (FS2391.99, FS2391.112) and Federated Farmers of New Zealand (FS2449.136, FS2449.140) oppose HPPC (OS447.27) and STOP (OS900.63). Howard Saunders considers that the amendment places undue

restrictions on buildings and structures, and that adequate control already exists under landscape overlays. Geoff Scurr Contracting considers that the policy proposed is unnecessary and that wide community input is needed before this may be considered. FFNZ considers that it is inappropriate and unnecessary to afford “highly visible” rural zones the same level of protection as outstanding natural landscapes (although this reason would appear to relate more to the HPPC (OS447.23) and STOP (OS900.55) submissions above).

Recommendation

This submission is asking for contravention of residential density and subdivision standards by more than 10% in landscape overlay zones to be avoided, i.e. to be a non-complying activity. I note that this is already the case in the rural and rural residential zones, although Rule 17.7.5.2 allows for an averaging approach to subdivision in the rural residential zones as a discretionary activity. When residential density and subdivision are non-complying in rural and rural residential zones, they are assessed under rules 16.12.6.1, 16.12.6.6, 17.12.6.1 and 17.12.6.5. None of these assessment rules refer directly to effects on landscape values, although as non-complying activities there is no limitation on considering effects on landscape values. I also note that policies dealing with effects on rural and rural residential character and amenity are specifically referenced by these assessment rules.

I note that there is already Policy 10.2.5.11 that considers the effects of subdivision in landscape overlay zones as follows:

Policy 10.2.5.11: “Only allow subdivision activities in Outstanding Natural Feature (ONF), Outstanding Natural Landscape (ONL), and Significant Natural Landscape (SNL) overlay zones where the subdivision is designed to ensure that any future land use or development will maintain the landscape values identified in Appendix A3 and will be in accordance with policies 10.2.5.1 - 10.2.5.9.”

I prefer this policy wording in considering the effects of subdivision as I consider the 10% contravention wording suggested by the submitters to be arbitrary and not justified. I also do not recommend other aspects of this proposed policy wording as I consider they are contrary to the policy drafting protocol, which was generally traversed in the Plan Overview hearing.

Requests to specify mitigation standards and require contraventions to be avoided

HPPC (OS447.29) and STOP (OS900.65) seek to add a new policy under Objective 10.2.5 as follows: “Require new buildings and structures in a landscape and coastal overlay zone, ONFs and Hill Slope Rural Zones to incorporate mitigating measures for building and structure size and quantity, building and structure screening, landscape building platform or indigenous vegetation removal. Buildings and structures have the potential to have significant adverse effects on the value of these areas. Therefore, activity development and subdivisions in these areas which contravene performance standards for building size and quantity, building and structure screening, landscape building platform, indigenous vegetation removal or reflectivity would be contrary to the objectives and policies of the District Plan (10.2 and 16.2) and therefore shall be avoided.” The submitters state that protection of landscapes requires certain rules regarding buildings and structures which, if contravened, create a non-complying activity that is contrary in a defined manner. This will serve to secure the application of upper limits and insure that precautionary principles apply in Dunedin’s most important natural places defined by landscape, coastal overlays, etc.

Howard Saunders (FS2373.16, FS2373.55), Geoff Scurr Contracting Limited (FS2391.99, FS2391.114) and Federated Farmers of New Zealand (FS2449.136, FS2449.142) oppose these submissions. Geoff Scurr Contracting and FFNZ list the same reasons in opposition as above for

OS447.27 and OS900.63. Howard Saunders considers the new policy unnecessary as zoning rules exist to cover performance standards and density, and these are fair and equitable.

Recommendation

I do not favour this policy as it implies, through being drafted as an unqualified 'avoid' policy, a prohibited activity status for any activity that contravenes a performance standard in any landscape or natural coastal character overlay zone or the Hill Slopes Rural Zone. I consider this to be too onerous and do not consider that is the intent of the 2GP to adopt this approach. However, I note that new buildings or structures already have a non-complying activity status in ONF, ONCC and HNCC overlay zones, which are considered the most sensitive areas to development and those containing the highest natural character and landscape values.

The policy also seeks mitigating measures for any new building or structure, regardless of whether these mitigating measures are appropriate or not in any particular instance. This relates to the submitters' requests to add new performance standards, which are considered in sections 5.11.6 and 5.11.7 below. I note that I am not recommending the addition of these new performance standards, for the reasons set out in these sections.

I do not recommend this new policy is added.

Request to add new policy to manage activities in SNLs by scale, location, materials

Pigeon Flat Road Group (OS717.9) seeks to add a new policy under Objective 10.2.5 as follows: "Manage the effect of rural activities within the Significant Natural Landscape Overlay Zone by considering scale, location and materials used." This is to be considered in conjunction with their submission to remove SNLs from Policy 10.2.5.7. The submitter states that there is no distinction between the objectives for areas identified as possessing outstanding character and those possessing only significant character, which is inconsistent with the Part 2 of the Act.

Recommendation

I understand this submission to mean that all buildings and structures should be permitted activities in SNLs and managed by performance standards to do with scale, location and materials. The submitter has queried the difference between ONLs and SNLs under this objective, to which I refer the submitter to the discussion earlier in this section in response to FFNZ (OS919.28).

Buildings and structures over 60m² in SNLs are proposed to be restricted discretionary activities, assessed under Rule 10.5.2.16 which refers to Policy 10.2.5.7 and seeks to avoid adverse effects on identified landscape values in Appendix A3, or if avoidance is not possible, ensure they are no more than minor. Key design elements sought are outlined in Appendix A3.4, and include matters such as siting, design and materials.

Where landscape building platforms have been identified, buildings over 60m² in SNLs are proposed to be controlled activities, assessed under Rule 10.3A which also refers to Policy 10.2.5.7. Matters of control include restrictions on the size and design of building, including height, floor area, colours and materials.

I consider this to be an appropriate means of managing buildings and structures in SNLs and achieving Objective 10.2.5. The proposed approach

already manages scale, location and materials used and I do not consider there is a need for a new policy as suggested. I do not consider that all buildings and structures should be permitted activities for the reasons set out in section 5.11.1 below, noting that submissions on the threshold standard of 60m² for triggering the consent requirement are discussed in the same section.

Request to add new policy to recognise that ONLs include working farms that may modify the landscape

Federated Farmers of New Zealand (OS919.29) seek to add a new policy under Objective 10.2.5 as follows: “Recognise that large parts of the District’s Outstanding Natural Landscapes include working farms and accept that viable farming involves activities which may modify the landscape, providing the quality and character of the Outstanding Natural Landscape is not adversely affected.” FFNZ states that these working areas are subject to constant change, and it is important that the District Plan recognise this working reality while at the same time seeking to protect natural landscape values, particularly in the rural area, where these are situated on private land, where farming is an expected and beneficial activity. FFNZ considers an additional policy is required in order to provide for balance while delivering on the overall aims of Objective 10.2.5.

John Scott (FS2140.38), Ben Graham (FS2279.38) and Mathew O’Connell (FS2300.38) and Pigeon Flat Road Group (FS2416.42) support FFNZ as this is appropriately supportive of farming activity in these landscapes. Forest and Bird NZ (FS2482.26) opposes FFNZ because the amendments sought are not consistent with the purpose of Part II RMA or the provisions of the 2GP, or the NCPS.

Recommendation

I do not consider that this change is necessary or will contribute to the achievement of Objective 10.2.5. Farming is a permitted activity in ONLs according to Rule 16.3.3.6.b. It is only certain development activities that may be associated with farming such as buildings and structures over 60m² and large scale earthworks that may trigger the requirement for resource consent, which are covered by Policy 10.2.5.6. I note that there are submissions on these matters that are dealt with below in sections 5.4.29, 5.11.1 and 5.12.

Requests to add new policies to recognise that rural activities require buildings of a large scale

Ben Graham (OS361.12) and Mathew O’Connell (OS364.8) seek to add two new policies under Objective 10.2.5 as follows:

“Recognise that rural activities often require buildings of a large scale in order to function efficiently. Buildings of this nature are anticipated within the Rural Zone and therefore measures to manage these effects may be employed, but will not prevent the establishment of such buildings” and “Manage the effects of buildings and structures associated with rural activities within the Outstanding Natural landscape Overlay Zone by considering scale, location and materials used”. The submitters believe the policy does not adequately balance the demands of rural land uses on the submitters’ land by seeking to control the establishment of buildings to avoid effects or ensure they are insignificant.

Federated Farmers of New Zealand (FS2449.134, FS2449.135) supports Ben Graham (OS361.12) and Mathew O’Connell (OS364.8) because structures associated with everyday farming activities are to be expected within the rural zone and are an appropriate part of the landscape and should be provided for within the plan.

Recommendation

I accept the view of the submitters that large buildings are to be expected in the rural environment, and will be required for rural activities to function efficiently. I do not consider it is the intention of the 2GP to prevent the establishment of such buildings as suggested by the first policy proposed by the submitters. Rather, the triggering of a restricted discretionary activity status anticipates these buildings will occur but requires an assessment of their effects on the values of the landscapes within which they are to be situated. This approach is set out in the respective policies 10.2.5.6 and 10.2.5.7 for ONLs and SNLs. I consider that this approach and these policies are appropriate to achieve Objective 10.2.5, in recognition that buildings can have adverse effects on landscape values, although I note the recommended amendments to the policies outlined in section 5.4.22 above.

I do not recommend acceptance of these suggested policies and also refer the submitters to the reasons given above in response to a submission by Pigeon Flat Road Group (OS717.9).

Recommended amendment:

None.

5.4.24 Policy 10.2.5.1

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
OS919.30	Federated Farmers of New Zealand	I seek to have the above provision amended	Amend Policy 10.2.5.1 as follows: ' Limit The potential adverse effects of rural and community activities in the Outstanding Natural Feature Overlay Zone (ONF) <u>are</u> appropriately managed to those which do not require buildings or involve a change to the landform. '	Reject	No amendment required.
FS2140.39	John Scott	I support the submission	Support OS919.30. Allow submission and make changes requested by submitter.	Reject	No amendment required.
FS2267.19	Harboursides and Peninsula Preservation Coalition	I oppose the submission	Oppose OS919.30. Disallow submission and retain Policy 10.2.5.1 as proposed in the 2GP.	Accept	No amendment required.
FS2279.39	Ben Graham	I support the submission	Support OS919.30. Allow submission and make changes requested by submitter.	Reject	No amendment required.

FS2300.39	Mathew O'Connell	I support the submission	Support OS919.30. Allow submission and make changes requested by submitter.	Reject	No amendment required.
FS2416.43	Alan Brown, Carrowmore Properties Limited, Robyn and Stephan Smith and Rick and Jill Clarke ("Pigeon Flat Road Group")	I support the submission	Support OS919.30. Allow submission and make changes as requested by submitter.	Reject	No amendment required.
FS2482.27	Forest and Bird NZ	I oppose the submission	Oppose OS919.30. Disallow submission.	Accept	No amendment required.

Background

Policy 10.2.5.1 states "Limit rural and community activities in the Outstanding Natural Feature Overlay Zone (ONF) to those which do not require buildings or involve a change to the landform". This policy links to the activity status rules that apply for these activities in the ONF overlay zone.

I note that in section 5.4.22 above I recommend amending this policy.

Request to amend Policy 10.2.3.1

Federated Farmers of New Zealand (OS919.30) seeks to amend Policy 10.2.5.1 as shown in the table above. FFNZ believes some rural buildings, or rural practices which require smaller scale buildings, may be compatible within an ONF (*note that the submission refers to "compatible within an ONL" but this is assumed to be a typographical error*). Where there is some risk to the natural character of these areas, FFNZ considers the focus should be on effectively managing these risks, rather than limiting land use altogether.

John Scott (FS2140.39), Ben Graham (FS2279.39), Mathew O'Connell (FS2300.39) and Pigeon Flat Road Group (FS2416.43) support FFNZ, because the amendment reflects the ongoing need for farming activities across a variety of landscape areas.

HPPC (FS2267.9) opposes FFNZ, as HPPC considers the wording "potential adverse effects" and "appropriately managed" to be vague. Forest and Bird NZ (FS2482.27) opposes FFNZ, as the amendments sought are not consistent with the purpose of Part II RMA or the provisions of the 2GP, or the NCPS.

Recommendation

ONFs are discrete natural features described in Policy 2.4.4.2.a as having "exceptional values", with only 21 ONFs identified in the 2GP. The protection of ONFs from inappropriate use and development is a matter of national importance under RMA s6(b). I consider these relatively small (compared to wider landscape overlay zones such as ONLs and SNLs) landscape features to be particularly sensitive to development involving buildings and structures or changes to landform. In general, ONFs are notable for their absence of buildings and land modification.

I note that activities such as farming, grazing, conservation and community and leisure – small scale are permitted on ONFs, with any associated buildings falling under the ambit of Policy 10.2.5.4. It is the intention of Policy 10.2.5.1 to signal that rural and community activities that can be conducted without the need for buildings or changes to landform are acceptable on ONFs. Activities such as farming are anticipated, but it is expected that any associated buildings would not be located on the ONF, with the typically small nature of ONFs meaning that any farm property would extend outside the ONF and be able to accommodate such buildings elsewhere on the property.

I agree to an extent with the further submission of HPPC (FS2267.9), and consider the amendment proposed by FFNZ to be relatively vague and unclear. I do not recommend that it is accepted, but note the amendment to make the policy an “enable” policy.

Recommended amendment:

None, but note recommended amendment in section 5.4.22 above.

5.4.25 Policy 10.2.5.2

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
OS874.14	Blackhead Quarries Ltd	I oppose the provision	Remove Policy 10.2.5.2	Accept in part	Remove Policy 10.2.5.2 and amend Policy 10.2.5.4 as shown in section 5.4.22 above
FS2267.9	Harboursides and Peninsula Preservation Coalition	I oppose the submission	Oppose OS874.14. Disallow submission and retain Policy 10.2.5.2 as proposed in the 2GP.	Accept in part	Remove Policy 10.2.5.2 and amend Policy 10.2.5.4 as shown in section 5.4.22 above

Background

Policy 10.2.5.2 states “Avoid residential, commercial, industrial and major facility activities in the Outstanding Natural Feature Overlay Zone (ONF)”.

Request to remove Policy 10.2.5.2

Blackhead Quarries Ltd (OS874.14) seeks to remove Policy 10.2.5.2 because they believe that aggregate resources are critical for people and communities to provide for their social, economic and cultural wellbeing and for their health and safety. The proposed amendments will go some

way to ensuring the appropriate level of recognition and protection is put in place. HPPC (FS2267.9) opposes Blackhead Quarries Ltd (OS874.14) because they believe that ONFs are rare and because of that merit greater priority than standard, uncompromised commercial interests.

Recommendation

As noted in the discussion under Policy 10.2.5.1 above, I consider ONFs to be particularly sensitive to built development. Policy 10.2.5.2 seeks to avoid those land use activities that are accompanied by buildings and structures, site development and intensification of use that are more associated with an urban or built environment setting.

I note, however, that Policy 10.2.5.2 is an “avoid” policy with no “unless” qualifier. As per the discussion in the Plan Overview s42A report, this usage of an unqualified “avoid” policy leads towards a prohibited rather than a non-complying activity status. While Policy 10.2.5.1 strongly discourages these types of land use activities on ONFs, I do not consider that prohibited activity status is warranted. I note there are (rare) instances of these land use activities currently existing on ONFs, such as residential activity on Saddle Hill and Quarantine Island, and commercial activity on Taiaroa Head. A prohibited activity status would severely limit these existing activities.

Further, it may be that there are exceptional circumstances in which one of these land use activities could be newly located situated on an ONF, particularly when associated built and site development is minimal or non-existent.

I note that Policy 10.2.5.4 also deals with NC activities in ONFs and has a test “unless there are no material effects on the landscape values of the ONF...” I believe this is an appropriate test for all non-complying activities in an ONF and have recommended in section 5.4.22 above that this policy be modified to encompass the activities in 10.2.5.2 by using a broader wording.

Recommended amendment:

None, but note recommended amendment in section 5.4.22 above.

5.4.26 Policy 10.2.5.3

Sub pt #	Submitter Name	Support/Oppose/ Seek Amend	Summary Of Submission	Accept/Reject/ Accept in part	Staff Recommendation
OS900.56	Save The Otago Peninsula (STOP) Inc Soc	I seek to have the above provision amended	Amend Policy 10.2.5.3 as follows: Only allow tree planting and earthworks - large scale in the Outstanding Natural Feature Overlay Zone (ONF) where the effects on the landscape values of the ONF, as identified in Appendix A3, would be insignificant, essentially unidentifiable.	Reject	No amendment required.

FS2373.49	Howard Saunders	I oppose the submission	Oppose OS900.56. Disallow submission to amend Policy 10.2.5.3.	Accept	No amendment required.
FS2391.63	Geoff Scurr Contracting Limited	I oppose the submission	Oppose OS900.56. Disallow submission and retain Policy 10.2.5.3 as proposed in the 2GP.	Accept	No amendment required.
FS2449.143	Federated Farmers of New Zealand	I oppose the submission	Oppose OS900.56. Disallow submission.	Accept	No amendment required.

Background

Policy 10.2.5.3 states "Only allow tree planting and earthworks - large scale in the Outstanding Natural Feature Overlay Zone (ONF) where the effects on the landscape values of the ONF, as identified in Appendix A3, would be insignificant".

Request to amend Policy 10.2.5.3

STOP (OS900.56) seeks to amend Policy 10.2.5.3 to append "essentially unidentifiable", as they believe that insignificance needs a better definition and that these are inappropriate activities for ONFs.

Howard Saunders (FS2373.49), Geoff Scurr Contracting Limited (FS2391.63) and Federated Farmers of New Zealand (FS2449.143) oppose STOP (OS900.56). Howard Saunders believes the policy is adequately worded already; and the amendment is too pedantic and too precise to be workable in dealing with natural environments. FFNZ considers the proposed amendment inappropriate and unnecessary.

Recommendation

Policy 10.2.5.3 as drafted utilises the policy wording from the 2GP drafting protocol with the strictest (lowest) tolerance of adverse effects. The use of the word 'insignificant' in policies was discussed in section 5.4.1 above, in response to OS447.15. For the same reasons as given in that section, I do not favour any qualifier in Policy 10.2.5.3 to the word "insignificant" to signal whether an effect is "unidentifiable". I do not consider the STOP amendment adds any clarity to the policy, and in fact risks changing the meaning of the policy. For instance, an environmental effect such as the planting of a tree may be both identifiable and insignificant at the same time. I do not recommend that the amendment to Policy 10.2.5.3 is accepted, however I note that I am recommending amendment to the effects test for this policy in section 5.4.22 above.

Recommended amendment:

None, but note recommended amendment in section 5.4.22 above.

5.4.27 Policy 10.2.5.4

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
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OS1088.44	Oceana Gold (New Zealand) Limited	I seek to have the above provision amended	Amend Policy 10.2.5.4 to allow for these types of land uses where associated with desirable and appropriate development that is locationally constrained, such as mining which must locate at the source of the resource, where there is not the ability to locate elsewhere.	Reject	No amendment required.
FS2267.32	Harboursides and Peninsula Preservation Coalition	I oppose the submission	Oppose OS1088.44. Disallow submission and retain Policy 10.2.5.4 as proposed in the 2GP.	Accept	No amendment required

Background

Policy 10.2.5.4 states:

"Avoid buildings and structures, network utilities structures - large scale, on-site energy generation, ~~biomass generators – stand-alone~~, energy resource investigation devices, and community and regional scale energy generation in the Outstanding Natural Feature Overlay Zone (ONF), unless there are no material effects on the landscape values of the ONF as identified in Appendix A3".

Note that the underlined/strikethrough changes are recommended changes resulting from the Network Utilities section 42A report.

Request to amend Policy 10.2.5.4

Oceana Gold (New Zealand) Limited (OS1088.44) seeks to amend Policy 10.2.5.4 as they believe that avoidance is not always possible and the policy needs to allow for these types of land uses where they are associated with desirable and appropriate development that is locationally constrained, such as mining which must locate at the source of the resource.

HPPC (FS2267.32) opposes Oceana Gold (New Zealand) Limited (OS1088.44) because they feel that protection of ONFs is more important than commercial interests.

Recommendation

As noted in the discussion under Policy 10.2.5.1 above, I consider ONFs to be particularly sensitive to development. For this reason, Policy 10.2.5.4 seeks to avoid such development, while allowing that there may be rare circumstances where these development activities can be accommodated with no material effects on landscape values. I consider that this strikes an appropriate balance in protecting these ONFs from inappropriate development, and do not recommend that this amendment is accepted.

However, I note that I am recommending that this policy is integrated with Policy 10.2.5.2, as set out in section 5.4.22 above.

Recommended amendment:

None, but note recommended amendment in section 5.4.22 above.

5.4.28 Policy 10.2.5.5

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
OS322.87	KiwiRail Holdings Limited	I support the provision	Retain Policy 10.2.5.5.	Accept in part	No amendment required
<p>Discussion: KiwiRail Holdings Limited (OS322.87) seeks to retain Policy 10.2.5.5 because they support that the practicality element is already included in relation to certain activities within the Landscape and Natural Feature Overlays in the Proposed District Plan. This is consistent with the approach sought through Kiwirail's submissions on other policies within chapter 10.</p> <p>The submitter's support is noted. No amendment is necessary in response to this submission, however I note that I am recommending that this policy is integrated into Policy 10.2.5.3.</p>					
<p>Recommended amendment: None, but note recommended amendment in section 5.4.22 above.</p>					

5.4.29 Policy 10.2.5.6

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
OS361.10	Ben Graham	I oppose the provision	Amend Policy 10.2.5.6 to remove reference to large buildings and structures.	Reject	Do not amend Policy 10.2.5.6 as requested
OS364.7	Mathew O'Connell				
FS2449.144, FS2449.145	Federated Farmers of New Zealand	I support the submission	Support OS361.10 and OS364.7. Allow submissions.	Reject	Do not amend Policy 10.2.5.6 as requested
OS464.10	Christopher Dean Valentine	I seek to have the above provision amended	Amend Policy 10.2.5.6 to exclude residential buildings and associated earthworks from 'large buildings' and 'earthworks - large	Reject	Do not amend Policy 10.2.5.6 as requested

			scale', and change the word 'insignificant' to 'minimised'.		
OS874.15	Blackhead Quarries Ltd	I oppose the provision	Amend Policy 10.2.5.6 to read 'Only allow mining, forestry, landfills, large buildings and structures, earthworks large scale, network utilities poles and masts small scale, network utilities structures small scale, onsite energy generation devices, energy resource investigation devices, and community scale hydro generators and solar panels in the Outstanding Natural Landscape Overlay Zone (ONL) where any <u>significant</u> adverse effects on the landscape values of the ONL, as identified in Appendix A3, would be insignificant. <u>can be avoided, remedied or mitigated</u> '.	Reject	Do not amend Policy 10.2.5.6 as requested
OS901.10	Tussock Top Farm Ltd				
OS447.24	Harboursides and Peninsula Preservation Coalition	I seek to have the above provision amended	Amend Policy 10.2.5.6 as follows: Only allow mining, forestry, landfills, large buildings and structures, earthworks - large scale, network utilities poles and masts - small scale, network utilities structures - small scale, on-site energy generation devices, energy resource investigation devices, and community scale hydro generators and solar panels in the Outstanding Natural Landscape Overlay Zone (ONL) where any adverse effects on the landscape values of the ONL <u>will be avoided or if avoidance is not possible the adverse effects on the landscape,</u> as identified in Appendix A3, would be insignificant,	Accept in part	Do not amend the wording of the policy test in Policy 10.2.5.6 as requested, but amend Policy 10.2.5.6 as shown in section 5.12.3 below. HPPC's requested deletion of certain activities from this policy are considered in: <ul style="list-style-type: none"> • Section 5.11.1 • Section 5.12.3
FS2444.15	Waste Management (NZ) Limited	I oppose the submission	Oppose OS447.24. Disallow submission	Accept in part	See above
OS900.57	Save The Otago Peninsula (STOP)	I seek to have the above provision	Amend Policy 10.2.5.6 as follows: Only allow mining, forestry, landfills, large	Accept in part	Do not amend the wording of the policy

	Inc Soc	amended	buildings and structures, earthworks – large scale, network utilities poles and masts – small scale, network utilities structures – small scale, on-site energy generation devices, energy resource investigation devices, and community scale hydro generators and solar panels in the Outstanding Natural Landscape Overlay Zone (ONL) will be avoided, or if avoidance is not possible, where any adverse effects on the landscape values of the ONL, as identified in Appendix A3, would be insignificant, essentially unidentifiable. Mining, forestry, landfills, large buildings and structures, and large scale earthworks are not permitted.		test in Policy 10.2.5.6 as requested, but amend Policy 10.2.5.6 as shown in section 5.12.3 below. STOP's requested deletion of certain activities from this policy are considered in: <ul style="list-style-type: none"> • Section 5.11.1 • Section 5.12.2 • Section 5.12.3 • Section 5.12.8
FS2373.50	Howard Saunders	I oppose the submission	Oppose OS900.57. Disallow submission to amend Policy 10.2.5.6.	Accept in part	See above
FS2391.64	Geoff Scurr Contracting Limited	I oppose the submission	Oppose OS900.57. Disallow submission and retain Policy 10.2.5.6 as proposed in the 2GP.	Accept in part	See above
FS2439.26	Oceana Gold (New Zealand) Limited	I oppose the submission	Oppose OS900.57. Disallow submission.	Accept in part	See above
FS2444.44	Waste Management (NZ) Limited	I oppose the submission	Oppose OS900.57. Disallow submission	Accept in part	See above
FS2449.146	Federated Farmers of New Zealand	I oppose the submission	Oppose OS900.57. Disallow submission.	Accept in part	See above
OS1088.45	Oceana Gold (New Zealand) Limited	I seek to have the above provision amended	Amend Policy 10.2.5.6 to exempt desirable activities that are locationally constrained, such as mining.	Reject	No amendment required

Background

Policy 10.2.5.6 states:

"Only allow mining, forestry, landfills, large buildings and structures, and earthworks - large scale, ~~network utilities poles and masts – small scale, network utilities structures – small scale, on-site energy generation devices, energy resource investigation devices, and community scale~~

~~hydro generators and solar panels~~ in the Outstanding Natural Landscape Overlay Zone (ONL) where any adverse effects on the landscape values of the ONL, as identified in Appendix A3, would be insignificant”.

This policy links to the restricted discretionary or discretionary activity status for these activities in the ONL overlay zone. Note that the underlined/strikethrough changes are recommended changes resulting from the Network Utilities section 42A report.

Requests to amend policy to remove reference to “large buildings and structures”

Ben Graham (OS361.10) and Mathew O’Connell (OS364.7) seek to amend Policy 10.2.5.6 by removing the reference to large buildings and structures, as the submitters’ land largely falls within an Outstanding Natural Landscape and they believe the policy does not adequately balance the demands of rural land uses on the submitters land. Federated Farmers of New Zealand (FS2449.144, FS2449.145) supports Ben Graham (OS361.10) and Mathew O’Connell (OS364.7) because they believe that buildings and structures are a necessary and appropriate part of farming.

Recommendation

I accept that buildings and structures are anticipated in the rural environment, even in Outstanding Natural Landscapes, and consider the restricted discretionary activity status signals this. I note that I am recommending changes to the effects test that applies to Policy 10.2.5.6, as discussed in section 5.4.22 above.

Request to exclude residential buildings and associated earthworks, and change word “insignificant” to “minimised”

Christopher Dean Valentine (OS464.10) seeks to amend Policy 10.2.5.6 to exclude residential buildings and associated earthworks from “large buildings” and “earthworks - large scale”, and change the word “insignificant” to “minimised”. The submitter believes that the scale of residential buildings is sufficiently covered by height and reflectivity restrictions.

Recommendation

I note that the definition and scale thresholds for earthworks - large scale was considered at the Earthworks Hearing. I do not consider that earthworks associated with residential activity should be excluded from the definition of earthworks – large scale.

I also do not consider that residential buildings should be excluded from Policy 10.2.5.6. There are some performance standards that apply to all restricted discretionary buildings in an ONL, including height, setbacks and reflectivity. However, there are other potential effects on landscape values related to the siting, scale or design of residential buildings that I consider should form part of a restricted discretionary assessment in an ONL.

With regard to the request to change the word “insignificant” to “minimised”, I note that I am recommending changes to the effects test that applies to Policy 10.2.5.6, as discussed in section 5.4.22 above.

Requests to amend policy to avoid, remedy or mitigate “significant” adverse effects

Blackhead Quarries Ltd (OS874.15) and Tussock Top Farm Ltd (OS901.10) seek to amend Policy 10.2.5.6 to “Only allow mining, forestry, landfills, large buildings and structures, earthworks large scale, network utilities poles and masts small scale, network utilities structures small scale, onsite energy generation devices, energy resource investigation devices, and community scale hydro generators and solar panels in the Outstanding Natural Landscape Overlay Zone (ONL) where any significant adverse effects on the landscape values of the ONL, as identified in Appendix A3, ~~would be insignificant.~~ can be avoided, remedied or mitigated.” The submitters believe that aggregate resources are critical for people and communities to provide for their social, economic and cultural wellbeing and for their health and safety. The proposed amendments will go some way to ensuring the appropriate level of recognition and protection is put in place.

Recommendation

I do not recommend acceptance of this amendment, but refer the submitters to the recommended amendment to the policy in section 5.4.22 above. I also do not recommend the policy wording should be amended to “avoid, remedy or mitigate” adverse effects for the same reason as given in section 5.2.9 above in response to Saddle View Estates’ submission on Objective 2.4.4. I note also the recommended amendment to the activity status of mining in ONLs, as set out in section 5.12.3 below.

Requests change policy wording in relation to tolerance of effects

HPPC (OS447.24) seeks to amend Policy 10.2.5.6 as follows: “Only allow [*specified activities*] in the Outstanding Natural Landscape Overlay Zone (ONL) where any adverse effects on the landscape values of the ONL will be avoided or if avoidance is not possible the adverse effects on the landscape, as identified in Appendix A3, would be insignificant”.

STOP (OS900.57) seeks to amend Policy 10.2.5.6 as follows: “[*Specified activities*] in the Outstanding Natural Landscape Overlay Zone (ONL) will be avoided, or if avoidance is not possible, where any adverse effects on the landscape values of the ONL, as identified in Appendix A3, would be insignificant, essentially unidentifiable. ...”

The submitters state that “Upper limit definitions are needed for vague terms such as ‘insignificant’.”

Waste Management (NZ) Limited (FS2444.15) opposes HPPC (OS447.24) and STOP (OS900.57). Howard Saunders (FS2373.50), Geoff Scurr Contracting Limited (FS2391.64), Oceana Gold (New Zealand) Limited (FS2439.26) and Federated Farmers of New Zealand (FS2449.146) oppose STOP (OS900.57).

Recommendations

The submitters seek to change the wording in relation to the tolerance of effects for activities in ONLs. HPPC seeks that adverse effects are avoided or, if avoided is not possible, insignificant. STOP seeks the same but also that effects are “insignificant, essentially unidentifiable”. I note also that I have rejected the suggestion of using “essentially unidentifiable” in response to a STOP submission on Policy 10.2.5.3. Again, I do not favour this phrasing as I do not consider it adds clarity to the policy.

I note that mining and landfills are to be removed from this policy, with a recommended change to their activity status to non-complying, which

I consider forms acceptance in part of this submission. I do not recommend acceptance of other parts of these submissions, and refer the submitter to the recommended amendment to the policy in section 5.4.22 above.

Request to amend policy to exclude locationally constrained development

Oceana Gold (New Zealand) Limited (OS1088.45) seeks to amend Policy 10.2.5.6 as they believe that modifications to the policy are necessary to recognise that desirable activities that are locationally constrained, such as mining, are exempt from the policy.

Recommendations

I do not recommend acceptance of this submission and refer the submitter to the recommended amendment to the activity status of mining in ONs (refer section 5.12.3).

Recommended amendment:

None, but note recommended amendment in section 5.4.22 above.

5.4.30 Policy 10.2.5.7

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/ Accept in part	Staff Recommendation
OS447.25	Harboursides and Peninsula Preservation Coalition	I seek to have the above provision amended	Amend Policy 10.2.5.7 as follows: 'Only allow forestry, mining, landfills, large buildings and structures, and earthworks - large scale, network utilities poles and masts - small scale, network utilities structures - small scale, on-site energy generation devices, energy resource investigation devices, and community scale hydro generators and solar panels, in the Significant Natural Landscape Overlay Zone (SNL) ...'	Reject	Since HPPC's requested policy amendment would have implications for a range of rules, the different aspects of this submission are considered alongside other submissions on the relevant rules in: <ul style="list-style-type: none"> • Section 5.11.1 • Section 5.12.3
FS2444.16	Waste Management (NZ) Limited	I oppose the submission	Oppose OS447.25. Disallow submission	Accept	See above
OS900.58	Save The Otago	I seek to have the	Amend Policy 10.2.5.7 as follows: 'Only	Reject	Since STOP's

	Peninsula (STOP) Inc Soc	above provision amended	allow forestry, mining, landfills, large buildings and structures, and earthworks large scale, network utilities poles and masts - small scale, network utilities structures - small scale, on-site energy generation devices, energy resource investigation devices, and community scale hydro generators and solar panels, in the Significant Natural Landscape Overlay Zone (SNL)...'		requested policy amendment would have implications for a range of rules, the different aspects of this submission are considered alongside other submissions on the relevant rules in: <ul style="list-style-type: none"> • Section 5.11.1 • Section 5.12.2 • Section 5.12.3 • Section 5.12.8 • Section 5.12.10
FS2444.45	Waste Management (NZ) Limited	I oppose the submission	Oppose OS900.58. Disallow submission	Accept	See above
OS458.12 OS874.16 OS901.11	Saddle Views Estate Limited Blackhead Quarries Ltd Tussock Top Farm Ltd	I oppose the provision	Amend Policy 10.2.5.7 to read ' Only allow <u>Enable</u> forestry, mining, landfills, large buildings and structures, and earthworks large scale, network utilities poles and masts small scale, network utilities structures small scale, onsite energy generation devices, energy resource investigation devices, and community scale hydro generators and solar panels, in the Significant Natural Landscape Overlay Zone (SNL) where any adverse effects on the landscape values of the SNL, as identified in Appendix A3, will be avoided or, if avoidance is not possible, be no more than minor. <u>remedied or mitigated.</u> '.	Reject	Do not amend Policy 10.2.5.7 as requested
FS2381.31, FS2381.32	Otago Regional Council	I oppose the submission	Oppose OS874.16 and OS901.11. Disallow submissions.	Accept	Do not amend Policy 10.2.5.7 as requested
OS717.8	Robyn and Stephan Smith, Rick and Jill Clarke, Alan Brown,	I seek to have the above provision amended	Amend Policy 10.2.5.7 so that it applies to Outstanding Natural Features and Outstanding Natural Landscapes but does	Reject	Do not amend 10.2.5.7 as requested

	Carrowmore Properties Ltd (on behalf of the "Pigeon Flat Road Group")		not apply to Significant Natural Landscapes.		
FS2449.147	Federated Farmers of New Zealand	I support the submission	Support OS717.8. Allow submission.	Reject	Do not amend 10.2.5.7 as requested
OS1088.46	Oceana Gold (New Zealand) Limited	I seek to have the above provision amended	Amend Policy 10.2.5.7 to exempt desirable activities that are locationally constrained, such as mining.	Reject	No amendment required.

Background

Policy 10.2.5.7 states:

"Only allow forestry, mining, landfills, large buildings and structures, and earthworks - large scale, ~~network utilities poles and masts - small scale, network utilities structures - small scale, on-site energy generation devices, energy resource investigation devices, and community scale hydro generators and solar panels,~~ in the Significant Natural Landscape Overlay Zone (SNL) where any adverse effects on the landscape values of the SNL, as identified in Appendix A3, will be avoided or, if avoidance is not possible, be no more than minor".

This policy links to the restricted discretionary or discretionary activity status for these activities in the SNL overlay zone.

Note that the underlined/strikethrough changes are recommended changes resulting from the Network Utilities section 42A report, with the deleted activities recommended to transfer to a new, inserted Policy 10.2.5.9 as follows:

Only allow network utilities poles and masts - small scale, network utilities structures - small scale, network utilities structures - large scale, on-site energy generation, community scale energy generation, and energy resource investigation devices in the Significant Natural Landscape (SNL) overlay zones where any adverse effects on the landscape values of the SNL, as identified in Appendix A3:

1. are avoided or, if avoidance is not possible, no more than minor; or
2. where there are no practicable alternative locations, are adequately mitigated.

The amendments are proposed for the same reasons as given in the discussion under Policy 10.2.5.6 above. Note that because of the recommended insertion of a new Policy 10.2.5.7 to consider network utilities in ONLs, the notified Policy 10.2.5.7 under consideration in this section is recommended to be renumbered 10.2.5.8. For sake of clarity, it will be referred to as Policy 10.2.5.7 in the discussion below.

Requests to amend policy to "enable" activities and "avoid, remedy or mitigate" adverse effects

Saddle Views Estate Limited (OS458.12), Blackhead Quarries Ltd (OS874.16) and Tussock Top Farm Ltd (OS901.1) seek to amend Policy 10.2.5.7 as follows: "~~Only allow~~ **Enable** forestry, mining, landfills, large buildings and structures, and earthworks large scale, network utilities poles and masts small scale, network utilities structures small scale, onsite energy generation devices, energy resource investigation devices,

and community scale hydro generators and solar panels, in the Significant Natural Landscape Overlay Zone (SNL) where any adverse effects on the landscape values of the SNL, as identified in Appendix A3, will be avoided ~~or, if avoidance is not possible, be no more than minor. remedied or mitigated.~~ The submitters believe the approach of the district plan is not balanced, and the identification of SNLs as having the same protection imperative as ONLs is not considered appropriate. These are working environments with significant levels of modification through farming, forestry and mining activities.

Otago Regional Council (FS2381.31) opposes Blackhead Quarries Ltd (OS874.16) and Tussock Top Farm Ltd (OS901.1) because the ORC believes this is inconsistent with the Proposed Regional Policy Statement, including Policy 2.2.4.

Recommendation

I do not recommend that the wording should be changed to “enable”. The policy leads to a restricted discretionary or discretionary status for these activities and the “only allow” wording is consistent with this under the 2GP drafting protocol, while “enable” implies a permitted activity. I also do not consider that the policy should be removed, as it assists in guiding the restricted discretionary or discretionary assessment of any application for these activities.

I also do not recommend the policy wording should be amended to “avoid, remedy or mitigate” adverse effects for the same reason as given in section 5.2.9 above in response to Saddle View Estates’ submission on Objective 2.4.4.

Request to amend policy to apply to ONFs and ONLs and not SNLs

The Pigeon Flat Road Group (OS717.8) seeks to amend Policy 10.2.5.7 to apply to ONFs and ONLs only, as the submitter believes that the policy does not adequately balance the demands of rural land uses on the submitters’ land. Federated Farmers of New Zealand (FS2449.147) supports Pigeon Flat Road Group (OS717.8), as FFNZ agrees with the submitters that it is inappropriate and inconsistent with the sustainable management purpose and principles of the RMA to afford Significant Natural Landscapes the same level of protection as Outstanding Natural Features and Landscapes.

Recommendation

I do not consider that Policy 10.2.5.7 should be amended to apply to ONFs and ONLs, noting that policies 10.2.5.1 to 10.2.5.6 apply to land use and development activities in these overlay zones. I do not consider that Policy 10.2.5.7 should not apply to SNLs. I note the need for management of activities and effects in SNLs was discussed in response to a submission by Blueskin Resilient Communities Trust in section 5.2.11 above. I do not agree that SNLs have the same level of protection as ONFs and ONLs, noting that the difference in approach was discussed in a response to another submission by Blueskin Resilient Communities Trust in section 5.2.9 above.

Request to amend policy to exclude locationally constrained development

Oceana Gold (New Zealand) Limited (OS1088.46) seeks to amend Policy 10.2.5.7 as the submitter believes modifications should be made to the policy to recognise that desirable activities that are locationally constrained, such as mining, should be exempt from the policy.

Recommendation

I do not recommend acceptance of this submission for the same reasons as given to the same submitter in response to a similar submission on Objective 10.2.5 above.

Recommended amendment:

None, but note recommended amendment in section 5.4.22 above.

5.4.31 Policy 10.2.5.10

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
OS458.13	Saddle Views Estate Limited	I oppose the provision	Remove Policy 10.2.5.10 and Rule 10.6.2.5	Accept	Remove Policy 10.2.5.10
FS2267.30	Harboursides and Peninsula Preservation Coalition	I oppose the submission	Oppose OS458.13. Disallow submission.	Reject	Remove Policy 10.2.5.10
OS874.17	Blackhead Quarries Ltd	I oppose the provision	Remove Policy 10.2.5.10	Accept	Remove Policy 10.2.5.10
FS2267.31	Harboursides and Peninsula Preservation Coalition	I oppose the submission	Oppose OS874.17. Disallow submission.	Reject	Remove Policy 10.2.5.10
OS901.12	Tussock Top Farm Ltd	I oppose the provision	Remove Policy 10.2.5.10	Accept	Remove Policy 10.2.5.10
OS1088.47	Oceana Gold (New Zealand) Limited	I seek to have the above provision amended	Remove Policy 10.2.5.10 or clarify that it does not apply to the Macraes Gold Project	Accept	Remove Policy 10.2.5.10
OS900.60	Save The Otago Peninsula (STOP) Inc Soc	I oppose the provision	Amend Policy 10.2.5.10 to read: Only Do <u>not</u> allow mining where adverse effects on identified ridgelines <u>cannot</u> be avoided or, if avoidance is not possible, would be	Reject	Do not amend Policy 10.2.5.10 as requested

			insignificant.		
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Background

Policy 10.2.5.10 states: “Only allow mining where adverse effects on identified ridgelines can be avoided or, if avoidance is not possible, would be insignificant”.

This policy is intended to relate to assessment of mining where it is located on an identified ridgeline. However, I note that there is no direct reference to this policy in the assessment rules for mining in Rule 10.6.2. As mining is a discretionary activity, this does not necessarily preclude consideration of this policy in any discretionary assessment.

I note that the Rural Section 42A report raised issues with the mapping of identified ridgelines in the ridgeline mapped area (refer pp. 337-343). As a consequence, it was recommended to remove provisions relating to ridgeline mapped areas from the 2GP, with a review of the mapping and related provisions to be included in the plan through a subsequent plan change.

Requests to remove Policy 10.2.5.10

Saddle Views Estate Limited (OS458.13) seeks to remove Policy 10.2.5.10 and Rule 10.6.2.5 (the assessment rule for Mining in the SNL or ONL overlay zones). The submitter believes the policy applies an absolute threshold of only insignificant adverse effects from mining on ridgelines and that the approach of the District Plan is not balanced, and the identification of ridgelines throughout the District as having the same protection as other landscapes is not appropriate because these are working environments with significant modifications through farming, forestry and mining activities.

Blackhead Quarries Ltd (OS874.17) and Tussock Top Farm Ltd (OS901.12) seek to remove Policy 10.2.5.10 because they believe that aggregate resources are critical for people and communities to provide for their social, economic and cultural wellbeing and for their health and safety. The proposed amendments will go some way to ensuring the appropriate level of recognition and protection is put in place.

HPPC (FS2267.30, FS2267.31) opposes Saddle Views Estate Limited (OS458.13) and Blackhead Quarries Ltd (OS874.17) because “ridgelines are inappropriate to mine because the positive economic increment of removing a ridgeline and altering the skyline is so small compared to mining the main ore body below”.

Oceana Gold (New Zealand) Limited (OS1088.47) seeks to remove Policy 10.2.5.10 or clarify that it does not apply to the Macraes Gold Project because there is no definition of ridgeline or ridgeline mapped area. It appears that an identified ridgeline is a ridgeline mapped area. This needs to be clarified. The Macraes Gold project occupies an area known as the Taieri Ridge. It is important to clarify that further development of the Macraes Gold Project is not contrary to this policy.

Recommendation - Amendment 1

For the same reasons as set out in the Rural Section 42A report, I recommend removal of Policy 10.2.5.10. I note that most of the mapped ridgelines are within landscape overlay zones, where mining is either a discretionary or non-complying activity with the effects on landscape

values assessed under Rule 10.6.2.5 or Rule 10.7.2.5. In the rural zones outside of landscape overlay zones, the effects of mining as a discretionary activity on rural character and visual amenity are assessed under Rule 16.11.2.4.

With regard to the request by Saddle View Estates to remove Rule 10.6.2.5, I refer the submitter to section 5.13.8 below, where I have rejected similar submissions to remove this assessment rule.

Request to amend Policy 10.2.5.10

STOP (OS900.60) seeks to amend Policy 10.2.5.10 as follows: "~~Only~~ Do not allow mining where adverse effects on identified ridgelines cannot be avoided or, if avoidance is not possible, would be insignificant." The submitter states that mining generally has a significant impact if it goes as high as a ridgeline.

Recommendation

I do not recommend acceptance of this submission to amend Policy 10.2.5.10, as I am recommending removal of the policy for the reasons set out above. I refer the submitter to the assessment rules referenced above, which will assess the effects on landscape and/or rural character values of any mining activity proposed on or near a ridgeline.

Recommended amendment:

Amendment One:

Remove Policy 10.2.5.10 and renumber subsequent policies:

~~"Only allow mining where adverse effects on identified ridgelines can will {cl. 16} be avoided or, if avoidance is not possible, would be insignificant." {NatEnv458.13 and others}~~

5.5 Notification rule

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
OS592.32	Dianne Reid	I oppose the provision	Delete Rule 16.4.3.2	Accept	Delete Rule 16.4.3.2 as requested.
OS717.30	Robyn and Stephan				

	Smith, Rick and Jill Clarke, Alan Brown, Carrowmore Properties Ltd (on behalf of the "Pigeon Flat Road Group")				
FS2473.30	David Hiom and Kerry Hiom	I oppose the submission	Oppose OS592.32. Disallow submission.	Reject	Delete Rule 16.4.3.2 as requested.
OS951.47	Timothy George Morris	I oppose the provision	Remove Rule 16.4.3 (public notification), to remove requirement to notify applications for buildings over 60m ² in ONLs.	Accept	Delete Rule 16.4.3.2 as requested.
OS1054.47	Timothy Morris (on behalf of RG and SM Morris Family Trust)	I oppose the provision	Remove Rule 16.4.3 (public notification), to remove requirement to notify applications for buildings over 60m ² in ONLs.	Accept	Delete Rule 16.4.3.2 as requested.
OS447.137	Harboursides and Peninsula Preservation Coalition	I seek to have the above provision amended	Amend Rule 16.4.3 (notification) so that resource consent applications for new residential buildings greater than 60m ² are publicly notified in all landscape and coastal character overlay zones and in ASCVs (rather than only in outstanding natural landscape overlay zones).	Reject	Do not amend Rule 16.4.3 as requested.
OS900.167	Save The Otago Peninsula (STOP) Inc Soc				
FS2449.376	Federated Farmers of New Zealand	I oppose the submission	Oppose OS447.137. Disallow submission.	Accept	Do not amend Rule 16.4.3 as requested.
FS2449.377	Federated Farmers of New Zealand	I oppose the submission	Oppose OS900.167. Disallow submission.	Accept	Do not amend Rule 16.4.3 as requested.

Background

Rule 16.4.3 (incorporating changes recommended in the Heritage and Rural Zones Section 42A reports) is as follows:
Applications for resource consent for the following activities will be publicly notified in accordance with section 95A(2) of the RMA:

1. ~~new residential activity on a site that contravenes the performance standard for density;~~ {RU 592.20}
2. new residential building greater than 60m² in an Outstanding Natural Landscape (ONL); and {Her 308.362}

3. ~~general subdivision that contravenes the performance standard for minimum site size {RU592.20} and {Her 308.362}~~
4. ~~demolition of a protected part of a scheduled heritage building or scheduled heritage structure. {Her 308.362}~~

Within this rule, Rule 16.4.3.2 is relevant to the Natural Environment provisions.

Requests to remove Rule 16.4.3.2

Dianne Reid (OS592.32) and Pigeon Flat Road Group (OS717.30) seek that Rule 16.4.3.2 be deleted. These submitters consider that the activity listed in this rule does not involve effects on resources of wider public interest or of national importance and, therefore, that "it is appropriate to undertake a specific assessment of the effects under section 95A rather than a blanket notification requirement." Dianne Reid's submission is opposed by David Hiom and Kerry Hiom (FS2473.30).

Timothy George Morris (OS951.47) and Timothy Morris (on behalf of RG and SM Morris Family Trust) (OS1054.47) seek that Rule 16.4.3 be deleted. The submitters consider that the requirement to notify applications for new residential buildings greater than 60m² in an Outstanding Natural Landscape (ONL) is unnecessarily onerous, and adds unnecessary compliance costs and complexity.

Requests to extend Rule 16.4.3.2

HPPC (OS447.137) and STOP (OS900.167) seek that Rule 16.4.3.2 be amended so that applications for new residential buildings over 60m² in all landscape and coastal character overlay zones (i.e. not just ONLs), and also in scheduled ASCVs, be publicly notified. The submitters consider that, since rules and performance standards are set by the Council in the public interest, the public has a right to know of all consent applications that fail to meet those Plan standards, despite perhaps costing the Council more in time and money.

These submissions are opposed by Federated Farmers (FS2449.376 and 377), who consider that the proposed approach is indiscriminate and resource intensive for the Council to administer, for no added value in meeting s6(b) obligations.

Recommendations

New residential buildings over 60m² in Outstanding Natural Landscapes, and in other landscape and coastal character overlays zones, can have significant adverse effects on landscape values. However, I consider that there may be situations in which these activities may not have significant adverse effects, and in which public notification may, therefore, not be warranted. For example:

- A sleepout or family flat of over 60m², located within a landscape and coastal character overlay zone, but where the landscape impacts are limited due to location of the building next to an existing dwelling, and in a location not visible from outside the property.

Under section 95A(2)(a) a consent authority must publicly notify a resource consent application if it decides that the activity will have or is likely to have adverse effects on the environment that are more than minor.

I agree with Dianne Reid, the Pigeon Flat Road Group, Timothy George Morris, and Timothy Morris (on behalf of RG and SM Morris Family Trust) that, for applications of this kind, a case by case assessment of the effects under section 95A would be preferable to the mandatory notification

requirement in place under Rule 16.4.3.2 as notified. I do not consider that all proposed residential buildings over 60m² in ONLs, or in other landscape and coastal character overlays zones, will necessarily result in adverse effects on the environment that are more than minor. Therefore, a mandatory notification rule risks requiring full public notification, with the additional costs and time that this would involve for the applicant and the council, in cases where notification is not actually warranted.

Recommended amendment:

Delete Rule 16.4.3.2, and as a result delete the whole of Rule 16.4.3 (since other section 42A reports have already recommended deleting the other parts of the Rule), as follows:

~~Applications for resource consent for the following activities will be publicly notified in accordance with section 95A(2) of the RMA:~~

- ~~1. new residential activity on a site that contravenes the performance standard for density; {RU 592.20}~~
- ~~2. new residential building greater than 60m² in an Outstanding Natural Landscape (ONL); and {NatEnv 592.32}~~
- ~~3. general subdivision that contravenes the performance standard for minimum site size {RU592.20} ; and {Her 308.362}~~
- ~~4. demolition of a protected part of a scheduled heritage building or scheduled heritage structure. {Her 308.362}~~

5.6 Esplanade Reserves and Strips Provisions

5.6.1 Corrections to drafting errors

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
OS360.147	Dunedin City Council	I seek to have the above provision amended	Amend Policy 10.2.2.5 as follows: 'Only allow subdivision activities adjacent to water bodies and the coast where the following biodiversity values and natural character values are maintained or enhanced, including through provision of either <u>an</u> esplanade reserves or esplanade strips in identified locations: ...'	Accept	Amend Policy 10.2.2.5 as shown below
OS360.148	Dunedin City Council	I seek to have the above provision amended	Amend Policy 10.2.4.3#1 to read: 'requiring <u>an</u> esplanade reserves or esplanade strips of an appropriate width and location adjacent to identified water bodies and the coast; and...'	Accept	Amend Policy 10.2.4.3 as shown below

OS360.149	Dunedin City Council	I seek to have the above provision amended	Amend Rule 10.3.1 (Esplanade Reserves and Strips) as follows: '1. Subdivision activities must provide <u>an</u> esplanade reserves with a minimum width of 20m as follows...; 2. Subdivision activities along the bank or the margin of the following rivers and lakes must provide <u>an</u> esplanade strips with a minimum width of 5m:... ; 3. For the purpose of this standard, <u>an</u> esplanade reserves and- or esplanade strips will be measured in a landward direction at 90 degrees to MHWS of the sea, tidal rivers or estuaries, or the bank of any stream or river.'	Accept	Amend Rule 10.3.1 as shown in section 5.6.4
OS360.152	Dunedin City Council	I seek to have the above provision amended	Amend Rule 10.4.3.1.a.iii to 'In assessing a change or reduction to the required esplanade reserve or <u>esplanade</u> strip, Council will ...'	Accept	Amend Rule 10.4.3.1.a.iii as shown below
OS360.153	Dunedin City Council	I seek to have the above provision amended	Amend Rule 10.4.3.1.b.iii to 'In assessing a change or reduction to the required <u>esplanade</u> reserve or esplanade strip, Council will ...'	Accept	Amend Rule 10.4.3.1.b.iii as shown below

Submissions

Dunedin City Council seek a number of amendments to the drafting of esplanade reserves and strips provisions, to improve plan clarity. The specific requests are as follows:

- Amend Policies 10.2.2.5 and 10.2.4.3#1 and Rule 10.3.1 by making all instances of the phrase “esplanade reserves or esplanade strips” singular rather than plural, which will allow hyperlinking to the definitions of “esplanade reserve” and “esplanade strip” (OS360.147, OS360.148 and OS360.149).
- Amend Rule 10.4.3.1.a.iii and Rule 10.4.3.1.b.iii to improve plan clarity, through changing the word “strip” to “esplanade strip”, which will allow hyperlinking to the definition of “esplanade strip”. (OS360.152, OS360.153)

Recommendations

I recommend that these submissions are accepted, as I agree that allowing the hyperlinking to the definitions of “esplanade reserve” and “esplanade strip” will improve plan clarity. The amendments also remove some ambiguity around the need to create one or many reserves or strips during subdivision.

To reduce repetition, I have shown the recommended amendment to Rule 10.3.1 in section 5.6.4 below, alongside amendments recommended to this rule in response to more substantive submissions. The amendments to Policy 10.2.2.5, Policy 10.2.4.3#1, and Rules 10.4.3.1.a.iii and Rule 10.4.3.1.b.iii are shown in this section, since no other amendments are recommended in response to submissions on these provisions.

Recommended amendment:

1. Amend Policy 10.2.2.5 as follows, and make consequential changes to assessment rules:

"Only allow subdivision activities adjacent to water bodies and the coast where the following biodiversity values and natural character values are maintained or enhanced, including through provision of an esplanade reserves or esplanade strips {NatEnv360.147} in identified locations:

- a. biodiversity values of riparian margins and the coast;
 - b. the water quality and aquatic habitats of the water body or coast; and
- the natural functioning of the adjacent sea or water body."

2. Amend Policy 10.2.4.3 as follows, and make consequential changes to assessment rules:

"Require subdivision of land to enhance public access to the natural environment through:

- a. requiring an esplanade reserves or esplanade strips {NatEnv360.148} of an appropriate width and location adjacent to identified water bodies and the coast; and
- b. where practicable, providing opportunities for access in other areas where this will enhance recreational opportunities, particularly through connecting to and expanding the existing tracks network or utilising adjacent unformed legal roads."

3. Amend Rule 10.4.3.1.a.iii as shown below:

"iii. In assessing a change or reduction to the required esplanade reserve or esplanade {NatEnv360.152} strip, Council will consider the effects on the values of the water body as identified in Appendix 10C and any other measures proposed to enhance the biodiversity of the riparian or coastal margin and associated water body."

4. Amend Rule 10.4.3.1.b.iii, as shown below:

"iii. In assessing a change or reduction to the required esplanade reserve or esplanade {NatEnv360.153} strip, Council will consider the effects on public recreation and access values as identified in Appendix 10C."

5.6.2 Policy 10.2.2.5

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
OS900.41	Save The Otago Peninsula (STOP)	I seek to have the above provision	Amend Policy 10.2.2.5 as follows: "Only allow subdivision activities adjacent to <u>the</u>	Reject	Do not amend Policy 10.2.2.5 as requested

OS958.35	Inc Soc Forest and Bird NZ	amended	<u>riparian margins of</u> water bodies and the coast where the following biodiversity values and natural character values are <u>preserved</u> maintained or enhanced, including through provision of esplanade reserves or esplanade strips in identified locations: ..."		
FS2391.120	Geoff Scurr Contracting Limited	I oppose the submission	Oppose OS900.41. Disallow submission.	Accept	Do not amend Policy 10.2.2.5 as requested
FS2449.109	Federated Farmers of New Zealand	I oppose the submission	Oppose OS900.41. Disallow submission.	Accept	Do not amend Policy 10.2.2.5 as requested
FS2449.110	Federated Farmers of New Zealand	I oppose the submission	Oppose OS958.35. Disallow submission.	Accept	Do not amend Policy 10.2.2.5 as requested

Background

Policy 10.2.2.5 states "Only allow subdivision activities adjacent to water bodies and the coast where the following biodiversity values and natural character values are maintained or enhanced, including through provision of esplanade reserves or esplanade strips in identified locations:

- a. biodiversity values of riparian margins and the coast;
- b. the water quality and aquatic habitats of the water body or coast; and
- c. the natural functioning of the adjacent sea or water body".

This policy, along with Policy 10.2.4.3.a, sets out the requirement for the taking of esplanade reserves or strips where subdivision occurs adjacent to the coast or water bodies.

Requests to change include "the riparian margins of" and change word "maintained" to "preserved"

STOP (OS900.41) and Forest and Bird NZ (OS958.35) seek to amend Policy 10.2.2.5 to begin "Only allow subdivision activities adjacent to the riparian margins of water bodies and the coast where the following biodiversity values and natural character values are preserved ~~maintained~~ or enhanced...". The submitters believe the policy as notified does not meet the requirements of Part II RMA or the NZ Coastal Policy Statement.

Geoff Scurr Contracting Limited (FS2391.120) opposes STOP (OS900.41) due to concern around the possible implications and restrictions of the term "preserve" in the context of the plan, and the belief that definitions may be required to improve clarity. Federated Farmers of New Zealand (FS2449.109, FS2449.110) opposes STOP (OS900.41) and Forest and Bird NZ (OS958.35) because they believe the inclusion of the term "preserve" goes further than the intent of the RMA and the requirements of the 2GP under the Otago Regional Policy Statement (RPS), and is unnecessarily restrictive.

Recommendations

I do not support an amendment to the policy to “Only allow subdivision activities adjacent to the riparian margins of water bodies...” as this would suggest that subdivision activities relating to land within the riparian margin are excluded from the policy, which is not the intent. Instead, Policy 10.2.2.5 seeks to manage subdivision activities both within and adjacent to riparian margins i.e. “adjacent to water bodies...”

Request to change “maintained” to “preserved” – I do not recommend this amendment; refer discussion under Objective 10.2.2 in section 5.4.8.

Recommended amendment:

None.

5.6.3 Policy 10.2.4.3 #1

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
OS592.8	Dianne Reid	I seek to have the above provision amended	Amend Policy 10.2.4.3 to begin 'Require-Enable subdivision of land to that enhances public access to the natural environment through: ...'	Reject	Do not amend Policy 10.2.4.3 as requested
FS2473.8	David Hiom and Kerry Hiom	I oppose the submission	Oppose OS592.8. Disallow submission.	Accept	Do not amend Policy 10.2.4.3 as requested

Background

Policy 10.2.4.3 states “Require subdivision of land to enhance public access to the natural environment through:

- a. requiring esplanade reserves or esplanade strips of an appropriate width and location adjacent to identified water bodies and the coast; and
- b. where practicable, providing opportunities for access in other areas where this will enhance recreational opportunities, particularly through connecting to and expanding the existing tracks network or utilising adjacent unformed legal roads”.

This policy, along with Policy 10.2.2.5, sets out the requirement for the taking of esplanade reserves or strips where subdivision occurs adjacent to the coast or water bodies. The policy also promotes the use of other means for enhancing public access to the natural environment.

It should be noted that there were two instances of Policy 10.2.4.3 notified in the 2GP. The intention is that this policy retains its numbering as 10.2.4.3.

Request to change “require subdivision” to “enable subdivision”

Dianne Reid (OS592.8) seeks to amend Policy 10.2.4.3 to begin “Enable subdivision of land that enhances public access” in areas of the city where public access will be enhanced should subdivision occur. The submitter states “A slight alteration in wording of this policy recognises the potential of subdivision to enhance public access. The policy should signal that where this can be facilitated subdivision can be enabled”.

David Hiom and Kerry Hiom (FS2473.8) oppose Dianne Reid (OS592.8); this opposition is aligned with their general opposition to more intensive zoning and a higher intensity of land use in the vicinity of Saddle Hill Road.

Recommendations

While I agree with the intent of the Dianne Reid submission (OS592.8) in terms of encouraging public access, I do not recommend this amendment is accepted. Policy 10.2.4.3 follows the 2GP drafting protocol through the use of the word “require” that then sets up a performance standard in the case of esplanade reserves or esplanade strips. The second part of the policy relates to assessment undertaken as part of a restricted discretionary subdivision application – here the “require” is moderated by a “where practicable” which recognises that this part of the policy relates to a matter of discretion rather than a performance standard. The 2GP drafting protocol outlines that beginning a 2GP policy with the word “enable” implies a permitted activity, whereas all subdivision at least requires consent as a restricted discretionary activity.

Recommended amendment:

None (although see amendment recommended to this policy in section 5.6.1 above).

5.6.4 Rule 10.3.1 Esplanade reserves and strips performance standard

Sub pt #	Submitter Name	Support/Oppose/ Seek Amend	Summary Of Submission	Accept/Reject / Accept in part	Staff Recommendation
OS447.31	Harboursides and Peninsula Preservation Coalition	I support the provision	Retain Rule 10.3.1	Accept in part	Amend Rule 10.3.1 as shown below.
OS1016.3	Otago Fish and Game Council	I support the provision	Retain Rule 10.3.1	Accept in part	Amend Rule 10.3.1 as shown below.
OS303.2	Jody Heaps	I support the provision	Retain Rule 10.3.1.1.a (esplanade reserves - mean high water springs)	Accept	No amendment required
OS900.67	Save The Otago	I seek to have the	Amend Rule 10.3.1.1 as follows 'Subdivision	Reject	Do not amend Rule

OS958.46	Peninsula (STOP) Inc Soc Forest and Bird NZ	above provision amended	activities must provide esplanade reserves <u>sufficient to ensure practicable public access on an ongoing basis with a minimum width of 20m as follows:</u> '		10.3.1.1 as requested
FS2449.152, FS2449.153	Federated Farmers of New Zealand	I oppose the submission	Oppose OS900.67 and OS958.46. Disallow submissions.	Accept	Do not amend Rule 10.3.1.1 as requested
OS908.12	Otago Regional Council	I seek to have the above provision amended	Amend Rule 10.3.1.2 so that the minimum width can be increased, with guidance notes as to when this will be required, to ensure value and provisions for matters such as public access, recreation, biodiversity values, natural hazards etc. are able to be accommodated within a strip.	Accept in part	Amend Rule 10.3.2.1 as shown below
OS908.13	Otago Regional Council	I seek to have the above provision amended	Amend Rule 10.3.1.2 so that the approach to esplanade strips for unlisted water bodies is clarified.	Reject	Do not amend Rule 10.3.1.2 as requested
OS535.5	Warren Wilson	I oppose the provision	Amend Rule 10.3.1.2 to refer to "riparian strip" rather than "esplanade strip", particularly with respect to Abernathys Creek.	Reject	Do not amend Rule 10.3.1.2 as requested
FS2384.2	Brian W Wilson	I support the submission	Support OS535.5. Allow submission.	Reject	Do not amend Rule 10.3.1.2 as requested
OS680.3	Liz McLennan	I oppose the provision	Amend Rule 10.3.1 by removing 2.ae (Sawyers Bay Stream)	Reject	Do not amend Rule 10.3.1.2 as requested
OS898.2	Lancaster Trust	I oppose the provision	Amend Rule 10.3.1 by removing 2.al (Three O'clock Stream)	Reject	Do not amend Rule 10.3.1.2 as requested
OS588.4	Otago Peninsula Community Board	I seek to have the above provision amended	Amend Rule 10.3.1.2 to include Stewarts Creek and Battery Creek (inferred not stated)	Accept	Amend Rule 10.3.1.2 and Appendix 10C as

					shown below.
OS690.24	Yellow-eyed Penguin Trust	I seek to have the above provision amended	Add a new policy under Objective 10.2.4 that does not require public access where it would conflict with biodiversity values.	Accept in part	Amend Rules 10.4.3.1.b and 10.3.4.10.b as shown below

Background

Section 229 of the RMA, which sets out the purposes of esplanade reserves and esplanade strips, is as follows:

An esplanade reserve or an esplanade strip has 1 or more of the following purposes:

(a) to contribute to the protection of conservation values by, in particular,—

(i) maintaining or enhancing the natural functioning of the adjacent sea, river, or lake; or

(ii) maintaining or enhancing water quality; or

(iii) maintaining or enhancing aquatic habitats; or

(iv) protecting the natural values associated with the esplanade reserve or esplanade strip; or

(v) mitigating natural hazards; or

(b) to enable public access to or along any sea, river, or lake; or

(c) to enable public recreational use of the esplanade reserve or esplanade strip and adjacent sea, river, or lake, where the use is compatible with conservation values.

Rule 10.3.1 applies to subdivision activities, which always require resource consent as at least restricted discretionary activities, regardless of whether or not they meet performance standards.

Rule 10.3.1.1 requires the provision of esplanade reserves with a minimum width of 20m along the mark of mean high water springs of the sea and along the bank or the margin of certain larger creeks and rivers.

Rule 10.3.1.2 requires the provision of esplanade strips with a minimum width of 5m along the bank or the margin of certain smaller creeks.

Appendix 10C sets out the Water Body Values of all creeks and rivers listed in Rule 10.3.1, including both “conservation values” and “public recreation and access values”.

Activities that contravene Rule 10.3.1 are subject to assessment Rule 10.4.3.1, which focuses on testing the application against Policies 10.2.2.5 and 10.2.4.3 (discussed above).

Submissions in support

Harboursides and Peninsula Preservation Coalition (OS447.31) and Otago Fish and Game Council (OS1016.3) seek to retain Rule 10.3.1, with no specific reason given for this support. Jody Heaps (OS303.2) seeks to retain Rule 10.3.1.1.a, namely the provision of esplanade reserves along mean high water springs of the sea, for public access reasons.

Request to amend Rule 10.3.1.1 to add “sufficient to ensure practicable public access on an ongoing basis”

Save The Otago Peninsula (STOP) Inc Soc (OS900.67) and Forest and Bird NZ (OS958.46) seek to amend Rule 10.3.1.1 so that subdivision activities provide “esplanade reserves sufficient to ensure practicable public access on an ongoing basis with a minimum width of 20m”. The submitters state that “Provision of esplanade reserves is strongly supported provided that these ensure practicable public access long into the future and take account of sea level rising. The list of creeks is supported to ensure on going public access.”

Federated Farmers (FS2449.152 and FS2449.153) opposes STOP (OS900.67) and Forest and Bird NZ (OS958.46) because they believe that the amendment proposed is unnecessary and adds little to the “workability” of the rule.

Recommendations

I refer the submitters again to section 229(a) RMA, as set out in section 5.6.1 above, which describes the purposes of an esplanade reserve or esplanade strip. I consider that the amendment proposed by the submitters covers only part of the purpose of esplanade reserves and strips, namely the public access component. I agree with the further submitter that the proposed amendment is unnecessary and adds nothing to the workability of the rule. I also note the proposed changes are ultra vires in that they would introduce subjective terms into the rule (i.e. “sufficient” and “practicable”). I recommend that these submission points be rejected.

Request to amend Rule 10.3.1.2 to increase the minimum width

Otago Regional Council (OS908.12) seeks to amend Rule 10.3.1.2 so that the required minimum width of 5m is increased, with guidance notes as to when this will be required to ensure provisions for matters such as public access, recreation, biodiversity values, and natural hazards can be accommodated.

Recommendations – Amendment 1

I agree with the ORC that the required minimum width of esplanade strips should be increased from 5m. I note that, under the equivalent rule in the operative plan (Rule 18.5.5), “an esplanade strip of not more than 20m in width” is required. In the case of esplanade reserves, Rule 18.5.4 of the operative plan requires that reserves have a minimum width of 20m. It seems that the 5m figure was included in the notified plan as a drafting error.

The RMA does not specify what the minimum width of an esplanade strip should be, but under section 237E the Act allows territorial authorities to require reserves and strips of up to 20m without paying compensation to the landowner. I have consulted Jendi Paterson, the Council’s Recreation Planning and Facilities manager, on this matter; her view is that a 20m minimum width is appropriate. Based on this advice, I recommend that Rule 10.3.1.2 be amended as shown below.

I note that this performance standard applies only to subdivision activities, which always require consent anyway. Therefore, the Council has the opportunity to consider, on a case by case basis, whether a 20m width is necessary to fulfil the purposes of an esplanade strip as set out in section 229 of the RMA (i.e. to protect conservation values, and enable public access and public recreational use – see background

section above) and reduce it if appropriate based on the guidance discussed below.

With regard to the ORC’s request for additional guidance as to when different widths of esplanade strip will be required, I note that assessment Rule 10.4.3.1 as notified contains the following general assessment guidance:

Rule 10.4.3.1.a.iii: “In assessing a change or reduction to the required esplanade reserve or strip, Council will consider the effects on the values of the water body as identified in Appendix 10C and any other measures proposed to enhance the biodiversity of the riparian or coastal margin and associated water body.”

Rule 10.4.3.1.b.iii: “In assessing a change or reduction to the required esplanade reserve or strip, Council will consider the effects on public recreation and access values as identified in Appendix 10C.”

In relation to effects on public access, Rule 10.4.3.1.b also contains the following “Potential circumstances that may support a consent application”:

- “iv. Other opportunities to enhance public access are created by the subdivision.
- v. The design of the subdivision takes advantage of adjacent unformed legal roads to provide public access.
- vi. Restricting access is necessary to protect public health and safety.”

In my view, the rule as notified generally provides appropriate guidance on the assessment of proposed changes to the required esplanade strip width; however, I recommend an addition to this amendment rule in response to the Yellow-eyed Penguin Trust submission, discussed below.

Request to add water bodies to Rule 10.3.1.2

Otago Peninsula Community Board (OS588.4) seeks to amend Rule 10.3.1.2 to include Stewarts Creek and Battery Creek. The submitter comments that Rules 10.3 and 10.4.3.1, as they apply to the Otago Peninsula, “need to consider that the waterways of the area are ephemeral or spring fed and their natural flow is highly variable”.

Recommendations – Amendment 2

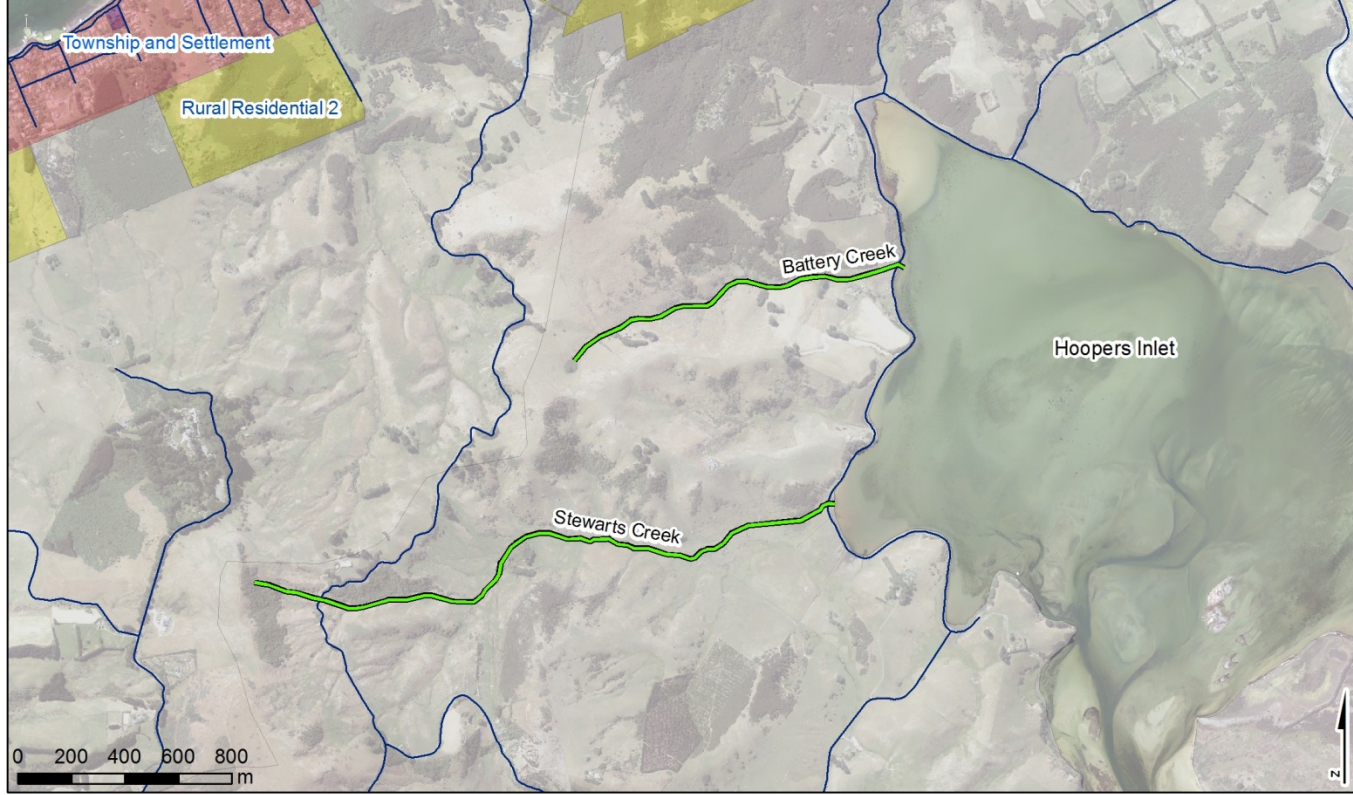
Staff with knowledge of freshwater ecosystems from the Parks and Recreation Group of DCC, and the Department of Conservation (DOC), provided comments on this submission; their comments are summarised below:

Water Body	Department of Conservation Feedback	Parks and Recreation Group of DCC Feedback
Stewarts Creek and Battery Creek	Small creeks adjacent to Hoopers Inlet. Likely to contain native fish: common and redfin bullies, inanga, banded kokopu, eels and koura. Support inclusion of Stewarts and	Parks and Reserves support the addition of Stewarts Creek and Battery Creek in Rule 10.3.1.2 primarily for its conservation values, turf vegetation and contribution to wider Hooper’s Inlet, but would not recommend a

	Battery Creek.	requirement for public access. Recommend that the submission is accepted.
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Based on this advice, I recommend that Rule 10.3.1.2 and the 2GP maps are amended to include Stewarts Creek and Battery Creek (the locations of Stewarts Creek and Battery Creek are shown in Figure 1 in Appendix Four.). As a consequential amendment, I also recommend that Appendix 10C is updated to include these two creeks and the conservation values identified by DOC.

Proposed New Esplanade Strips



- Esplanade Strip (proposed addition)
- Roads
- Major Facility - School
- Rural
- Township and Settlement
- Rural Residential 2
- Recreation

Request to add new policy to restrict access where it would conflict with biodiversity values

Yellow-eyed Penguin Trust (OS690.24) seeks to add a new policy under Objective 10.2.4 that does not require public access where it would conflict with biodiversity values. The submitter believes that, in some cases, enhanced public access would create adverse effects on biodiversity. Yellow-eyed penguins in particular are very sensitive to disturbance by people, so new access should generally be avoided around breeding areas.

Recommendation – Amendment 3

The Yellow-eyed Penguin Trust is concerned that public access can conflict with sensitive biodiversity values, such as penguin breeding areas. I consider this submission relates most closely to:

- the requirement under Policy 10.2.4.3 to create esplanade reserves or strips, which leads to Rule 10.3.1 requiring the creation of esplanade reserves or strips during subdivision,
- the requirement under Policy 10.2.4.1 to set buildings, structures, and earthworks - large scale back from the coast and water bodies an adequate distance to maintain or enhance public access along riparian and coastal margins, which leads to Rule 10.3.3 requiring a minimum setback from coast and water bodies for these activities.

NZCPS Policy 19(3) specifies restrictions on public walking access to, along or adjacent to the coastal marine area where this is necessary to protect threatened indigenous species, dunes, estuaries and other sensitive natural areas or habitats. Policy 5.1.1(b) in the pORPS-dv allows for the restricting of access to protecting the natural heritage and ecosystem values of sensitive natural areas or habitats.

Contraventions of Rules 10.3.1 and 10.3.3 are assessed under Rules 10.4.3.1 and 10.4.3.10 respectively. These rules consider both effects on public access and effects on biodiversity and natural character values of riparian margins and the coast.

I consider that these provisions provide adequate scope to consider the effects of any increase in public access to coastal or riparian margins on the biodiversity values of these areas, and that to add a new policy under Objective 10.2.4 relating to biodiversity values would detract from plan clarity. However, I recommend that Rules 10.4.3.1.b and 10.4.3.10.b are amended, as shown below, to recognise that there may be circumstances where restricting access is required to protect biodiversity and natural character values of riparian margins and the coast.

Request to amend Rule 10.3.1.2 to clarify the approach for unlisted water bodies

The Otago Regional Council also requests (OS908.13) that the text of the rule is amended to clarify what is expected in terms of esplanade reserves and strips, should subdivision occur in the vicinity of unlisted water bodies (i.e. those not identified in Rule 10.3).

Recommendations

I do not recommend this amendment is accepted. Both of the relevant policies, namely Policy 10.2.2.5 and Policy 10.2.4.3, refer to “identified” water bodies or locations in relation to the provision of esplanade reserves or strips. In addition, Rule 10.3.1 itself clearly only applies to the water bodies named in the rule. Therefore, I believe that it is implicit in the drafting of these provisions that all other water bodies are not subject to the rule.

Requests to amend Rule 10.3.1.2 to refer to “riparian strip” instead of “esplanade strip”, and to remove water bodies from Rule 10.3.1.2

Warren Wilson (OS535.5) seeks that Rule 10.3.1.2 be amended to refer to “riparian strip” rather than “esplanade strip”, particularly with respect to Abernathys Creek. Mr Wilson states: “Abernathys Creek off Aramoana Road is a very small waterway and should not be an Esplanade, which could be read as a public walkway. Defining a small creek as a walkway or esplanade gives access to people who will read it and see it as their ‘right of access’. Having people walk their dogs through our flocks of sheep has been a problem and this definition will exacerbate that.” This submission is supported by Brian W Wilson (FS2384.2).

Two other submitters have similar concerns about public access, and, as a result, seek the removal of specific water bodies from Rule 10.3.1.2. Liz McLennan (OS680.3) seeks that Sawyers Bay Stream be removed; her concerns include:

- the potential for trespass
- issues of responsibility for maintenance of these areas
- potential risks to public safety, and
- that “effective land loss will be more than the strip where the strip is not adjacent to the road”.

Lancaster Trust (OS898.2) seeks that Three O’Clock Stream be removed from the rule. The submitter states: “While we understand that easements around waterways are only triggered by subdivision and therefore have a low likelihood of becoming an issue on a lot of rural land, there are a number of significant issues with opening up public access in a rural working environment. In particular, operational efficiency and productivity can be compromised while insurance and public liability issues are raised. In this instance, the stream identified as requiring an esplanade strip by the proposed plan has no significant values that warrant this. Furthermore, the topography is such that no practical access will be provided by the imposition of an esplanade strip. People wishing to access the stream would still need to cross private land. The current owners do not restrict access for anglers but prefer to retain control to ensure farm management objectives (particularly around lambing times) are not compromised.”

Recommendations – Amendment 4

Section 229 of the RMA, reproduced in full in the background section above, indicates that the purposes of esplanade strips are “to contribute to the protection of conservation values”, “to enable public access, or “to enable public recreational use”. The RMA does not state that esplanade strips must fulfil all three of these functions. Under RMA Schedule 10, where an esplanade strip is created for access or recreational purposes, the legal instrument that creates the strip must specify that “any person shall have the right, at any time, to” access the strip. However, where an esplanade strip is created for the protection of conservation values only, the instrument may specify that no person, or that only specified persons, may enter the strip (except that this does not apply to the owner or occupier of the land, or their employees or agents).

The values of the water bodies referred to in the submissions are set out in Appendix 10C of the 2GP, are as follows:

Water body	Conservation values	Public recreation and access values
Abernathys Creek	Important as a refuge for native fish in significant lifecycle stages. Likely to be present: banded kokopu, common bully, inanga, koura.	
Sawyers Bay Stream	Important as a refuge for native fish in significant lifecycle stages	
Three O'clock Stream	<i>Galaxias depressiceps</i> (nationally vulnerable)	Trout angling

Staff with knowledge of freshwater ecosystems from the Parks and Recreation Group of DCC, and the Department of Conservation (DOC), provided comments on these submissions; their comments are summarised below:

Water Body	Department of Conservation Feedback	Parks and Recreation Group of DCC Feedback
Abernathys Creek	Stream is small but native fish likely to be present. Recommend that the esplanade strip requirement be retained.	Parks and Reserves support the inclusion of Abernethy's Creek in Rule 10.3.1.2 primarily for its conservation values and turf vegetation, but would not recommend a requirement for public access. Recommend that the esplanade strip requirement be retained.
Sawyers Bay Stream	Sawyers Bay Stream is likely to contain common and redfin bully, eels, inanga and banded kokopu. Salmon smolts have also been seen there. Recommend that the esplanade strip requirement be retained.	Parks and Reserves support the inclusion of Sawyers Bay Stream in Rule 10.3.1.2 primarily for its conservation values. In the incidence of subdivision, a planted public walkway up this stream could be a viable opportunity to develop a community asset. Recommend that the esplanade strip requirement be retained.
Three O'clock Stream	Three O'clock Stream has been verified to contain two nationally threatened non-migratory galaxias species (<i>Galaxias depressiceps</i> and <i>Galaxias eldoni</i>). Recommend that the esplanade strip requirement be retained.	Parks and Recreation support the inclusion of Three O'clock Stream in Rule 10.3.1.2 primarily to ensure access for recreational fishing and tramping opportunities are maintained. Three O'Clock Stream is also likely to have significant biodiversity values on the steeper areas of the bank. Recommend that the esplanade strip requirement be retained.

These comments allow an improved evaluation of the importance of these water bodies, particularly the two streams. Although it is not within the scope of submissions, I recommend that the water body values listed in Appendix 10C for Sawyers Bay Stream and Three O'clock Stream be updated as shown below, as a minor amendment under Clause 16.

On the basis of this advice, I recommend that the submission points of Liz McLennan (OS680.3) and Lancaster Trust (OS898.2) are rejected and that the Sawyers Bay Stream and Three O'clock Stream are not removed from Rule 10.3.1.

In relation to Warren Wilson's request (OS535.5) that Rule 10.3.1.2 be amended to refer to "riparian strip" rather than "esplanade strip", I do not recommend that this is accepted, because the 2GP should use the same terminology in relation to esplanade reserves and strips as the RMA, which it is implementing. However, I note that Appendix 10C does not list any public recreation or access values for Abernathys Creek, and that the DCC Parks and Recreation Group have advised that, in the event of subdivision around the creek, they would not seek a requirement for public access.

In addition, in response to all three submissions, I note that any proposed contravention of Rule 10.3.1.2 leads to an assessment under Rule 10.4.3.1. Under this assessment rule, a change or reduction to the required esplanade strip could be granted if the relevant policies are met – i.e. if the biodiversity values of riparian margins, the water quality and aquatic habitats of the water body, and the natural functioning of the adjacent water body are maintained or enhanced (Policy 10.2.2.5), and if public access to the natural environment is enhanced (Policy 10.2.4.3). Rule 10.4.3.1.b. indicates that it may be acceptable not to provide the required esplanade strip in certain circumstances, including:

- iv. Other opportunities to enhance public access are created by the subdivision.*
- v. The design of the subdivision takes advantage of adjacent unformed legal roads to provide public access.*
- vi. Restricting access is necessary to protect public health and safety.*

Recommended amendment:

Amendments One and Two

Amend Rule 10.3.1 as follows (note that this includes amendments recommended in response to OS360.149, in section 5.6.1 above):

1. Subdivision activities must provide an esplanade reserves {NatEnv360.149} with a minimum width of 20m as follows:
 - a. along the mark of mean high water springs of the sea; and
 - b. along the bank or the margin of the following rivers and lakes:
2. Subdivision activities along the bank or the margin of the following rivers and lakes must provide an esplanade strips {NatEnv360.149} with a minimum width of ~~5~~20m {NatEnv908.12}:
 - a. Abernathys Creek;
 - b. Battery Creek {NatEnv588.4}
 - ~~b-~~ c. Andersons Bay Stream;...
 - ai. Stewarts Creek {NatEnv588.4}
 - ~~ai-~~ aj. Stony Creek;
3. For the purpose of this standard, an esplanade reserves or esplanade ~~and~~ strips will be measured in a landward direction at 90 degrees to

MHWS of the sea, tidal rivers or estuaries, or the bank of any stream or river." {NatEnv360.149}

Amend Appendix 10C by adding the following water bodies: {NatEnv588.4}

Water body	Conservation values	Public recreation and access values
Battery Creek	Common and redfin bullies, inanga, banded kokopu, eels and koura.	
Stewarts Creek	Common and redfin bullies, inanga, banded kokopu, eels and koura.	

Amend 2GP mapping to include Battery Creek and Stewarts Creek in the Esplanade Reserves and Strips mapped area. {NatEnv588.4}

Amendment Three:

Amend Rules 10.4.3.1.b and 10.4.3.10.b by adding the following under the heading "Potential circumstances that may support a consent application include":

Restricting access is necessary to protect the biodiversity and natural character values of riparian margins or the coast. {NatEnv690.24}

Amendment Four

Amend Appendix 10C Water Body Values as follows:

Water body	Conservation values	Public recreation and access values
Sawyers Bay Stream	Important as a refuge for native fish in significant lifecycle stages. Likely to be present: common and redfin bully, eels, inanga and banded kokopu. Salmon smolts have also been seen in this stream. {C116}	Potential for planted public walkway along this stream. {C116}
Three O'clock Stream	<u>Galaxias depressiceps</u> (nationally vulnerable) and <u>Galaxias eldoni</u> (nationally vulnerable) Likely to have significant biodiversity values	Recreational values include fishing (Trout angling) and tramping. {C116}

on the steeper areas of the bank. {C116}

Note: Amendments to Rule 10.3.1 are also recommended in section 5.8.3 below.

5.6.5 Esplanade Reserves and Strips Mapped Area

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
OS475.2	Bill Feather	I seek to have the above provision amended	Amend Esplanade Reserves and Strips Mapped Area affecting 1 Brookside Place, Mosgiel to better reflect true distances from Owhiro Stream.	Accept	Amend the Owhiro Stream Esplanade Reserves and Strips Mapped Area to more accurately reflect the Owhiro Stream actual location.

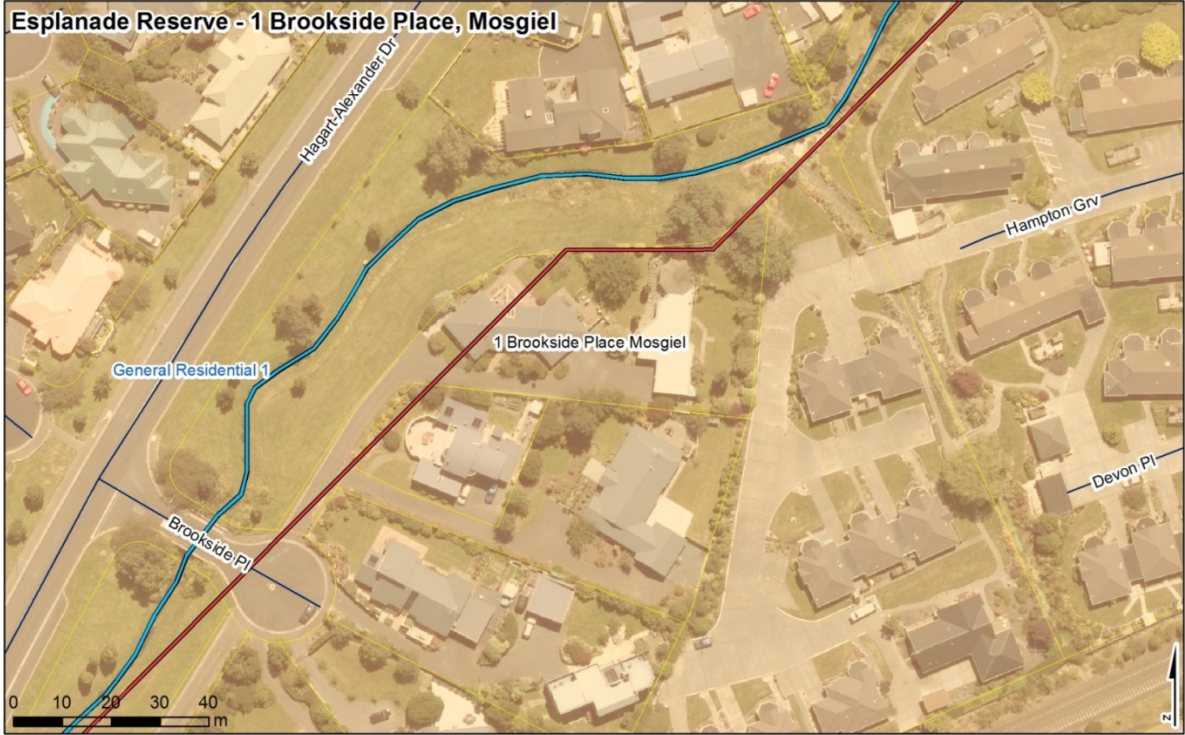
Request to amend Esplanade Reserves and Strips Mapped Area in vicinity of 1 Brookside Place, Mosgiel

Bill Feather (OS475.2) seeks to amend the Esplanade Reserves and Strips Mapped Area in the vicinity of 1 Brookside Place, Mosgiel. The submitter states that "The straight line approach cuts corners and in my case takes in half the house and grounds".

Recommendations

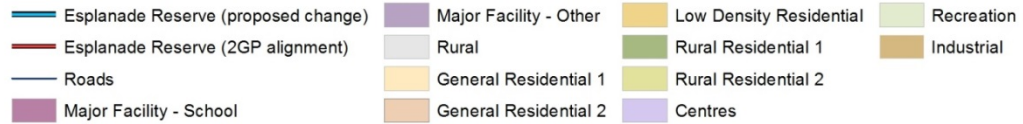
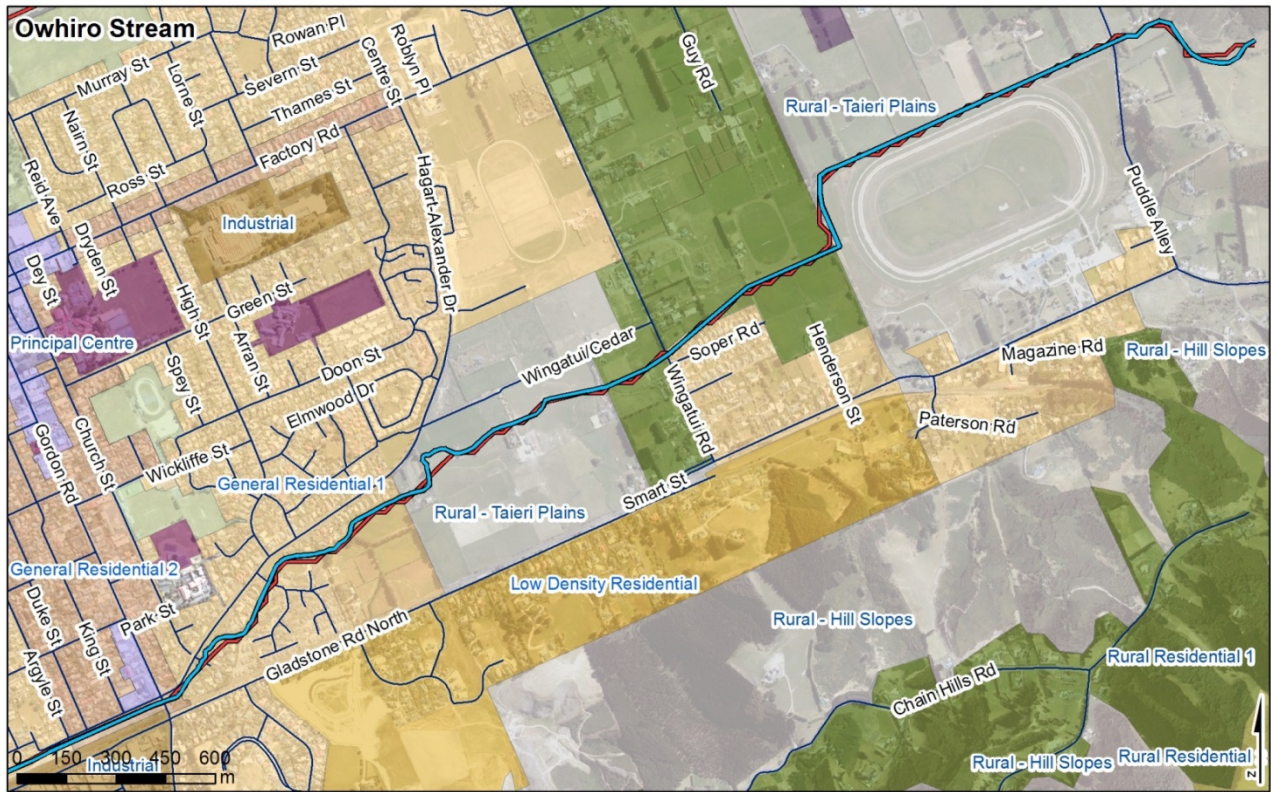
The location of the Esplanade Reserves and Strips Mapped Area relating to the Owhiro Stream (red line in Figure 2 in Appendix Four) does not align well with the actual location of the stream-bed in some locations (e.g. blue line in Figure 2).

Esplanade Reserve - 1 Brookside Place, Mosgiel



- Esplanade Reserve (proposed change)
- Esplanade Reserve (2GP alignment)
- Roads
- Property boundaries
- General Residential 1

I agree with the submitter that the Esplanade Reserves and Strips Mapped Area in the area around 1 Brookside Place Mosgiel does not accurately reflect the Owhiro Streams actual location. I recommend that this be corrected on the 2GP planning maps. The proposed change in alignment of the Owhiro Stream Esplanade Reserve (in the vicinity of 1 Brookside Place) is shown as the blue line in Figure 2 in Appendix Four. I also recommend, if there is scope, that the entirety of the Owhiro Stream Esplanade Reserve alignment be remapped to better reflect the actual location of the Owhiro Stream. The proposed and 2GP alignment of the entire reach of the Owhiro Stream Esplanade Reserve is shown in Figure 3 in Appendix Four.



Recommended amendment:

Amend the Esplanade Reserves and Strips Mapped Area to more accurately reflect the actual location of the Owhiro Stream as per Figure 3 in Appendix Four. {NatEnv475.2}

5.7 Setback from Coast and Water Bodies Provisions

5.7.1 Definition of Water Body

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
OS853.3	Dunedin Rural Development Inc.	I seek to have the above provision amended	Amend definition of water body to align with the Otago Regional Council Regional Policy Statement.	Accept	No amendment required.
<p><u>Background</u> The definition of water body in the 2GP is "Fresh water or geothermal water in a river, lake, stream, pond, wetland, or aquifer, or any part thereof, that is not located within the coastal marine area."</p> <p><u>Request to amend definition of water body</u> Dunedin Rural Development Inc. (OS853.3) seeks to amend the definition of water body to align with the Regional Policy Statement, so the public have a clear understanding of the areas any related provisions apply.</p> <p><u>Recommendation</u> I note that the proposed definition of water body is the same as that in the operative and proposed Regional Policy Statements and, therefore, no amendment is required.</p> <p>Recommended amendment: None.</p>					

5.7.2 Definition of Wetland

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
OS919.93	Federated Farmers of New Zealand	I support the provision	Retain definition of Wetland.	Accept in part	Amend definition of wetland as shown below
OS853.2	Dunedin Rural Development Inc.	I seek to have the above provision	Amend definition of wetland to align with the Otago Regional Council Regional Policy	Accept in part	Amend definition of wetland as shown

		amended	Statement.		below
FS2381.30	Otago Regional Council	I support the submission	Support OS853.2 in part. Allow submission in part and amend definition of 'wetland' to align with the Otago Regional Council Regional Policy Statement.	Accept in part	Amend definition of wetland as shown below
OS1088.12	Oceana Gold (New Zealand) Limited	I seek to have the above provision amended	Amend definition of Wetland as follows: 'Permanently or intermittently wet areas...For the purpose of this definition, wetland does not include the following: ...Constructed wetlands used for <u>mine water</u> , wastewater or stormwater treatment; and Oxidation ponds.'	Accept in part	No amendment required.

Background

The 2GP definition of wetland is the same as that in the operative DCC Plan (although some re-ordering of the exclusions has occurred). The operative definition of wetland was inserted by a consent order in 2004 and is as follows:

"Permanently or intermittently wet areas, shallow water, and land water margins that support a natural ecosystem of plants and animals that are adapted to wet conditions. Vegetation is dominated by plants such as sedges (Cyperaceae), rushes (Juncaeeae), restionads (Restionaceae), raupo (Typha orientalis), flax (Phorium tenax), Sphagnum moss species or other wetland herbs, which emerge from permanent standing water or occupy permanently saturated soil: including riparian and littoral vegetation.

For the purpose of this definition, wetland does not include the following:

- Land sown with exotic grasses containing sparsely distributed wetland plants
- Constructed reservoirs
- Farm drains and irrigation canals
- Land drainage canals
- Constructed farm dams and detention dams
- Constructed wetlands used for wastewater or stormwater treatment; and
- Oxidation ponds."

Submissions in support

Federated Farmers of New Zealand (OS919.93) seeks to retain the definition of wetland as notified, because the submitter supports the proposed exclusions believing these appropriately capture areas that are man-made and relate to farming.

Requests to amend definition of wetland

Dunedin Rural Development Inc. (OS853.2) seeks to amend the definition of wetland to align it with the Otago RPS definition. This amendment, in their view, will help to ensure the public have a clear understanding of the areas deemed to be wetlands. Otago Regional Council (FS2381.30) supports Dunedin Rural Development Inc. (OS853.2), based on the view that the definition of wetland should also be consistent with the definition in the RMA; in particular the definition should not include a finite list of wetland vegetation.

Oceana Gold (New Zealand) Limited (OS1088.12) seeks to amend the definition of wetland to exclude constructed wetlands used for mine water. The submitter further requests that the wetland definition provides exclusion for the 'Macraes Gold Project' so that mine closure and/or mine water treatment can occur in the future without the need for consent.

Recommendation

The RMA defines wetland broadly as follows: "wetland includes permanently or intermittently wet areas, shallow water, and land water margins that support a natural ecosystem of plants and animals that are adapted to wet conditions." The RMA definition matches the pORPS-dv definition and the first part of the 2GP definition.

Otago Regional Council (FS2381.30) has concerns about providing a finite list of vegetation within the notified definition, effectively narrowing the definition of wetland to areas with vegetation "dominated by plants such as sedges (Cyperaceae), rushes (Juncaeeae), restionads (Restionaceae), raupo (*Typha orientalis*), flax (*Phormium tenax*), Sphagnum moss species or other wetland herbs, which emerge from permanent standing water or occupy permanently saturated soil: including riparian and littoral vegetation." Although the intent of adding these wetland vegetation-type descriptions may have been to provide plan users with guidance on what a wetland may look like or contain (in terms of vegetation), I agree with the further submitter that the addition of these descriptions has the potential to confuse plan users. Therefore, I recommend that the definition is amended to remove reference to vegetation types and species, as shown below.

I note that the 2GP definition lists a number of exclusions, which I assume were included by the 2004 consent order (I have not had the opportunity to research this). I do not recommend that this list of exclusions be removed, as I consider it adds clarity to the definition, and no submitters have specifically asked for its removal.

In terms of the Oceana Gold (New Zealand) Limited (OS1088.12) submission, I note that the proposed exclusions to the definition of wetland relate to man-made (not naturally occurring) wetland-type habitats that tend have a dominance of non-indigenous vegetation (but may nevertheless provide some habitat for some indigenous fauna; e.g. water birds). The notified exclusion "constructed wetlands used for wastewater..." allows within current drafting for these wetlands to contain mine water, a type of wastewater, so I recommend that no amendment is required to accommodate the Macraes Gold Project (OS1088.12).

Recommended amendment:

Amend the Definition of Wetland as follows:

"Permanently or intermittently wet areas, shallow water, and land water margins that support a natural ecosystem of plants and animals that

are adapted to wet conditions. ~~Vegetation is dominated by plants such as sedges (Cyperaceae), rushes (Juncaceae), restionads (Restionaceae), raupo (Typha orientalis), flax (Phorium tenax), Sphagnum moss species or other wetland herbs, which emerge from permanent standing water or occupy permanently saturated soil: including riparian and littoral vegetation. {NatEnv853.2}~~

For the purpose of this definition, wetland does not include the following:

- land sown with exotic grasses containing sparsely distributed wetland plants
- constructed reservoirs
- farm drains and irrigation canals
- land drainage canals
- constructed farm dams and detention dams
- constructed wetlands used for wastewater or stormwater treatment; and
- oxidation ponds."

5.7.3 Suggested new definition of Margin

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
OS900.6 OS958.5	Save The Otago Peninsula (STOP) Inc Soc Forest and Bird NZ	I seek to have the above provision amended	Add new definition of 'Margin' as follows: <u>Land immediately adjacent to the bed of a river, wetland, lake or estuary which is likely to be affected by a high water table, flooding, fluvial erosion, or sediment deposition, and often contains distinctive vegetation. The size of the margin will vary according to local site factors but may extend to the limits demarcated by natural river terraces and constructed stop banks.</u>	Accept in part	Amend definition of margin as shown below
FS2449.259	Federated Farmers of New Zealand	I oppose the submission	Oppose OS958.5. Disallow submission.	Reject	Amend definition of margin as shown below
FS2444.40	Waste Management (NZ) Limited	I oppose the submission	Oppose OS900.6. Disallow submission	Reject	Amend definition of margin as shown below

FS2449.254	Federated Farmers of New Zealand	I oppose the submission	Oppose OS900.6. Disallow submission.	Reject	Amend definition of margin as shown below
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Background

Both the operative City Plan and the proposed 2GP do not contain a definition of "margin", in the case of the 2GP, the word appears in relation to "land water margins", "coastal margins", "riparian margins", "bank or margin...", "wetland margin", "lake margin", "unplanted margin", "beach margin", "road margin", and "upper margins". The use of the term spans definitions, and multiple issue statements, objectives and policies, rules and appendices. In almost all cases the term refers to a type of movable boundary, thus complicating any definition posed.

I note that there is no definition of margin in either the RMA or pORPS-dv.

Request to add a definition of margin

STOP (OS900.6) and Forest and Bird (OS958.5) seek to add a new definition of "margin" and have recommended the definition used in the Canterbury Regional Policy Statement, as set out in the table above. The submitters state that it is used in a number of policies within the 2GP. Federated Farmers (FS2449.254, FS2449.259) oppose both submissions stating that they have not been adequately justified or shown to be appropriate. Waste Management (FS2444.40) opposes STOP (OS900.6), and has further stated that they would like to be involved in any discussions around new provisions relating to development close to water ways.

Recommendations

There is no definition of 'margin' in the RMA and although comprehensive, the definition of 'margin' within the Canterbury RPS as proposed by STOP (OS900.6) and Forest and Bird (OS958.5) does not define all instances of 'margin' referenced in the 2GP as notified. As correctly noted by submitters, 'margin' does appear in 2GP policies, but it also appears in related rules to these policies, and it is the rules where the greatest precision in drafting is required in line with the 2GP drafting protocol.

The two rules that use the term 'margin' are Rule 10.3.1 Esplanade reserves and Strips and Rule 10.3.3 Setback from Coast and Water Bodies.

Rule 10.3.1 uses the term 'margin' as follows:

" 10.3.1 Esplanade Reserves and Strips

1. *Subdivision activities must provide esplanade reserves with a minimum width of 20m as follows:
along the mark of mean high water springs of the sea; and
along the bank or the margin of the following rivers and lakes:
Frasers Creek;...*
2. *Subdivision activities along the bank or the margin of the following rivers and lakes must provide esplanade strips with a minimum width of 5m:
Abernathys Creek;...*
3. *For the purpose of this standard, esplanade reserves and strips will be measured in a landward direction at 90 degrees to MHWS of the sea, tidal rivers or estuaries, or the bank of any stream or river."*

Rule 10.3.3 uses the term 'margin' as follows:

"10.3.3 Setback from Coast and Water Bodies

New buildings and structures, additions and alterations, earthworks - large scale, storage and use of hazardous substances, and network utilities activities must be set back:...

- 7. For the purposes of this standard, setbacks will be measured from the landward side bank or margin of the water body at the point of its annual fullest flow or annual highest level without overtopping its bank or margin (see Figure 10.3A and Figure 10.3B)."*

I am of the opinion that both rules can provide greater clarity to plan users by removing reference to 'margin' altogether and at the same time this amendment would negate the need to define margin, as requested by submitters. I, therefore, recommend that HPPC and STOP's submissions are accepted in part and that all references to 'margin' are removed from Rule 10.3.1, as shown below, to improve drafting precision whilst eliminating the need to define 'margin' in the context of esplanade strips and reserves. Advice sought from DCC consent planners affirms this approach and I note amendments recommended below match current practice in terms of defining the point with which esplanade strips and reserves are measured.

For Rule 10.3.3, the point at which a setback is measured from is clear, in the rule as notified, and to help define this point the rule is accompanied by Figure 10.3A and 10.3B. To be consistent, however, with the terms recommended for use for Rule 10.3.1, I recommend that the term 'margin' is removed, as shown below. I further recommend that (as a minor amendment under RMA Clause 16) reference to lakes is removed, and replaced with 'streams', as all identified water bodies in Rule 10.3.1 are streams or rivers.

Recommended amendment:

Amend Rule 10.3.1.1 as follows:

"Subdivision activities must provide esplanade reserves with a minimum width of 20m as follows:

- a. along the mark of mean high water springs of the sea; and*
- b. along the bank ~~or the margin~~ {NatEnv900.6}:..."of the following rivers and ~~lakes~~ streams {cl.16}*

Amend Rule 10.3.1.2 as follows:

"Subdivision activities along the bank ~~or the margin~~ {NatEnv900.6} of the following rivers and ~~lakes~~ streams {cl.16} must provide esplanade strips with a minimum width of ...:"

Amend Rule 10.3.3.7 as follows:

"For the purposes of this standard, setback will be measured from the landward side bank ~~or margin~~ {NatEnv900.6} of the water body at the point of its annual fullest flow or annual highest level without overtopping its bank ~~or margin~~ {NatEnv900.6} (see Figure 10.3A and Figure 10.3B)"

Note: Amendments to Rules 10.3.1 and 10.3.3 are also recommended in sections 5.6.4 and 5.7.6 respectively.

5.7.4 Policy 10.2.2.2

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
OS893.19	Ravensdown Limited	I support the provision	Retain Policy 10.2.2.2.	Accept	Retain policy as notified.
OS322.31 OS1088.38	KiwiRail Holdings Limited Oceana Gold (New Zealand) Limited	I seek to have the above provision amended	Amend Policy 10.2.2.2 as follows: Require buildings, structures, storage and use of hazardous substances, network utilities activities, and earthworks large scale to be set back from the coast and water bodies an adequate distance <u>where practicable</u> to enable the biodiversity and natural character values of coastal and riparian margins to be maintained or enhanced.	Reject	Do not amend policy as requested. The parts of these submissions that request exclusions from the setback from coast and water bodies rule for particular activities are addressed in section 5.7.6.
FS2449.378	Federated Farmers of New Zealand	I support the submission	Support OS322.31. Allow submission.	Reject	Do not amend policy as requested.
FS2481.3	Ravensdown Limited	I support the submission	Support OS322.31. Allow submission	Reject	Do not amend policy as requested.
FS2267.10	Harboursides and Peninsula Preservation Coalition	I oppose the submission	Oppose OS1088.38. Disallow submission and retain Policy 10.2.2.2 as proposed in the 2GP.	Accept	Do not amend policy as requested.
FS2332.15	Radio New Zealand Limited	I support the submission	Support OS1088.38. Allow submission	Reject	Do not amend policy as

					requested.
OS908.26	Otago Regional Council	I seek to have the above provision amended	Amend Policy 10.2.2.2 to recognise the need for setbacks due to the natural functioning and processes of rivers.	Reject	Do not amend policy as requested.

Background

Policy 10.2.2.2 states: "Require buildings, structures, storage and use of hazardous substances, network utilities activities, and earthworks - large scale to be set back from the coast and water bodies an adequate distance to enable the biodiversity and natural character values of coastal and riparian margins to be maintained or enhanced".

This policy is implemented by Rule 10.3.3 Setback from coast and water bodies.

Submission in support

Ravensdown Limited (OS893.19) seeks to retain Policy 10.2.2.2, as the policy represents good resource management practice and will promote the sustainable management of natural and physical resources.

Request to amend policy to add "where practicable"

KiwiRail Holdings Limited (OS322.31) and Oceana Gold (New Zealand) Limited (OS1088.38) seek that Policy 10.2.2.2 be amended so that it reads: "Require [*the specified activities*] to be set back from the coast and water bodies an adequate distance where practicable to enable the biodiversity and natural character values of coastal and riparian margins to be maintained or enhanced." In support of their request, both submitters cite examples of activities that they may seek to establish near water bodies and the coast, and which it may not be practicable to set back the required distance.

Ravensdown Limited (FS2481.3) supports KiwiRail Holdings, as the amendment it is pragmatic and appropriate, and would promote the sustainable management of natural and physical resources. Federated Farmers supports Kiwi Rail Holdings as it will not always be practicable for activities to be set back from the coast and water bodies.

HPPC (FS2267.10) opposes Oceana Gold, because the further submitter believes 'practicable' is too easily interpreted to mean an economic impact of any size. Radio New Zealand Limited (FS2332.15) supports Oceana Gold as the further submitter agrees with the reasons provided by Oceana Gold.

Recommendation

I do not agree that the policy wording should be amended as requested. The performance standard that implements this policy (Rule 10.3.3) contains exemptions for activities for which it may not be practicable to meet the setback. However, see also discussion of these submissions in section 5.8.6 of this report, where I address whether the specific activities mentioned in Kiwirail and Oceana Gold's submissions should be added

to the list of exemptions from Rule 10.3.3.

Request to amend the policy to allow for functioning of waterways

Otago Regional Council (OS908.26) seeks to amend Policy 10.2.2.2 to recognise the need for setbacks due to the natural functioning and processes of rivers. The submission does not provide specific reasons for this requested wording, but, in a related submission point (OS908.27, which is considered in section 5.4.10 of this report), requests greater clarity regarding how the 2GP seeks to manage erosion risk and sediment control, and also the inclusion of an advice note to raise awareness of related requirements in the Regional Plan: Water.

Recommendation

I do not agree with the ORC that the policy should be amended as requested. I note that Rule 10.3.3, which implements Policy 10.2.2.2, also implements Policy 10.2.2.4, i.e.:

Require earthworks to minimise the risk of sediment entering the sea or water bodies by:

- a. being set back an adequate distance from the coast and water bodies; and*
- b. by using appropriate sediment control techniques to ensure sediment does not enter water bodies or the sea.*

Submissions on Policy 10.2.2.4 are considered in section 5.4.10, and amendments to the policy and the associated sediment control rule are recommended in that section, to improve clarity and links to the Water Plan. In my view, Policy 10.2.2.4 appropriately manages potential effects from development activities on the “natural functioning and processes of rivers” and, therefore, no change to Policy 10.2.2.2 is required.

Recommended amendment:

None.

5.7.5 Policy 10.2.4.1

Sub pt #	Submitter Name	Support/Oppose/ Seek Amend	Summary Of Submission	Accept/Reject/ Accept in part	Staff Recommendation
OS893.22	Ravensdown Limited	I support the provision	Retain Policy 10.2.4.1	Accept in part	Amend Policy 10.2.4.1 as shown below.
OS322.34	KiwiRail Holdings Limited	I seek to have the above provision amended	Amend Policy 10.2.4.1 as follows: 'Require buildings, structures, and earthworks large scale to be set back from	Accept in part	Amend Policy 10.2.4.1 and Rule 10.4.3.10.b as shown

			the coast and water bodies an adequate distance to maintain or enhance public access along riparian and coastal margins <u>except where health and safety requires otherwise.</u> '		below.
FS2481.5	Ravensdown Limited	I support the submission	Support OS322.34. Allow submission	Accept in part	Amend Policy 10.2.4.1 and Rule 10.4.3.10.b as shown below.
OS1088.42	Oceana Gold (New Zealand) Limited	I seek to have the above provision amended	Amend Policy 10.2.4.1 as follows: 'Require buildings, structures, and earthworks - large scale to be set back from the coast and water bodies an adequate distance <u>where practicable</u> to maintain or enhance public access along riparian and coastal margins.'	Accept in part	Amend Policy 10.2.4.1 and Rule 10.4.3.10.b as shown below.

Background

Policy 10.2.4.1 states "Require buildings, structures, and earthworks - large scale to be set back from the coast and water bodies an adequate distance to maintain or enhance public access along riparian and coastal margins".

Like Policy 10.2.2.2 (discussed in the section above), this policy is also implemented by Rule 10.3.3 Setback from coast and water bodies.

Submissions in support

Ravensdown Limited (OS893.22) seeks to retain Policy 10.2.4.1, based on the view that the policy represents good resource management practice and will promote the sustainable management of natural and physical resources.

Requests to amend policy to add "except where health and safety requires otherwise", or "where practicable"

KiwiRail Holdings Limited (OS322.34) seeks to amend Policy 10.2.4.1 as shown in the table, because, although the submitter considers that public access to the riparian and coastal margins is desirable, in the instance of the rail corridor there are health and safety reasons for restricting access in some instances, and the policy needs to recognise this. Ravensdown Limited (FS2481.5) supports KiwiRail Holdings Limited (OS322.34) and considers that the additional wording is pragmatic and appropriate, and would promote the sustainable management of natural and physical resources.

Oceana Gold (New Zealand) Limited (OS1088.42) seeks to amend Policy 10.2.4.1 as shown in the table. The submitter believes that this setback requirement is not always possible for major mining structures and earthworks; for health and safety reasons, it is often not practical to

provide for public access to riparian margins within an operating mine site.

Recommendation

I note that Policy 5.1.1 of the pORPS-dv allows for the restriction of access for public health and safety reasons. I agree with the submitters that there may be circumstances where public access to coastal or riparian margins should be restricted, including for health and safety reasons.

Therefore, I recommend both that Policy 10.2.4.1 be amended as shown below, to add the phrase “where appropriate”, and that the assessment rule that applies to contraventions of Rule 10.3.3 (i.e., Rule 10.4.3.10) be amended to include consideration of issues such as public health and safety and site security, which may make public access inappropriate.

Recommended amendments:

Amend Policy 10.2.4.1 as follows, and, in consequence, amend Rule i 10.4.3.10.b.ii to reflect this change:

Require buildings, structures, and earthworks - large scale to be set back from the coast and water bodies an adequate distance to maintain or enhance public access along riparian and coastal margins where appropriate. {NatEnv1088.42}

Amend Rule 10.4.3.10.b by adding the following:

“v. Public access is not appropriate due to public health and safety, site security, or other relevant concerns. {NatEnv1088.42}

5.7.6 Rule 10.3.3 Setback from coast and water bodies performance standard

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
OS893.23	Ravensdown Limited	I support the provision	Retain Rule 10.3.3.1 (20m from mean high water springs (MHWS) setback) in Setback from Coast and Water Bodies rule and the restricted discretionary guidance matters for considering consents in Rule 10.3.3.1.	Accept	Retain Rule 10.3.3.1 as notified.
OS900.158	Save The Otago Peninsula (STOP) Inc Soc	I support the provision	Retain Rule 10.3.3 (setback from coast and water bodies)	Accept in part	Amend Rule 10.3.3 as shown below.
OS958.75	Forest and Bird NZ	I support the provision	Retain Rule 10.3.3 (setback from coast and water bodies)	Accept in part	Amend Rule 10.3.3 as shown below.

OS189.7	Joel A Vanderburg	I seek to have the above provision amended	Amend Rule 10.3.3 to exclude stock from small waterways (<3 m) and encourage riparian plantings.	Reject	Do not amend Rule 10.3.3 as requested.
OS735.3	Lynnore Joan Templeton	I oppose the provision	Remove or amend Rule 10.3.3 (Setback from Coast and Water Bodies) to allow for earthworks along water bodies for the purposes of irrigation	Reject	Do not amend Rule 10.3.3 as requested.
OS951.16	Timothy George Morris	I seek to have the above provision amended	Remove Rule 10.3.3 and Rule 16.6.11.6 (setback from coast and water bodies) or amend to allow farming activities to occur to site boundaries	Reject	Do not amend Rule 10.3.3 as requested.
OS1054.16	Timothy Morris (on behalf of RG and SM Morris Family Trust)	I seek to have the above provision amended	Remove Rule 10.3.3 and Rule 16.6.11.6 (setback from coast and water bodies) or amend to allow farming activities to occur to site boundaries	Reject	Do not amend Rule 10.3.3 as requested.
OS322.91	KiwiRail Holdings Limited	I seek to have the above provision amended	Amend Rule 10.3.3.6 as follows: '6. Except, the following are exempt from this standard: ...j. jetties, boat ramps, <u>causeways</u> and wharves; ...'	Accept	Amend Rule 10.3.3 as shown below.
OS360.218	Dunedin City Council	I seek to have the above provision amended	Amend Note 10.3B - Other requirements outside of the District Plan by adding the following: <u>2. In regard to Rule 11.3.1.1 setbacks from water bodies do not apply to Hazard Exclusions Areas - Swale mapped Area.</u>	Accept in part	Amend Rule 10.3.3, as shown below.
OS588.7	Otago Peninsula Community Board	I seek to have the above provision amended	Amend Rule 10.3.3 to exempt bird hides, viewing structures and platforms, and boardwalks (inferred not stated)	Accept	Amend Rule 10.3.3 as shown below.
OS737.8	Port Otago Limited	I oppose the provision	Remove Rule 10.3.3 (setback from coast and waterbodies) or provide an exemption for buildings, structures and earthworks associated with port activity, as well as buildings, structures and earthworks within the Harbourside Edge Zone.	Accept in part	Amend Rule 10.3.3 as shown below.

FS2267.34	Harboursides and Peninsula Preservation Coalition	I oppose the submission	Oppose OS737.8. Disallow submission and retain Rule 10.3.3 as proposed in the 2GP.	Reject	Amend Rule 10.3.3 as shown below.
FS2381.507	Otago Regional Council	I support the submission	Support OS737.8. Allow submission.	Accept	Amend Rule 10.3.3 as shown below.
FS2487.31	BP Oil NZ Ltd and Mobil Oil NZ Ltd and Z Energy Ltd	I support the submission	Support OS737.8. Allow submission	Accept	Amend Rule 10.3.3 as shown below.
OS749.4	Chalmers Properties Limited	I oppose the provision	Remove Rule 10.3.3 (Setback from Coast and Water Bodies) or amend to provide exemptions to Rule 10.3.3.1 as follows: <u>x. buildings, structures and earthworks associated with port activity;</u> <u>x. any buildings, structures and earthworks within the Harbourside Edge Zone.</u>	Accept in part	Amend Rule 10.3.3 as shown below.
FS2267.26	Harboursides and Peninsula Preservation Coalition	I oppose the submission	Oppose OS794.4. Disallow submission and retain Rule 10.3.3 as proposed in the 2GP.	Reject	Amend Rule 10.3.3 as shown below.
FS2381.513	Otago Regional Council	I support the submission	Support OS749.4 in part. Allow submission in relation to exemption of buildings and structures in the Harbourside Edge Zone.	Accept in part	Amend Rule 10.3.3 as shown below.
OS806.49	Transpower New Zealand Limited	I support the provision	Retain the exemptions to Rule 10.3.3.6.d (Setback from Coast and Water Bodies).	Accept	Retain Rule 10.3.3.6.d as notified.
OS826.17	Moi Bien Investments Ltd	I oppose the provision	Remove Rule 18.6.17.4 (setback from coast and water bodies) from the St Clair neighbourhood destination centre	Accept	Amend Rule 10.3.3 as shown below.
OS900.38	Save The Otago Peninsula (STOP) Inc Soc	I seek to have the above provision amended	Amend Policy 10.2.2.2 as follows: Require <u>all land uses, and developments including but not limited</u>	Reject	Do not amend policy or rule as requested.

OS958.32	Forest and Bird NZ		to: buildings, structures, storage and use of hazardous substances, network utilities activities, and earthworks - large scale to be set back from the coast and water bodies an adequate distance to enable the biodiversity and natural character values of coastal and riparian margins to be <u>preserved</u> , maintained or enhanced.		See section 5.4.8 for discussion of request to replace "maintained" with "preserved".
FS2416.28, FS2416.8	Alan Brown, Carrowmore Properties Limited, Robyn and Stephan Smith and Rick and Jill Clarke ("Pigeon Flat Road Group")	I oppose the provision	Oppose OS900.38 and OS958.32. Disallow submissions.	Accept	Do not amend policy or rule as requested.
FS2140.28, FS2140.8	John Scott	I oppose the submission	Oppose OS900.38 and OS958.32. Disallow submissions and do not make changes as requested by submitters.	Accept	Do not amend policy or rule as requested.
FS2200.7	Dianne Reid	I oppose the submission	Oppose OS900.38. Disallow submission and do not make changes as requested by submitter.	Accept	Do not amend policy or rule as requested.
FS2279.28, FS2279.8	Ben Graham	I oppose the submission	Oppose OS900.38 and OS958.32. Disallow submissions and do not make changes as requested by submitters.	Accept	Do not amend policy or rule as requested.
FS2300.28, FS2300.8	Mathew O'Connell	I oppose the submission	Oppose OS900.38 and OS958.32. Disallow submissions and do not make changes as requested by submitters.	Accept	Do not amend policy or rule as requested.
FS2391.54, FS2391.83	Geoff Scurr Contracting Limited	I oppose the submission	Oppose OS900.38 and OS958.32. Disallow submissions.	Accept	Do not amend policy or rule as requested.
FS2449.100, FS2449.101	Federated Farmers of New Zealand	I oppose the submission	Oppose OS900.38 and OS958.32. Disallow submissions.	Accept	Do not amend policy or rule as requested.

FS2481.13, FS2481.20	Ravensdown Limited	I oppose the submission	Oppose OS900.38 and OS958.32. Disallow submissions.	Accept	Do not amend policy or rule as requested.
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Background

Rule 10.3.3 Setback from Coast and Water Bodies is as follows:

New buildings and structures, additions and alterations, earthworks - large scale, storage and use of hazardous substances, and network utilities activities must be set back:

1. 20m from mean high water springs (MHWS); and
2. 20m from any wetland identified in Schedule A1.2, Scheduled Areas of Significant Conservation Value (Scheduled ASCV); and
3. 20m from any water body with a clearly defined bed of at least 3m in width in the rural zones; and
4. 5m from any water body with a clearly defined bed less than 3m in width in the rural zones; and
5. 5m from any water body in all other zones;
6. Except, the following are exempt from this standard:
 - a. natural hazard mitigation activities;
 - b. hydro generators - on-site energy generation in the rural and industrial zones;
 - c. hydro generators - community scale in the rural zones;
 - d. network utilities poles and masts for the purposes of supporting lines across a water body;
 - e. small scale network utilities in existing roads that comply with Rule 5.5.6: {NU576.64 and others}
 - f. the operation, repair, and maintenance of existing network utilities: {NU457.21}
 - g. river flow recording facilities;
 - h. navigational aids;
 - i. maimai and whitebait stands on the surface of water;
 - j. post and wire fences;
 - k. bridges, culverts and fords;
 - l. jetties, boat ramps, and wharves;
 - m. signs;
 - n. earthworks required for any of the structures in (a) - (k) above; and
 - o. new buildings and structures, and additions and alterations, associated with the University of Otago Portobello Marine Laboratory and New Zealand Marine Studies Centre, when situated on the land comprising Part section 23 (SO 7232), section 24 (SO 11431) and section 28 (SO 11431), Block VI Portobello Survey District and that Part of section 29 Block VI Survey District marked "A" on SO 22930.
7. For the purposes of this standard, setbacks will be measured from the landward side bank or margin of the water body at the point of its annual fullest flow or annual highest level without overtopping its bank or margin (see Figure 10.3A and Figure 10.3B).

Note the underlined amendments were recommended in the Network Utilities Section 42A report.

Rule 10.3.3 implements Policies 10.2.2.2 and 10.2.4.1 (discussed in the preceding sections), and also Policy 11.2.1.19 from the Natural Hazards section of the plan, which states (including amendments recommended in the Natural Hazards Section 42A report):

"Require buildings, ~~and~~ structures, storage and use of hazardous substances, network utilities activities, and earthworks - large scale {NH 900.158 and NH 958.75} to be set back from water bodies an adequate distance to ensure that risk, including from erosion and flooding, ~~is~~ will be {NH cl.16} avoided, or is no more than low."

Therefore, the three purposes of Rule 10.3.3 are to:

- "enable the biodiversity and natural character values of coastal and riparian margins to be maintained or enhanced" (Policy 10.2.2.2)
- "maintain or enhance public access along riparian and coastal margins" (Policy 10.2.4.1), and
- "ensure that risk, including from erosion and flooding, will be avoided, or is no more than low" (Policy 11.2.1.19).

Submissions in support

Save The Otago Peninsula (STOP) Inc Soc (OS900.158) and Forest and Bird NZ (OS958.75) seek retention of the rule for conservation reasons, and Transpower New Zealand Limited (OS806.49) supports the exemption for network utilities poles and masts. Ravensdown Limited (OS893.23) seeks the retention of the 20m setback requirement from MHWS (Rule 10.3.3.1) and believes this represents good resource management practice.

Requests to exempt port activities, activities in the Harbourside Edge Zone, and activities in the St Clair Neighbourhood Centre

Port Otago Limited (OS737.8) and Chalmers Properties Limited (OS749.4) request either that Rule 10.3.3 is deleted, or that exemptions are provided for buildings, structures and earthworks associated with port activities, and also for buildings, structures and earthworks within the Harbourside Edge Zone. The submitters consider that it is an operational requirement for port buildings, structures and associated earthworks to be within 20 metres of mean high water springs, and also state that Harbourside Edge Zone development will take place within 20m of the mean high water springs (MHWS). These submissions are opposed by Harboursides and Peninsula Preservation Coalition (FS2267.34 and FS2267.26), and supported by Otago Regional Council (FS2381.507 and FS2381.513) and BP Oil NZ Ltd and Mobil Oil NZ Ltd and Z Energy Ltd (FS2487.31).

Similarly, Moi Bien Investments Ltd (OS826.17) seeks that Rule 10.3.3 should not apply to the St Clair Neighbourhood Destination Centre as "...the rule framework that provides for development within the zone is overly restrictive and onerous" ...and "...does not promote the sustainable management of the area".

Recommendations – Amendments 1 to 5

Port activities are provided for in both the Port Zone and the Industrial Port Zone. I note that Rule 10.3.3 does not in fact apply at all within the Port Zone; it is not listed in the performance standards applying to development activities in the plan's Section 30: Port Zone. However, it does apply within the Industrial Port Zone. Therefore, I accept the submissions that it would be appropriate to exempt buildings, structures and earthworks associated with port activities from Rule 10.3.3, for the reasons given by the submitters (Amendment 1). I also recommend that the rule be amended to clarify that it does not apply in the Port Zone (Amendment 2).

In relation to the Harbourside Edge Zone and the St Clair Neighbourhood Centre, I consider that, for consistency with the approach taken in the Port Zone, it would be appropriate to exempt activities in these areas from Rule 10.3.3. (Although I acknowledge that there are other heavily developed areas along the coast, such as the Industrial Port Zone, where Rule 10.3.3 does apply, and where there is no scope to remove it for all activities.)

The rule as notified manages a range of development and network utilities activities within 20m of the MHWS, which in the St Clair Neighbourhood centre generally aligns with the sea wall at the edge of the Esplanade, and in the Harbourside Edge Zone aligns with the harbour edge. As noted above, the three purposes of the rule are to: “enable the biodiversity and natural character values of coastal and riparian margins to be maintained or enhanced” (Policy 10.2.2.2); “maintain or enhance public access along riparian and coastal margins” (Policy 10.2.4.1), and “ensure that risk, including from erosion and flooding, will be avoided, or is no more than low” (Policy 11.2.1.19).

I agree that in these zones, as in the Port Zone, it is anticipated that there will be development within 20m of the MHWS. In addition, almost all of the area within 20m of the MHWS in these zones has been significantly altered by development and is no longer in its natural state. Provision for public access along the coast has already been made in St Clair, and in the Harbourside Edge Zone Rule 18.6.18.4 rule requires that development activities “be setback from the harbour edge an adequate distance” to provide for the public walkway that is required in this zone. Finally, I do not consider it likely that new development and network utilities activities in these already-developed areas are likely to increase risk from erosion or flooding.

Therefore, I recommend that Rule 10.3.3 be amended as shown below, to exempt activities in the Harbourside Edge Zone and the St Clair Neighbourhood Centre (Amendments 3 and 4). I also recommend that a new note be added (as shown below under the heading “Note 10.3C - Other relevant District Plan provisions”) to inform plan users that although Rule 10.3.3 does not apply in the Harbourside Edge Zone, Rule 10.6.18 contains the requirements for buildings and structures close to the harbour edge (Amendment 5).

Request to provide an exception to the standard for causeways

KiwiRail Holdings Limited (OS322.91) seeks that causeways be excluded from the standard; no specific reasons are provided.

Recommendation – Amendment 6

I support KiwiRail’s (OS322.91) submission point because I agree that causeways (e.g. jetties, boat ramps, and wharves) can often occur near or over waterways and it is appropriate that they be excluded from the setback requirement. I, therefore, recommend the submission is accepted. I note, however, that jetties, boat ramps and wharves are already exempted from Rule 10.3.3 as notified, but causeways are not explicitly excluded. Therefore, I recommend the submission is accepted and that the performance standard is amended to exclude causeways, as shown below.

Request to provide an exception to the standard for swale mapped areas

Dunedin City Council (OS360.218) seeks that a note is added to the rule to clarify that the standard does not apply to swale mapped areas.

Recommendations – Amendment 7

I support in part the amendment sought by Dunedin City Council, in the sense that I agree that the rule should clearly indicate the types of water body to which it applies. I note that Rules 10.3.3.3 and 10.3.3.4 (which apply in the rural zones) require setbacks from “any water body with a clearly defined bed”. However, Rule 10.3.3.5 (which applies in all other zones) requires a setback from “any water body”, without any qualification. Since, as discussed above, “water body” is defined fairly broadly in the 2GP, as “Fresh water or geothermal water in a river, lake, stream, pond, wetland, or aquifer, or any part thereof, that is not located within the coastal marine area”, I consider that Rule 10.3.3.5 as notified would be unclear, because any stream of fresh water (even, for example, flood water flowing temporarily over a paddock in the rural residential zone) could be interpreted as requiring a setback. Therefore, I recommend that Rule 10.3.3.5 is amended as shown below, so that it applies – like Rules 10.3.3.3 and 10.3.3.4 – only to water bodies “with a clearly defined bed” (Amendment 7).

Given that swales would not generally qualify as water bodies “with a clearly defined bed”, I do not consider that it is necessary to add the note requested by the Council.

Request to provide an exception to the standard for structures associated with conservation and ecotourism

Otago Peninsula Community Board (OS588.7) implies in their submission that bird hides, viewing structures and platforms, and boardwalks should be exempt from this standard for eco-tourism and conservation reasons.

Recommendation – Amendment 8

I agree that it is appropriate for small scale structures such as bird hides, viewing structures and platforms, and boardwalks to be exempt from the setback requirements, although I also consider that there should be a scale threshold of 10m² area and 2m height for these structures (excluding boardwalks) to ensure they do not adversely affect the natural character of the areas they occupy. Therefore, I recommend that the submission by Otago Peninsula Community Board (OS588.7) be accepted in part.

Requests to apply the setback to farming activities (running of stock), and to amend provisions so that “all land uses” are required to meet the setback

Joel A Vanderburg (OS189.7) seeks to amend Rule 10.3.3 to exclude stock from small water bodies of less than 3m in width, to encourage riparian plantings in these areas.

STOP (OS900.38) and Forest and Bird (OS958.32) seek to amend Policy 10.2.2.2 so that it applies to all types of land use and development. No reasons are given for this request. I have treated this submission as a request to change the rule, because that would be necessary in order to implement the requested change to the policy.

John Scott (FS2140.28, FS2140.8), Ben Graham (FS2279.28, FS2279.8), Mathew O'Connell (FS2300.28, FS2300.8), Geoff Scurr Contracting Limited (FS2391.54, FS2391.83), and the Pigeon Flat Road Group (FS2416.28, FS2416.8), Federated Farmers of New Zealand (FS2449.100, FS2449.101) and Ravensdown Limited (FS2481.13, FS2481.20) oppose STOP (OS900.38) and Forest and Bird (OS958.32). John Scott, Ben

Graham, Mathew O'Connell and the Pigeon Flat Road believe the amendment to include "all land uses and developments" to be unnecessary and too restrictive on farming activity in all circumstances. Geoff Scurr Contracting considers that use of "all land uses" is too broad. Federated Farmers believes it is inappropriate and against the purpose and principles of the RMA to require all land uses to be set back from the coast and water bodies in the way proposed. Ravensdown Limited considers the current policy is appropriate and provides guidance to decision makers on the appropriate setbacks for activities along coastal and riparian margins.

Recommendation

I do not consider that a rule in the 2GP requiring a setback from water bodies for all activities (including farming) would be the most effective and efficient method of enabling the biodiversity and natural character values of coastal and riparian margins to be maintained or enhanced (Policy 10.2.2.2) or ensuring that risk, including from erosion and flooding, will be avoided, or is no more than low (Policy 11.2.1.19).

Any such rules would be very hard to monitor and enforce. Instead, I consider education on best practice farm management techniques, including planting and fencing alongside waterways, and other initiatives undertaken by the Otago Regional Council, are a better way of achieving these aims. I also note that Rule 10.3.3.6.j specifically exempts post and wire fences from this rule and, therefore, would allow fencing along these waterways to occur to exclude stock.

Request to allow earthworks to enable water transfer project from Loganburn Dam

Lynnore Joan Templeton (OS735.3) seeks amendment to 2GP provisions to allow for earthworks alongside creeks, for the following reason: "Currently the Strath Taieri Irrigation Group are looking at feasibility of transferring winter water via mountain creeks to the Loganburn dam and releasing that water in summer months down the main stem of the Taieri River - this would have benefits not only to irrigators but also for the health and well-being of the river itself. In order for this to happen there is requirement for earthworks and vegetative clearance alongside the creeks. There needs to be provisions in the rule for these types of developments to happen."

I note that the vegetation clearance provisions – specifically, Rule 10.3.2.3 (Protected Areas) – are also relevant to this irrigation proposal. See discussion of the submitter's related submission point OS735.2 in section 5.8.7.3 above.

Recommendation

I consider that, while new irrigation infrastructure clearly has benefits, and must by its nature locate alongside water bodies, it also has the potential to generate significant adverse effects on the biodiversity and natural character values of coastal and riparian margins (Policy 10.2.2.2), public access along riparian and coastal margins (Policy 10.2.4.1), and by increasing risk from erosion (Policy 11.2.1.19) and, therefore, I consider that resource consent requirement is appropriate. I note that the activity status of proposals that contravene Rule 10.3.3 is restricted discretionary, meaning that such proposals are provided for, and would be granted consent provided the relevant policies were met.

Although there are a range of activities that are exempt from this rule, I do not consider that new irrigation infrastructure should be added to this list, because this activity is likely to be more extensive and to have greater potential effects on the values protected by the relevant policies than the types of activity that are exempt from the rule.

Request deletion of rule or amendment to allow farming to occur

Timothy George Morris (OS951.16) and Timothy Morris (on behalf of RG and SM Morris Family Trust) (OS1054.16) seek deletion or amendment of this rule to allow for farming activities to occur.

Recommendation

Rule 10.3.3 only requires new buildings and structures, additions and alterations, earthworks - large scale, storage and use of hazardous substances, and network utilities activities to be setback from water bodies, and does not restrict farming activities like the grazing of livestock within setbacks. Therefore, some farming activities are provided for within setbacks. If all buildings and structures associated with farming activities were exempt from this rule, this would allow farm buildings (for example milking and storage sheds) and earthworks associated with farming to be undertaken on the banks of streams / rivers and adjoining MHWS. I do not consider that this is appropriate as it would have potential adverse effects on the water quality of these water bodies and would impede the establishment of any future esplanade reserves or esplanade strips taken for public access, recreational or conservation reasons under Rule 10.3.1 (which is discussed above).

Requests to amend provisions to exclude activities in the rail corridor

As discussed in section 5.7.4, KiwiRail Holdings Limited (OS322.31) seeks to amend the wording of Policy 10.2.2.2. The requested wording change is discussed in section 5.8.4, however Kiwirail's reasons for seeking this change are relevant to Rule 10.3.3. While Kiwirail supports development not encroaching into the coastal environment, the rail network is already in this area and is not easily able to be relocated. Any development, maintenance and upgrade of the rail network will occur within the existing corridor, thereby will occur within the coastal environment and often without any setback. Kiwirail also has structures over watercourses and the coastal environment, and maintenance and replacement of those structures will be required into the future. The submitter seeks recognition that in some instances there are practical location constraints that would prevent development from being located away from the coastal environment.

Recommendation – Amendment 9

I acknowledge the point raised by Kiwirail, and recommend that Rule 10.3.3 is amended as shown below, to exempt activities associated with the operation, repair, and maintenance of the existing rail network. This would be similar to the approach recommended for existing network utilities in the Network Utilities Section 42A report.

However, I note that, during the hearing on the Transportation section of the plan, there was discussion of the possibility of providing for "Operation, repair and maintenance of the rail network" as a city-wide transportation activity, equivalent to "Operation, repair and maintenance of the roading network", which is already provided for under Rule 6.3.2.1. If this is the decision of the Panel, then it will not be necessary to amend Rule 10.3.3 as discussed here, because the rule applies only to "buildings and structures, additions and alterations, earthworks - large scale, storage and use of hazardous substances, and network utilities activities"; it does not apply to transportation activities.

Requests to amend provisions to exclude mining structures and earthworks

As discussed in section 5.8.4, Oceana Gold (OS1088.38) seek to amend the wording of Policy 10.2.2.2. The requested wording change in discussed in section 5.8.4, however the submitter's reasons for seeking this change are relevant to Rule 10.3.3. Oceana Gold consider that meeting the setback requirement in Rule 10.3.3 is not always possible for major mining structures and earthworks.

Recommendation

The submitter does not provide details of why it may not be possible for new structures and earthworks associated with mining to meet the setback from riparian margins required in Rule 10.3.3. In the absence of this information, I recommend that the submission is rejected.

Recommended amendment:

Amendments 1-4 and 6-9

Amend Rule 10.3.3 as shown below:

10.3.3 Setback from Coast and Water Bodies

In all zones, other than the Port Zone, {NatEnv737.8} Harbourside Edge Zone {NatEnv737.8}, and St Clair Neighbourhood Destination Centre {NatEnv826.17}, new buildings and structures, additions and alterations, earthworks - large scale, storage and use of hazardous substances, and network utilities activities must be set back:

1. 20m from mean high water springs (MHWS); and
2. 20m from any wetland identified in Schedule A1.2, Scheduled Areas of Significant Conservation Value (Scheduled ASCV); and
3. 20m from any water body with a clearly defined bed of at least 3m in width in the rural zones; and
4. 5m from any water body with a clearly defined bed less than 3m in width in the rural zones; and
5. 5m from any water body with a clearly defined bed {NatEnv360.218} in all other zones;
6. Except, the following are exempt from this standard:
 - a. natural hazard mitigation activities;
 - b. hydro generators - on-site energy generation in the rural and industrial zones;
 - c. small scale network utilities in existing roads that comply with Rule 5.5.6; {NU 576.64 and others}
 - d. the operation, repair, and maintenance of existing network utilities; {NU 457.21}
 - e. hydro generators - community scale in the rural zones;
 - f. network utilities poles and masts for the purposes of supporting lines across a water body;
 - g. river flow recording facilities;
 - h. navigational aids;
 - i. maimai and whitebait stands on the surface of water;
 - j. post and wire fences;
 - k. bridges, culverts and fords;
 - l. jetties, boat ramps, causeways, and wharves; {NatEnv322.91}
 - m. signs;

- n. buildings, structures and earthworks associated with port activities; {NatEnv737.8}
 - o. bird hides, viewing structures and platforms no larger than of 10m² area and 2m height, and boardwalks; {NatEnv588.7}
 - p. activities associated with the operation, repair, and maintenance of the existing rail network; {NatEnv322.31}
 - q. earthworks required for any of the structures in (a) - (k) above; and
 - r. new buildings and structures, and additions and alterations, associated with the University of Otago Portobello Marine Laboratory and New Zealand Marine Studies Centre, when situated on the land comprising Part section 23 (SO 7232), section 24 (SO 11431) and section 28 (SO 11431), Block VI Portobello Survey District and that Part of section 29 Block VI Survey District marked "A" on SO 22930.
7. For the purposes of this standard, setbacks will be measured from the landward side bank or margin of the water body at the point of its annual fullest flow or annual highest level without overtopping its bank or margin (see Figure 10.3A and Figure 10.3B).

NOTE: Amendments to Rule 10.3.3 are also recommended in section 5.7.3.

Amendment 5

Add new Note 10.3C, as follows:

Note 10.3C - Other relevant District Plan provisions

1. Activities within the Harbourside Edge Zone are subject to Rule 18.6.18.4, which requires buildings, structures, additions and alterations to be set back an adequate distance from the harbour edge to enable the construction of a public walkway. {NatEnv 737.8}

5.7.7 Rule 10.4.3.10 Setback from coast and water bodies' assessment rule

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
OS893.24	Ravensdown Limited	I support the provision	Retain Rule 10.4.3.10 (assessment of performance standard contraventions - setback from coast and water bodies)	Accept	Retain rule as notified.
OS900.76	Save The Otago Peninsula (STOP) Inc Soc	I seek to have the above provision amended	Amend Rule 10.4.3.10 by including in the guidance column Objective 2.2.3 and Policies 2.2.3.1, 2.2.3.2, 2.2.3.3.	Reject	Do not amend rule as requested.
FS2449.203	Federated Farmers	I oppose the	Oppose OS900.76. Disallow submission.	Accept	Do not amend rule as

	of New Zealand	submission			requested.
FS2481.15	Ravensdown Limited	I oppose the submission	Oppose OS900.76. Disallow submission	Accept	Do not amend rule as requested.
OS958.84	Forest and Bird NZ	I seek to have the above provision amended	Amend Rule 10.4.3.10 (assessment of contravention of setback from coast and water bodies) to add Objective 2.2.3 and Policies 2.2.3.1, 2.2.3.2, 2.2.3.3.	Reject	Do not amend rule as requested.
FS2449.217	Federated Farmers of New Zealand	I oppose the submission	Oppose OS958.84. Disallow submission.	Accept	Do not amend rule as requested.
FS2481.22	Ravensdown Limited	I oppose the submission	Oppose OS958.84. Disallow submission	Accept	Do not amend rule as requested.

Background

Rule 10.4.3.10 provides for the assessment of activities that contravene Rule 10.3.3 Setback from Coast and Water Bodies.

Submissions

STOP (OS900.76) and Forest and Bird NZ (OS958.84) request, in pages 24 and 35 of their respective submissions, that strategic direction Objective 2.2.3 and related policies 2.2.3.1, 2.2.3.3 and 2.2.3.4 should apply to this standard, but do not describe why they hold this view. Federated Farmers of New Zealand (FS2449.203 and FS2449.217), in page 50 of their submission, oppose these submissions on the basis that “the amendments proposed go significantly further than appropriate or required for performance standards in this area.”

Ravensdown Limited (OS893.24, FS2481.15 and FS2481.22) considers that current guidance matters included in the rule are appropriate and necessary and no additional guidance is needed.

Recommendations

In regards to the requests by STOP (OS900.76) and Forest and Bird NZ (OS958.84) to reference Objective 2.2.3 and policies 2.2.3.1, 2.2.3.3 and 2.2.3.4 in Rule 10.4.3.10, objective 2.2.3 states: “*Dunedin’s indigenous biodiversity is retained, enhanced and restored, with improved connections and resilience*”. The policies relate to identifying and protecting ASCV’s, encouraging conservation in all zones and encouraging the maintenance and enhancement of biodiversity values in the urban environment. This objective and these policies are high level, broad and strategic in nature and not specifically related to the setback from coast and water bodies’ performance standard. I consider that it is unnecessary to add reference to this objective and these policies, because the proposed assessments in Rule 10.4.3.10 will provide appropriate guidance to plan users and decision makers on the outcomes being sought in regards to the effects on biodiversity and natural character of riparian margins and the coast.

Recommended amendment:

None.

5.8 Vegetation Clearance Provisions

5.8.1 Definition of Indigenous Vegetation

Sub pt #	Submitter Name	Support/Oppose/ Seek Amend	Summary Of Submission	Accept/Reject/ Accept in part	Staff Recommendation
OS361.4	Ben Graham	I seek to have the above provision amended	Amend definition of indigenous vegetation to read 'Means vegetation that is native to New Zealand'.	Reject	Do not amend definition as requested
OS364.4	Mathew O'Connell				
OS1084.4	John Scott				
FS2444.11	Waste Management (NZ) Limited	I oppose the submission	Oppose OS361.4. Disallow submission	Accept	Do not amend definition as requested
OS853.4	Dunedin Rural Development Inc.	I seek to have the above provision amended	Amend definition of indigenous vegetation to align with the Otago Regional Council Regional Policy Statement.	Reject	Do not amend definition as requested
OS900.4	Save The Otago Peninsula (STOP) Inc Soc	I seek to have the above provision amended	Amend Definition of Indigenous Vegetation as follows: A plant community in which <u>vascular plant, bryophyte and lichen</u> species indigenous to that part of New Zealand are dominant, where dominance is measured as either: <ul style="list-style-type: none"> indigenous species (<u>including vascular plants, bryophytes and/or lichens</u>) comprising at least 30% coverage by area or 30% of the total number of specimens present <u>in the whole area</u> or indigenous species, (<u>including vascular plants, bryophytes and/or lichens</u>) comprising at least 20% 	Accept in part	Amend definition as shown below
OS958.4	Forest and Bird NZ				

			<p>coverage, in plant communities where indigenous species make up the tallest stratum or are visually conspicuous.</p> <p>Where dominance is unclear, the assessment of a suitable qualified ecologist will be used to determine the status of an area.</p>		
FS2140.24, FS2140.3	John Scott	I oppose the submission	Oppose OS900.4 and OS958.4. Disallow submissions and do not make changes as requested by submitters.	Reject	Amend definition as shown below
FS2155.9	Robert Andrew Van Turnhout	I oppose the submission	Oppose OS900.4. Disallow submission.	Reject	Amend definition as shown below
FS2279.24, FS2279.3	Ben Graham	I oppose the submission	Oppose OS900.4 and OS958.4. Disallow submissions and do not make changes as requested by submitters.	Reject	Amend definition as shown below
FS2300.24, FS2300.3	Mathew O'Connell	I oppose the submission	Oppose OS900.4 and OS958.4. Disallow submissions and do not make changes as requested by submitters.	Reject	Amend definition as shown below
FS2391.46, FS2391.78	Geoff Scurr Contracting Limited	I oppose the submission	Oppose OS900.4 and OS958.4. Disallow submissions.	Reject	Amend definition as shown below
FS2416.24, FS2416.3	Alan Brown, Carrowmore Properties Limited, Robyn and Stephan Smith and Rick and Jill Clarke ("Pigeon Flat Road Group")	I oppose the submission	Oppose OS900.4 and OS958.4. Disallow submissions and do not make changes as requested by submitters.	Reject	Amend definition as shown below
FS2444.39	Waste Management (NZ) Limited	I oppose the submission	Oppose OS900.4. Disallow submission	Reject	Amend definition as shown below
FS2449.33, FS2449.34	Federated Farmers of New Zealand	I oppose the submission	Oppose OS900.4 and OS958.4. Disallow submissions.	Reject	Amend definition as shown below

OS796.10	Waste Management (NZ) Limited	I oppose the provision	Amend definition of Indigenous Vegetation as follows: '...indigenous species comprising at least 50 ³⁰ % coverage by area or 30% of the total number of specimens present, or indigenous species comprising at least 50 ²⁰ % coverage, in plant communities where indigenous species make up the tallest stratum or are visually conspicuous....'	Reject	Do not amend definition as requested
OS919.87	Federated Farmers of New Zealand	I seek to have the above provision amended	Amend definition of Indigenous Vegetation as follows: 'A plant community in which species indigenous to that part of New Zealand are dominant, where dominance is measured as either: <ul style="list-style-type: none"> indigenous species comprising at least 30 ⁵⁰% coverage by area or 30 ⁵⁰% of the total number of specimens present, or indigenous species comprising at least 20 ⁵⁰% coverage, in plant communities where indigenous species make up the tallest stratum or are visually conspicuous. Where dominance is unclear, the assessment of a suitable qualified ecologist will be used to determine the status of an area. This definition excludes regrowth in pasture.'	Accept in part	Addressed with related submission points in Section 5.8.6.2
FS2155.12	Robert Andrew Van Turnhout	I support the submission	Support OS919.87. Allow submission.	Accept in part	Addressed with related submission points in Section

					5.8.6.2
FS2379.1	Department of Conservation	I oppose the submission	Oppose OS919.87. Disallow submission and do not amend definition of Indigenous Vegetation.	Accept in part	Do not amend definition as requested
FS2482.8	Forest and Bird NZ	I oppose the submission	Oppose OS919.87. Disallow submission.	Accept in part	Do not amend definition as requested
OS1082.2	Hummock Run Ltd	I seek to have the above provision amended	Amend definition of Indigenous vegetation to allow provision for farmers to be able to clear pastureland for farming and review the 20% and 30% coverage thresholds in this definition.	Accept in part	Addressed with related submission points in Section 5.8.6.2
FS2155.13	Robert Andrew Van Turnhout	I support the submission	Support OS1082.2. Allow submission.	Accept in part	Addressed with related submission points in Section 5.8.6.2

Background

The definition of Indigenous Vegetation is “A plant community in which species indigenous to that part of New Zealand are dominant, where dominance is measured as either:

- indigenous species comprising at least 30% coverage by area or 30% of the total number of specimens present, or
- indigenous species comprising at least 20% coverage, in plant communities where indigenous species make up the tallest stratum or are visually conspicuous.

Where dominance is unclear, the assessment of a suitable qualified ecologist will be used to determine the status of an area.”

The definition of indigenous vegetation was formulated based on the definition from Waitaki District Plan, as outlined in the Section 32 background document "Determining Indigenous Vegetation Clearance Thresholds for Dunedin's Rural Zones". The definition contained within the Waitaki District Plan was the "most comprehensive found" from a review of district plans. As alluded to in the report, the brief definition of indigenous vegetation contained within the operative district plan was problematic because it does not provide enough information about how the dominance of a species at a site should be measured.

Note that the definition of indigenous vegetation was granted immediate legal effect by order of the Environment Court from notification of the 2GP.

Request to amend definition to “Means vegetation that is native to New Zealand”

Ben Graham (OS361.4), Mathew O'Connell (OS364.4) and John Scott (OS1084.4) seek to amend the definition to read 'Means vegetation that is native to New Zealand', as they feel the definition is unworkable, unclear and uncertain; and that currently an expert ecologist would be required every time someone needs to determine whether the definition of indigenous vegetation is met for their property.

Waste Management (NZ) Limited (FS2444.11) opposes Ben Graham (OS361.4) as they sought changes to this definition and prefer the changes sought in their original submission.

Recommendation

The evidence of Dr Kelvin Lloyd considers this request at paragraph 21. Dr Lloyd states “This definition is problematic because most areas of vegetation include both indigenous and exotic species. Being indigenous or exotic is a property of species, and is only transferred to vegetation when the vegetation is dominated by either indigenous or exotic species. The suggested definition provides no guidance on the dominance threshold that distinguishes indigenous from exotic vegetation, and is thus not very helpful.”

I agree with the evidence of Dr Lloyd that the proposed amendment does not provide guidance on how to assess an area of vegetation that comprises both indigenous and exotic species. When applied at species level, “indigenous” and “native” have the same meaning - that of a species that occurs naturally in a particular geographic locality (if it breeds only in that geographic locality, a species is also referred to as “endemic”).

I do not recommend that the definition of indigenous vegetation is amended as requested as I consider it detracts from the usefulness of the definition, and I also consider the term “indigenous” now more commonly in use than “native” when applied to vegetation.

Request to amend definition to align with the Regional Policy Statement

Dunedin Rural Development Inc. (OS853.4) seeks to amend the definition of indigenous vegetation to align with the Otago Regional Council Regional Policy Statement so the public have a clear understanding on the areas they apply to.

Recommendation

I do not recommend this submission is accepted, as neither the operative or proposed Regional Policy Statements have a definition for indigenous vegetation.

I note that the pORPS-dv contains a definition for “indigenous species” as follows: “A species or genetic variant found naturally in New Zealand, including migrant species visiting New Zealand on a regular or irregular basis.” This may be viewed as useful as the phrase indigenous species is a component part of the definition of indigenous vegetation. However, the 2GP definition for indigenous vegetation takes a narrower view by requiring dominance of species “indigenous to that part of New Zealand”. As a result, I do not consider it is necessary to amend the definition of indigenous vegetation in response to this submission.

Request to clarify the definition includes non-vascular plant species, bryophytes and lichen species

STOP (OS900.4) and Forest and Bird NZ (OS958.4) seek to amend the definition of Indigenous Vegetation as shown in the table above, to specify that the definition includes non-vascular plant species, bryophytes and lichen species.

John Scott (FS2140.3, FS2140.24), Ben Graham (FS2279.3, FS2279.24), Mathew O'Connell (FS2300.3, FS2300.24), Geoff Scurr Contracting Limited (FS2391.46, FS2391.78), Pigeon Flat Road Group (FS2416.3, FS2416.24) and Federated Farmers of New Zealand (FS2449.33, FS2449.34) oppose both these submissions. Robert Andrew Van Turnhout (FS2155.9) and Waste Management (NZ) Limited (FS2444.39) oppose the STOP submission.

John Scott, Ben Graham, Mathew O'Connell and Pigeon Flat Road Group consider the proposed amendments to be unnecessary. Geoff Scurr Contracting also considers the proposed amendments to be unnecessary and states that they make the indigenous vegetation provisions uncertain and impracticable. Federated Farmers considers the proposed amendment to be unnecessary and to makes the definition overly complex and not user friendly.

Robert Van Turnhout opposes further restrictions to vegetation removal, stating that he has retained his native bush areas but in order to continue farming he needs to be able to keep his areas of pasture free of regenerating native bush. Waste Management (NZ) Limited opposes the amendment, stating that they would like to be involved in any discussions around performance standards relating to vegetation clearance.

Recommendation – Amendment 1

The submissions of STOP and Forest and Bird have been considered in the evidence of Kelvin Lloyd. Dr Lloyd states (para 22) that “Vascular plants and bryophytes (mosses and liverworts) are both groups of plants so amending the definition to specify them would not change its meaning. Specifically including lichens would widen coverage of the definition, as lichens are a composite organism comprising an alga and a fungus, and are not normally defined as plants.” As lichen species are not normally defined as plants, and specifying vascular plants and bryophytes would not change the meaning, I do not recommend changing the definition in the way that the submitters have requested.

In relation to lichen species, Dr Lloyd states (para 23) “Including lichens in the definition is most important in less productive habitats such as occur on the outwash plains of the inland South Island, because lichen cover can be significant in these habitats. In Dunedin City District, lichen cover can be significant in upland wetlands and in alpine areas, and is often significant on schist outcrops. As such, including lichens in the definition would be unlikely to affect typical rural land use practices, but would help to ensure that lichen-rich upland and alpine habitats would be addressed in any effects and/or significance assessments.”

Dr Lloyd is of the opinion that lichen, which has its own threat classification system, should be included in the definition of indigenous vegetation and this would not create problems for rural land use practices, as major lichen fields tend to be located either on large tor formations or on volcanic boulder fields such as found at Mt Watkin/Hikaroroa.

Based on the evidence of Dr Lloyd, I accept in part the submission by STOP and Forest and Bird and recommend an amendment to the definition of indigenous vegetation below to include lichen.

Requests to change proportions of indigenous species

Waste Management (NZ) Limited (OS796.10) seeks to amend the definition to change the dominance requirement to 50% coverage by area, as shown in the table above. The submitter states that the ratios listed mean that an area can end up being classified as an area of indigenous vegetation, when in fact there may up to 70-80% exotic species present as the dominant cover. This then makes an applicant subject to onerous rules in relation to vegetation removal.

Federated Farmers of New Zealand (OS919.87) also seeks to amend the definition to change the dominance requirement to 50% coverage by area, as well as changing the total number of indigenous specimens present from 30% to 50%, as shown in the table above. Federated Farmers believes that setting the area of coverage at 30% and 20% respectively is a low bar which may mean, for instance, that areas of pasture which has not been grazed for some time may be considered to be an area of indigenous vegetation. This is particularly a concern in respect to indigenous Matagouri (Discariatoumatou). Federated Farmers considers the primary mechanism for addressing farmer's concerns in this respect are through the specific rules proposed for indigenous vegetation. However, they consider it necessary for the areas of coverage proposed within the definition to provide more flexibility so as to not unnecessarily constrain farming in rural areas.

Robert Van Turnhout (FS2155.12) supports Federated Farmers as he needs to be able to keep areas of pasture free of regenerating native bush in order to continue farming. Department of Conservation (FS2379.1) and Forest and Bird NZ (FS2482.8) oppose Federated Farmers because they believe the proposed amendment to the definition of "Indigenous Vegetation" would have the effect of weakening the 2GP, meaning Council would not be meeting its s31(1)(b)(iii) RMA requirement to maintain indigenous biological diversity. They disagree with any increase to the coverage percentages. This helps to recognise that in many cases areas of indigenous vegetation were over sown for pasture without consideration of biodiversity in the past.

Hummock Run Ltd (OS1082.2) seeks to amend the definition of Indigenous vegetation to allow provision for farmers to be able to clear pastureland for farming and seeks to review the 20% and 30% coverage thresholds in this definition. The submitter's reason is that there needs to be provision for farmers to be able to clear land to be used for farming once again, as the regeneration of native vegetation may have come about by default due to a variety of reasons. Robert Andrew Van Turnhout (FS2155.13) supports Hummock Run Ltd because he farms in the Silverpeaks areas and needs to be able to keep areas of pasture free of regenerating native bush in order to continue farming.

Recommendation

Kelvin Lloyd has reviewed these submissions in paragraphs 18-20 of his evidence. Dr Lloyd states "It is important to realise that plant cover is assessed looking vertically downward, and this should be borne in mind when assessing the cover thresholds. Human perception is generally to look across or through a stand of vegetation, thus perceived cover tends to be greater than actual cover. In tussock grassland vegetation, for example, 15% cover of tussocks will often appear dominant when looking across the grassland vegetation, and 'dense' tussock grassland may only have 70-80% cover, because litter and bare ground occurs between the tussocks."

Dr Lloyd states that the effect of increasing each of the thresholds to 50% "would be to exclude more modified indigenous vegetation, such as

coastal stands of scattered indigenous trees and lowland wetlands with scattered indigenous sedges. In my opinion, the proposed 30% and 20% cover thresholds in the definition of indigenous vegetation are necessary to capture these examples of modified but ecologically important areas of indigenous habitat.”

Dr Lloyd also states “While these necessarily conservative thresholds will also capture some less important indigenous vegetation, such as low stature matagouri shrubland over pasture, these instances are better dealt with through specific exemptions”. I agree with Dr Lloyd’s findings and am not recommending any changes to the percentage thresholds in the definition. I note that, while I am rejecting the submission points in relation to the percentage thresholds in the definition, I recommend the submitters’ concerns relating to regenerating indigenous vegetation (including matagouri) can be addressed through amendments to the exemptions to indigenous vegetation clearance Rule 10.3.2.2. These recommended amendments are discussed in section 5.8.6.2 below. Accordingly, I accept in part the submissions of Federated Farmers (OS919.87) and Hummock Run Ltd (OS1082.2).

Dr Lloyd also raises concerns with the use of ‘specimens’ in the definition of indigenous vegetation. Dr Lloyd considers that the term “species” should more properly replace “specimens”. However, as there is no scope from submissions, I am not recommending such an amendment but draw it to the Panel’s attention.

Recommended amendment:

Amendment One

Amend the definition of indigenous vegetation as follows:

“A plant or lichen {*NatEnv900.4, NatEnv958.4*} community in which species indigenous to that part of New Zealand are dominant, where dominance is measured as either:

- indigenous species comprising at least 30% coverage by area or 30% of the total number of specimens present, or
- indigenous species comprising at least 20% coverage, in plant or lichen {*NatEnv900.4, NatEnv958.4*} communities where indigenous species make up the tallest stratum or are visually conspicuous.

Where dominance is unclear, the assessment of a suitable qualified ecologist will be used to determine the status of an area.”

5.8.2 Definition of Indigenous Vegetation Clearance

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
OS457.216	Aurora Energy Limited	I support the provision	Retain the exemption within the definition relating to clearance of indigenous	Accept	Retain definition of Indigenous Vegetation

			vegetation associated with maintenance of existing network utilities.		Clearance
FS2264.17	Powernet Limited	I support the submission	Support OS457.216. Allow submission	Accept	Retain definition of Indigenous Vegetation Clearance
OS900.2 OS958.2	Save The Otago Peninsula (STOP) Inc Soc Forest and Bird NZ	I seek to have the above provision amended	<p>Amend definition of Indigenous Vegetation Clearance as follows: Vegetation clearance of indigenous vegetation. In Areas of Significant Conservation Value, Outstanding Natural Coastal; Character Areas, High Natural Coastal Character Areas and Natural Coastal; Character Areas that are not within a hazard overlay, this definition excludes:</p> <ul style="list-style-type: none"> • clearance that is part of conservation activity involving vegetation; • clearance and replacement with <u>Eco sourced</u> indigenous species <u>that occur or occurred in the area</u>; • clearance for the erection, maintenance or alteration of fences (including gates); • clearance for the maintenance (but not extension) of existing network utilities, tracks, drains, structures, or roads; • clearance for the construction or maintenance of tracks up to 2m in width; and • clearance that is provided for as part of a conservation management strategy, conservation management plan, reserve management plan or covenant established under the Conservation Act 1987 or any 	Reject	Do not amend definition of Indigenous Vegetation Clearance as requested

			other Act specified in the First Schedule of the Conservation Act 1987.		
FS2140.22, FS2140.1	John Scott	I oppose the submission	Oppose OS900.2 and OS958.2. Disallow submissions and do not make changes as requested by submitters.	Accept	Do not amend definition of Indigenous Vegetation Clearance as requested
FS2155.7, FS2155.3	Robert Andrew Van Turnhout	I oppose the submission	Oppose OS900.2 and OS958.2. Disallow submissions.	Accept	Do not amend definition of Indigenous Vegetation Clearance as requested
FS2279.22, FS2279.1	Ben Graham	I oppose the submission	Oppose OS900.2 and OS958.2. Disallow submissions and do not make changes as requested by submitters.	Accept	Do not amend definition of Indigenous Vegetation Clearance as requested
FS2300.22, FS2300.1	Mathew O'Connell	I oppose the submission	Oppose OS900.2 and OS958.2. Disallow submissions and do not make changes as requested by submitters.	Accept	Do not amend definition of Indigenous Vegetation Clearance as requested
FS2391.44, FS2391.76	Geoff Scurr Contracting Limited	I oppose the submission	Oppose OS900.2 and OS958.2. Disallow submissions.	Accept	Do not amend definition of Indigenous Vegetation Clearance as requested
FS2416.22, FS2416.1	Alan Brown, Carrowmore Properties Limited, Robyn and Stephan Smith and Rick and Jill Clarke ("Pigeon	I oppose the submission	Oppose OS900.2 and OS958.2. Disallow submissions and retain definition of Indigenous Vegetation Clearance as proposed in the 2GP.	Accept	Do not amend definition of Indigenous Vegetation Clearance as requested

	Flat Road Group")				
FS2449.29, FS2449.30	Federated Farmers of New Zealand	I oppose the submission	Oppose OS900.2 and OS958.2. Disallow submissions.	Accept	Do not amend definition of Indigenous Vegetation Clearance as requested
OS919.77	Federated Farmers of New Zealand	I seek to have the above provision amended	Amend definition of Indigenous Vegetation Clearance as follows: 'Vegetation clearance of indigenous vegetation. In <u>the Rural Zones</u> , Areas of Significant Conservation Value, Outstanding Natural Coastal Character Areas, High Natural Coastal Character Areas and Natural Coastal Character Areas that are not within a hazard overlay , this definition excludes:...'	Reject	Do not amend definition of Indigenous Vegetation Clearance as requested
FS2482.5	Forest and Bird NZ	I oppose the submission	Oppose OS919.77. Disallow submission.	Accept	Do not amend definition of Indigenous Vegetation Clearance as requested

Background

The definition of Indigenous Vegetation Clearance is "Vegetation clearance of indigenous vegetation.

In Areas of Significant Conservation Value, Outstanding Natural Coastal Character Areas, High Natural Coastal Character Areas and Natural Coastal Character Areas that are not within a hazard overlay, this definition excludes:

- clearance that is part of conservation activity involving vegetation clearance and replacement with indigenous species;
- clearance for the erection, maintenance or alteration of fences (including gates);
- clearance for the maintenance (but not extension) of existing network utilities, tracks, drains, structures, or roads;
- clearance for the construction or maintenance of tracks up to 2m in width; and
- clearance that is provided for as part of a conservation management strategy, conservation management plan, reserve management plan or covenant established under the Conservation Act 1987 or any other Act specified in the First Schedule of the Conservation Act 1987.

Indigenous vegetation clearance is an activity in the development activities category. {PO 576.76 and others}"

Note that the definition of indigenous vegetation was granted immediate legal effect by order of the Environment Court from notification of the 2GP, with the exception of the underlined change to this definition, which was recommended as a result of the Plan Overview hearing.

Certain exclusions are listed within this definition relating to clearance within ASCVs and natural coastal character areas. These are areas where any indigenous vegetation clearance requires resource consent as a restricted discretionary activity. The exclusions are provided in the definition to indicate those circumstances (such as conservation activity or fencing) where indigenous vegetation clearance is acceptable without going through a resource consent process.

Submissions in support

Aurora Energy Limited (OS457.216) supports the exemption within the Indigenous Vegetation Clearance definition for maintenance of existing network utilities, as this supports providers of Regionally Significant Infrastructure who require the ability to maintain, replace and upgrade assets to ensure a safe and reliable electricity supply. Powernet Limited (FS2264.17) supports Aurora Energy Limited (OS457.216) because they believe it is appropriate to enable network utility providers to maintain existing infrastructure, in accordance with Policy 2 of the NPSET 20008.

Requests to require replacement with "eco-sourced" species, restrict erection of fences and construction of tracks

STOP (OS900.2) and Forest and Bird (OS958.2) seek to amend some of the exemptions listed under the definition of indigenous vegetation clearance for clearance in ASCVs and natural coastal character overlays as follows:

- clearance and replacement with Eco sourced indigenous species that occur or occurred in the area;
- clearance for the erection, maintenance or alteration of fences (including gates);...
- clearance for the erection or maintenance of tracks up to 2m in width

The submitters believe that restoration should be confined to restoration with local eco sourced species that occur or occurred naturally in the vicinity of the site and that new tracks and fences should not be permitted in these places unless specified in any management plan for the area.

John Scott (FS2140.1, FS2140.22), Robert Andrew Van Turnhout (FS2155.3, FS2155.7), Ben Graham (FS2279.1, FS2279.22), Mathew O'Connell (FS2300.1, FS2300.22), Geoff Scurr Contracting Limited (FS2391.44, FS2391.76), Pigeon Flat Road Group (FS2416.1, FS2416.22) and Federated Farmers of New Zealand (FS2449.29, FS2449.30) oppose these submissions. Robert Van Turnhout states that in order to continue farming he needs to be able to keep pasture free of regenerating native bush. John Scott, Ben Graham, Mathew O'Connell, Geoff Scurr Contracting consider that these changes are unnecessary and prejudicial to farming activities. Geoff Scurr Contracting, Pigeon Flat Road Group and Federated Farmers consider that it is important that the indigenous vegetation provisions do not restrict normal farming activities, such as the construction and replacement of farm fences, and it will not always be possible, affordable or practicable to use ecosourced indigenous species than occurred within that specific area. They consider the amendments make the rule uncertain and impracticable.

Recommendation

I respond to these requests in three parts as follows:

Requiring replacement indigenous vegetation planting to utilise eco sourced plants that occurred naturally in the area - a similar suggestion was made by the same submitters in seeking to amend both Policy 2.2.3.3 (refer section 5.2.4) and the definition of conservation activity (section 5.1.1). As stated in response to those submissions, I do not support this amendment as I consider it too restrictive an imposition on landowners and people seeking to undertake restoration planting, difficult to monitor, and may have a negative impact on the willingness of people to undertake conservation activities.

Not providing for erection of fences – I do not support this amendment as I consider the erection of fences contributes positively to conservation, farming and other rural activities and it is appropriate that (small) areas of indigenous vegetation clearance can be cleared for this activity.

Not providing for construction of tracks – Again, I consider that tracks contribute positively to conservation, tourism and other rural activities and it is appropriate that a relatively narrow corridor of indigenous vegetation may be cleared for this purpose.

I recommend rejecting the submissions by STOP (OS900.2) and Forest and Bird (OS958.2) and thereby accepting the further submission in opposition to this submission.

Request to add “rural zones” to areas with exclusions and remove “that are not within a hazard overlay”

Federated Farmers of New Zealand (OS919.77) seeks to amend the definition of Indigenous Vegetation Clearance so that the exclusions cover all areas in the rural zones, particularly for the maintenance of existing tracks. The submitter believes the matters for exclusion set out activities which are of small significance for the overall stock of indigenous vegetation in Dunedin, where the activity is to be expected, and where there is no reasonable argument for regulation. The submitter also questions why areas which meet the exclusion criteria, but which are within a hazard overlay, should be excluded from these. Forest and Bird NZ (FS2482.5) oppose Federated Farmers of New Zealand (OS919.77) because they believe this should not be treated the same as Areas of Significant Conservation Value, Outstanding Natural Coastal Character Areas, High Natural Coastal Character Areas and Natural Coastal Character Areas.

Recommendation

I do not support the inclusion of “and rural zones” into the list of areas with exclusions. As stated above, these are areas where any indigenous vegetation clearance is a restricted discretionary activity and hence these exclusions are listed to include those circumstances where it is appropriate that resource consent is not required. In the rural zones, indigenous vegetation clearance is a permitted activity subject to the vegetation clearance standards – I note that the same exclusions either already exist, or I am recommending in this report that they are added to, the vegetation clearance standards under Rule 10.3.2. I consider that it is appropriate that the activities remain part of the definition of indigenous vegetation clearance in the rural zones, despite being exempted within the corresponding vegetation clearance rules.

Hazard overlays are not included within this list of exclusions as they are subject to their own vegetation clearance standard Rule 11.3.2. In the case of dune system mapped areas, the list of exemptions is more restricted to account for the very sensitive nature of this environment in

terms of exposure to risk. For this reason, I consider it appropriate that the phrase “not within a hazard overlay” remains in the definition.

Recommended amendment:

None in responses to submissions in this section. Note that an amendment to the definition is recommended in response to submissions discussed in section 5.8.4.

5.8.3 Definition of Vegetation Clearance

Sub pt #	Submitter Name	Support/Oppose/ Seek Amend	Summary Of Submission	Accept/Reject/ Accept in part	Staff Recommendation
OS312.9	Helen Skinner and Joseph O'Neill	I seek to have the above provision amended	Amend definition of Vegetation Clearance to clarify that the definition of vegetation clearance allows the removal of vegetation which does not lead to the outcomes described in that definition in addition to the maximum area provided. Amend definition of Vegetation Clearance so that gorse, broom, hawthorn and other noxious weeds may be removed without limitation.	Accept in part	Amend definition of Vegetation Clearance as shown below
OS900.3 OS958.3	Save The Otago Peninsula (STOP) Inc Soc Forest and Bird NZ	I support the provision	Amend definition of Vegetation Clearance as follows: The removal, <u>cutting, trimming, felling, or modification and includes</u> over-planting, crushing, <u>cultivation, direct drilling, spraying with herbicide or other substance,</u> burning, or any other activity that destroys or results in extensive failure, <u>or degradation</u> of an area of vegetation, which if destroyed could lead to: <ul style="list-style-type: none"> • land instability • riverbank, coastal or soil erosion; • loss of habitat for indigenous species 	Accept in part	Amend definition of Vegetation Clearance as shown below

			<p>(including areas of vegetation that act as ecological corridors connecting habitats);</p> <ul style="list-style-type: none"> • <u>change in ecological conditions, (including threat of competitive exclusion or disease);</u> • changes to the quality of the ecological habitat provided by a water body; or • increased flood risk. 		
FS2140.23, FS2140.2	John Scott	I oppose the submission	Oppose OS900.3 and OS958.3. Disallow submissions and do not make changes as requested by submitters.	Accept in part	Amend definition of Vegetation Clearance as shown below
FS2155.8, FS2155.4	Robert Andrew Van Turnhout	I oppose the submission	Oppose OS900.3 and OS958.3. Disallow submissions.	Accept in part	Amend definition of Vegetation Clearance as shown below
FS2279.23, FS2279.2	Ben Graham	I oppose the submission	Oppose OS900.3 and OS958.3. Disallow submissions and do not make changes as requested by submitters.	Accept in part	Amend definition of Vegetation Clearance as shown below
FS2300.23, FS2300.2	Mathew O'Connell	I oppose the submission	Oppose OS900.3 and OS958.3. Disallow submissions and do not make changes as requested by submitters.	Accept in part	Amend definition of Vegetation Clearance as shown below
FS2391.45, FS2391.77	Geoff Scurr Contracting Limited	I oppose the submission	Oppose OS900.3 and OS958.3. Disallow submissions.	Accept in part	Amend definition of Vegetation Clearance as shown below
FS2416.23, FS2416.2	Alan Brown, Carrowmore Properties Limited, Robyn and Stephan Smith and Rick and Jill Clarke ("Pigeon Flat Road Group")	I oppose the submission	Oppose OS900.3 and OS958.3. Disallow submissions, in particular (and without limitation) the reference to irrigation, and do not make changes as requested by the submitters.	Accept in part	Amend definition of Vegetation Clearance as shown below
FS2444.38	Waste Management (NZ) Limited	I oppose the submission	Oppose OS900.3. Disallow submission	Accept in part	Amend definition of Vegetation Clearance as shown below

FS2449.31, FS2449.32	Federated Farmers of New Zealand	I oppose the submission	Oppose OS900.3 and OS958.3. Disallow submissions.	Accept in part	Amend definition of Vegetation Clearance as shown below
FS2452.73, FS2452.74	Horticulture New Zealand	I oppose the submission	Oppose OS900.3 and OS958.3. Disallow submissions.	Accept in part	Amend definition of Vegetation Clearance as shown below
OS919.86	Federated Farmers of New Zealand	I seek to have the above provision amended	Amend definition of Vegetation Clearance, as follows: 'The removal, over-planting, crushing, spraying, burning, or any other activity that destroys or <u>directly</u> results in extensive failure of an area of vegetation, which if destroyed could lead to <u>significant</u> : land instability; ...'	Accept in part	Amend definition of Vegetation Clearance as shown below
FS2155.11	Robert Andrew Van Turnhout	I support the submission	Support OS919.86. Allow submission.	Accept in part	Amend definition of Vegetation Clearance as shown below
FS2452.75	Horticulture New Zealand	I support the submission	Support OS919.86. Allow submission.	Accept in part	Amend definition of Vegetation Clearance as shown below
FS2482.7	Forest and Bird NZ	I oppose the submission	Oppose OS919.86. Disallow submission.	Accept in part	Amend definition of Vegetation Clearance as shown below
OS1088.8	Oceana Gold (New Zealand) Limited	I seek to have the above provision amended	Amend definition of Vegetation Clearance to include reference to scale or significance	Reject	Do not amend definition of Vegetation Clearance as requested
OS1090.5	Horticulture New Zealand	I seek to have the above provision amended	Amend the definition of Vegetation Clearance to add the following exclusion: <u>Does not include vegetation infected by unwanted organisms as declared by MPI Chief Technical Officer or an emergency declared by the Minister under the Biosecurity Act 1993.</u>	Reject	Do not amend definition of Vegetation Clearance as requested

Background

The definition of Vegetation Clearance is "The removal, over-planting, crushing, spraying, burning, or any other activity that destroys or results in extensive failure of an area of vegetation, which if destroyed could lead to:

- land instability
- riverbank, coastal or soil erosion;
- loss of habitat for indigenous species (including areas of vegetation that act as ecological corridors connecting habitats);
- changes to the quality of the ecological habitat provided by a water body; or
- increased flood risk.

Vegetation clearance is an activity in the development activities category. {PO576.76 and others}

Vegetation clearance does not include harvesting that is part of forestry, which is a separate activity to vegetation clearance." {NH360.144}

Note that the definition of vegetation clearance was granted immediate legal effect by order of the Environment Court from notification of the 2GP.

Recommendations related to changes suggested in previous hearings

The exception of Forestry from the definition was recommended at the Natural Hazards hearing; the explanation of the planner was that the vegetation clearance would be covered as part of the forestry activity.

However, in my opinion this recommendation was wrong as the standards for vegetation clearance under Rule 10.3.2 make reference to specific exemptions for forestry related activities so the Plan clearly anticipated the vegetation clearance rules to apply to forestry. In my opinion a note should be added to the definition of forestry to say that. This can be done under clause 16 as it is not a substantive change to the plan:

"The use of land and buildings for the purpose of growing trees for commercial timber, wood pulp, wood products, or for use as a carbon sink.

Examples of component activities are:

- preparation of land for planting of trees
- planting of trees
- tending of trees
- harvesting of trees
- the use of portable sawmills
- the sale of firewood produced from the property
- replanting of trees
- necessary infrastructure including roads and forestry landings (i.e. skid sites); and
- on-site extraction and processing of aggregate for the sole purpose of constructing and maintaining access within the property.

This definition excludes:

- the milling and processing of trees, other than with the use of portable sawmills; ~~and excludes small woodlots where the timber is to be used on the same property, either as firewood or other timber products.~~ {RU 853.6}
- activities that meet the definition of tree planting. {RU 853.6}

Forestry is an activity in the rural activities category. {PO 576.76 and others}

Note that Forestry activity is also subject to any rules related to component development activities, including vegetation clearance rules {cl.16}.

Request to clarify that removal of vegetation that does not lead to outcomes in definition permitted and to allow for removal of pest species

Helen Skinner and Joseph O'Neill (OS312.9) seek to clarify that the definition of Vegetation Clearance allows the removal of vegetation which does not lead to the outcomes described in that definition, and so that gorse, broom, hawthorn and other noxious weeds may be removed without limitation.

Recommendation – Amendment 1

The definition of vegetation clearance has an outcomes focus, as it seeks to capture types of vegetation clearance activity that may lead to environmental outcomes that the 2GP is seeking to manage the effects of, such as land instability or loss of indigenous habitat. In providing this outcomes focus, the definition is designed to not capture examples of vegetation clearance that will not lead to such outcomes – such as gardening or landscaping, clearance of pest plants, or small-scale clearance activities (e.g. felling of single or a few trees). However, the definition prefaces these outcomes with a “could lead to”, as there is not always a direct or immediate relationship between any clearance activity and these outcomes – rather the definition states probable and predicted outcomes. I consider that the word “could” is too uncertain within this definition and should be replaced by “is likely to lead to”, if the Panel consider this amendment is within the scope of this submission. I recommend the definition is amended as shown below.

With regard to the ability to clear pest plant species, I note that the vegetation clearance rules under Rule 10.3.2 provide exemptions for the clearance of pest plant species, including those raised by the submitters which are listed in Appendix 10B. Rule 11.3.2 (maximum areas of vegetation clearance in the hazard overlay zones) as notified does not provide this exemption. However, I note that in the Section 42A report for Natural Hazards (refer pp 148-152), the reporting officer has recommended amendments to Rule 11.3.2 to allow for removal of pest plant species provided that the area is replanted within 3 months with plants that contribute to stabilisation. I do not consider that the definition of vegetation clearance should be amended, as I consider it more appropriate that exemptions for pest species are provided within the rules that relate directly to vegetation clearance activities.

Requests to expand scope of definition

STOP (OS900.3) and Forest and Bird (OS958.3) seek to expand the definition of Vegetation Clearance, as they feel that the definition is almost all possibilities and that there is a danger of people exploiting loop holes in this definition. They seek more certainty, especially around irrigation. The submitters' proposed version of the definition is:

"The removal, cutting, trimming, felling, or modification and includes over-planting, crushing, cultivation, direct drilling, spraying with herbicide or other substance, burning, or any other activity that destroys or results in extensive failure, or degradation of an area of vegetation, which ~~if destroyed~~ could lead to:

- land instability
- riverbank, coastal or soil erosion;
- loss of habitat for indigenous species (including areas of vegetation that act as ecological corridors connecting habitats);
- change in ecological conditions, (including threat of competitive exclusion or disease);
- changes to the quality of the ecological habitat provided by a water body; or
- increased flood risk."

John Scott (FS2140.2, FS2140.23), Robert Andrew Van Turnhout (FS2155.4, FS2155.8), Ben Graham (FS2279.2, FS2279.23), Mathew O'Connell (FS2300.2, FS2300.23), Geoff Scurr Contracting Limited (FS2391.45, FS2391.77), Pigeon Flat Road Group (FS2416.2, FS2416.23), Federated Farmers of New Zealand (FS2449.31, FS2449.32) and Horticulture New Zealand (FS2452.73, FS2452.74) oppose these submissions.

Robert Van Turnhout states that in order to continue farming he needs to be able to keep pasture free of regenerating native bush. John Scott, Ben Graham, Mathew O'Connell, Geoff Scurr Contracting and Pigeon Flat Road Group oppose the proposed amendments, in particular the reference to irrigation, and consider these changes onerous, unnecessary and prejudicial to farming activities.

Federated Farmers views the proposed amendments as unnecessary; some amendments cover activities that are not vegetation clearance (such as trimming and cultivation); the extensions around spraying add unnecessary confusion or lack of clarity; and that the words 'if destroyed' provide the purpose and rationale to the associated risks. Changes in ecological conditions are also due to a range of factors, particularly weather, and should not be included.

Horticulture New Zealand states that the definition sought is all encompassing and should be targeted at the issues or matters of concern; and also that cultivation is provided for under earthworks and should not also be classed as vegetation clearance.

Waste Management (NZ) Limited (FS2444.38) opposes STOP (OS900.3) and has a desire to be involved in any discussions around performance standards relating to vegetation clearance.

Recommendations – Amendment 2

I address the proposed amendments as follows:

“cutting, trimming, felling, or modification and includes” – I do not recommend this amendment is accepted. Cutting or trimming are common activities in relation to the maintenance of vegetation and I consider could lead to confusion if spelt out in the definition. I consider that felling has the same meaning as removal and, therefore, does not add anything and may lead to confusion in relation to forestry harvesting activity which is a separate activity to vegetation clearance. I consider that modification is covered by the “any other activity” part of the definition, as is any over-zealous cutting or trimming which leads to destruction or extensive failure of vegetation.

“cultivation, direct drilling, spraying with herbicide or other substance” – I do not recommend this amendment is accepted. Cultivation and direct drilling (machine drilling of seeds directly into soil) are common farming techniques which I consider may cause confusion if added to this definition. I also consider that the addition of “with herbicide or other substance” after spraying does not add anything to the definition and unduly lengthens it.

“or degradation of an area of vegetation, which if destroyed could lead to” – I do not favour the addition of “degradation” to the definition as I consider this does not provide enough clarity. An area of vegetation may be degraded in a very minor way, whereas the definition seeks to encapsulate activities that result in destruction or failure of vegetation.

I do agree that the words “if destroyed” should be removed, as the preceding part of the definition refers to both destruction and extensive failure. I have recommended an amendment to this effect below.

“change in ecological conditions, (including threat of competitive exclusion or disease)” – I do not recommend acceptance of this clause as I consider it unclear and open to interpretation. I agree with the further submission of Federated Farmers that changes in ecological conditions may stem from a range of factors, such as weather, and this addition does not provide clarity. I consider that the outcomes of loss of habitat for indigenous species and changes to the quality of the ecological habitat provided by a water body may encapsulate what the submitters are seeking. The submitters may wish to clarify this point at the hearing.

Request to specify “directly” in relation to extensive failure and specify “significant” in relation to outcomes

Federated Farmers of New Zealand (OS919.86) seeks to amend the first part of the definition of Vegetation Clearance to read “The removal, over-planting, crushing, spraying, burning, or any other activity that destroys or directly results in extensive failure of an area of vegetation, which if destroyed could lead to significant...”. The submitter wants to ensure that there is both a direct causal link between the activity and the adverse impacts referred to, and that there is a degree of significance in relation to those adverse impacts.

Robert Andrew Van Turnhout (FS2155.11) supports Federated Farmers because of the need to be able to keep farm areas of pasture free of regenerating native bush. Horticulture New Zealand (FS2452.75) supports Federated Farmers because the changes sought are more targeted at the issue of concern. Forest and Bird NZ (FS2482.7) opposes Federated Farmers because is unclear how “directly” could be applied in interpretation of this definition, the word “significant” should not be included as there is no corresponding scale of activity and this could be better managed by standards and within the rules.

Recommendation – Amendment 3

I recommend that the word “directly” should be added in relation to the extensive failure of an area of vegetation. While this causal link may sometimes be difficult to prove, I consider it necessary that it is able to be made. Other factors such as climatic or disease factors may also adversely affect the viability an area of vegetation. I consider it necessary that any human modification of an area is shown to have a direct link to any failure of an area of vegetation, notwithstanding that human modification may sometimes work cumulatively with these other factors to influence the viability of an area of vegetation.

I do not favour the addition of the word “significant” prior to the list of the outcomes in the definition. I consider the outcomes specified within the definition are included as they are relatively significant in nature. I do not consider that the word “significant” provides any additional clarity, and would lead to the need for a value judgement which I do not consider appropriate for a definition.

Request to amend definition to include reference to scale or significance

Oceana Gold (New Zealand) Limited (OS1088.8) seeks to amend the definition of vegetation clearance to include reference to scale or significance, as the submitter believes that as presently worded there is no guidance as to what constitutes "an area of vegetation" nor is there guidance on what is meant by "loss of habitat for indigenous species" and "changes of quality of the ecological habitat provided by a water body".

Recommendation

I do not consider there is any need to amend the definition of vegetation clearance to include any reference to scale. Areas of vegetation vary considerably in scale and I consider it would be difficult to include any reference to scale in the definition. I note that the definition of indigenous vegetation refers to “a plant community” which implies more than an individual specimen. I note also that Rule 10.3.2.2, which sets maximum areas for indigenous vegetation clearance as a permitted activity, provides a scale threshold within a performance standard. However, I do not recommend that the definition is amended, as I do not consider it practical or possible to define the scale of an area of vegetation, which will vary on a case-by-case basis.

Similarly, the significance or severity of the outcomes specified in the definition will vary on a case-by-case basis. These outcomes provide a list of potential consequences which help to clarify when any activity that affects vegetation will be defined as vegetation clearance. As stated above, I consider the inclusion of these outcomes within the definition means that they are already relatively significant in nature. As with scale, the significance of these is further clarified by their associated performance standards or activity status rules. For example, Rule 10.3.2.2 defines the size at which indigenous vegetation clearance is of concern in relation to loss of habitat for indigenous species. Any indigenous vegetation clearance in ASCVs is considered significant, with activity status rules making this a restricted discretionary activity. I do not recommend the definition is amended, as I do not consider it practical or possible to state the level of significance within the definition.

Request to add exemption for material infected by unwanted organisms

Horticulture New Zealand (OS1090.5) seeks to amend the definition of Vegetation Clearance to add an exclusion as follows: “Does not include vegetation infected by unwanted organisms as declared by MPI Chief Technical Officer or an emergency declared by the Minister under the Biosecurity Act 1993”. The submitter state that as vegetation may need to be cleared for biosecurity purposes, this should be specifically

excluded from the provisions for vegetation clearance.

Recommendation

Although I agree with the submitter that vegetation clearance required for biosecurity purposes should not be subject to 2GP rules, I do not recommend that this be achieved by adding an exemption to the definition. I note that Horticulture NZ have also submitted (OS1090.27) to request that Rules 10.3.2.1, 10.3.2.2, 10.3.2.3 and 10.3.2.4 be amended so that they do not apply to clearance of unwanted organisms as declared by MPI Chief Technical Officer or an emergency declared by the Minister under the Biosecurity Act 1993. As discussed in section 5.8.4 below, I recommend that this latter submission be accepted. Therefore, since there are no other provisions in the 2GP that require consent for "vegetation clearance" (as opposed to "indigenous vegetation clearance"), I do not consider it necessary also to amend the definition of vegetation clearance. However, in consequence to the amendments to the rules, I recommend an amendment to the definition of "indigenous vegetation clearance" for reasons discussed in section 5.8.4.

Recommended amendment:

Amendments One – Three

Amend definition of Vegetation Clearance as follows:

"The removal, over-planting, crushing, spraying, burning, or any other activity that destroys or directly {NatEnv919.86} results in extensive failure of an area of vegetation, which ~~if destroyed~~ {NatEnv900.3} ~~could~~ is likely to {NatEnv312.9} lead to:

- land instability
- riverbank, coastal or soil erosion;
- loss of habitat for indigenous species (including areas of vegetation that act as ecological corridors connecting habitats);
- changes to the quality of the ecological habitat provided by a water body; or
- increased flood risk.

Vegetation clearance is an activity in the development activities category. {PO 576.76 and others}

Vegetation clearance does not include harvesting that is part of forestry, which is a separate activity to vegetation clearance." {NH 360.144}

5.8.4 Rule 10.3.2 Vegetation Clearance

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
OS844.1	Burkhard and Marita Eisenlohr	I support the provision	Retain Rule 10.3.2 (vegetation clearance)	Accept	No amendment required

OS1016.2	Otago Fish and Game Council	I support the provision	Retain Rule 10.3.2 (vegetation clearance) (inferred not stated)	Accept	No amendment required
OS291.5	Murray Soal	I seek to have the above provision amended	Amend Rule 10.3.2 (vegetation clearance) to be less prescriptive and inhibitive	Accept in part	Amend Rule 10.3.2.2.b as shown in section 5.8.6.2 below
FS2444.3	Waste Management (NZ) Limited	I support the submission	Support OS291.5. Allow submission	Accept in part	Amend Rule 10.3.2.2.b as shown in section 5.8.6.2 below
OS355.20	Robert George & Sharron Margaret Morris	I seek to have the above provision amended	Review Rule 10.3.2 in relation to coastal areas, including by removing Rule 10.3.2.3.b.iv (indigenous vegetation clearance in Coastal Environment Mapped Area)	Accept in part	Amend Rule 10.3.2.2.b as shown in section 5.8.6.2 below
OS951.14 OS1054.14	Timothy George Morris Timothy Morris (on behalf of RG and SM Morris Family Trust)	I seek to have the above provision amended	Amend Rule 10.3.2 to allow for normal farming activities and by reviewing in relation to coastal areas, including by removing Rule 10.3.2.3.b.iv (indigenous vegetation clearance in Coastal Environment Mapped Area)	Accept in part	Amend Rule 10.3.2.2.b as shown in section 5.8.6.2 below
FS2449.161, FS2449.162	Federated Farmers of New Zealand	I support the submission	Support OS951.14 and OS1054.14. Allow submissions.	Accept in part	Amend Rule 10.3.2.2.b as shown in section 5.8.6.2 below
FS2391.28	Geoff Scurr Contracting Limited	I support the submission	Support OS1054.14. Allow submission.	Accept in part	Amend Rule 10.3.2.2.b as shown in section 5.8.6.2 below
OS361.7 OS364.6	Ben Graham Mathew O'Connell	I seek to have the above provision amended	Amend Rule 10.3.2.2 (maximum area of indigenous vegetation clearance), Rule 10.3.2.3 (Protected areas), Rule 10.3.2.4 (protected species), to exempt areas that	Accept in part	Amend Rule 10.3.2.2.b as shown in section 5.8.6.2 below

OS1084.7	John Scott		have been cultivated (including oversowing, top dressing, spraying or burning off), oversown or burnt off in the last 15 years.		
FS2449.157, FS2449.158, FS2449.159	Federated Farmers of New Zealand	I support the submission	Support OS361.7, OS364.6 and OS1084.7. Allow submissions.	Accept in part	Amend Rule 10.3.2.2.b as shown in section 5.8.6.2 below
OS361.6 OS364.5 OS1084.5	Ben Graham Mathew O'Connell John Scott	I seek to have the above provision amended	Amend Rule 10.3.2 (vegetation clearance) to have indigenous vegetation clearance only apply to a new overlay 'Area of Significant Indigenous Vegetation' (identified following a process to accurately identify and map areas of significance). Also make the following consequential changes: 1. Amend Policy 2.2.3.2 by removing it and replacing with the following: ' <u>protect threatened species and mature examples of important native trees, and otherwise limit the removal of indigenous vegetation within the mapped Areas of Significant Indigenous Vegetation</u> '; 2. Amend Policy 2.2.3.1 by deleting the words '... as Scheduled ...' and replacing with the words ' <u>... as Areas of Significant Indigenous Vegetation, Scheduled...</u> ' 3. Amend Rule 10.3.2 (vegetation clearance) by inserting a new paragraph: ' <u>Performance Standard 10.3.2 shall not apply to those areas of indigenous vegetation that are not identified as an 'Area of Significant Indigenous Vegetation' on the District Plan Maps.</u> ' 4. Amend Appendix A3.2.1.3 (Principal threats to values) by deleting the words 'Reduction of areas of indigenous vegetation' and replacing with ' <u>Reduction of areas of</u>	Reject	Do not amend Rule 10.3.2 as requested

			<u>indigenous vegetation within mapped 'Areas of Significant Indigenous Vegetation'</u> ". 5. Amend Appendix A.3.2.1.4 (Key design elements to be required or encouraged) by deleting the words 'Reduction of areas of indigenous vegetation' and replacing with the words 'Reduction of areas of indigenous <u>vegetation within mapped Areas of Significant Indigenous Vegetation'</u> " and amending (a) as follows: 'Areas of indigenous vegetation should be retained <u>and or</u> enhanced'.		
FS2444.12	Waste Management (NZ) Limited	I oppose the submission	Oppose OS361.6. Disallow submission	Accept	Do not amend Rule 10.3.2 as requested
FS2449.154	Federated Farmers of New Zealand	I support the submission	Support OS361.6. Allow submission.	Reject	Do not amend Rule 10.3.2 as requested
FS2449.155	Federated Farmers of New Zealand	I support the submission	Support OS364.5. Allow submission.	Reject	Do not amend Rule 10.3.2 as requested
OS581.4	Marrafin Trust	I seek to have the above provision amended	Review Rule 10.3.2 (Vegetation Clearance), including track sizes provided for in exemptions (inferred not stated)	Reject	Do not amend Rule 10.3.2 as requested
OS949.14	Department of Conservation	I seek to have the above provision amended	Amend Rule 10.3.2 so that any clearance of indigenous vegetation for any activity above the permitted standard, that is not an ASCV or UCMA, is a discretionary activity.	Reject	Do not amend Rule 10.3.2 as requested
OS949.15	Department of Conservation	I oppose the provision	Remove Rules 10.3.2.1.f, 10.3.2.2.b.iii, 10.3.2.3.c.vii, 10.3.2.4.b.iv (vegetation clearance)	Accept in part	Amend Rules 10.3.2.1.f, 10.3.2.2.b.iii, 10.3.2.3.c.vii, 10.3.2.4.b.iv and the definition of

					Indigenous Vegetation Clearance as shown below
OS1090.27	Horticulture New Zealand	I seek to have the above provision amended	Amend Rule 10.3.2.1 (Maximum area of vegetation clearance in an urban conservation mapped area), Rule 10.3.2.2 (maximum area of indigenous vegetation clearance), Rule 10.3.2.3 (Protected areas), Rule 10.3.2.4 (protected species) by adding an exemption as follows: <u>Removal of material infected by unwanted organisms as declared by MPI Chief Technical Officer or an emergency declared by the Minister under the Biosecurity Act 1993.</u>	Accept	Amend Rules 10.3.2.1, 10.3.2.2, 10.3.2.3 and 10.3.2.4 as shown below.

Background

Rule 10.3.2 contains rules for vegetation clearance in general and vegetation clearance specifically relating to indigenous vegetation. These are as follows:

Rule 10.3.2.1 controls the maximum area of vegetation clearance in urban conservation mapped areas.

Rule 10.3.2.2 controls the maximum areas of indigenous vegetation clearance in the rural and rural residential zones.

Rule 10.3.2.3 controls vegetation clearance and indigenous vegetation clearance along the margins of the coast and water bodies and in wetlands.

Rule 10.3.2.4 controls indigenous vegetation clearance that involves threatened plant species or mature examples of important native trees.

This section of the report considers submissions that relate to more than one of these rules, with submissions that relate solely to one of these rules considered in subsequent sections of this report.

Submissions in support

Burkhard and Marita Eisenlohr (OS844.1) seeks to retain Rule 10.3.2 (vegetation clearance) because they believe the proposed rule changes are consistent with current environmental practice and will encourage re-vegetation with native species.

Otago Fish and Game Council (OS1016.2) seeks to retain Rule 10.3.2 (vegetation clearance) (inferred not stated) because they are particularly

supportive of the rules for vegetation clearance within 5 metres of any water body.

Request to make Rule 10.3.2 less prescriptive and inhibitive, to allow for normal farming activities and to review in relation to coastal areas

Murray Soal (OS291.5) seeks to amend Rule 10.3.2 (vegetation clearance) to be less prescriptive and inhibitive because of concerns that prescriptive rules inhibit even heating of one's own home with resources off one's own property. Waste Management (NZ) Limited (FS2444.3) supports Murray Soal (OS291.5) because they have concerns around some of the wording relating to vegetation clearance.

Robert George & Sharron Margaret Morris (OS355.20), Timothy George Morris (OS951.14) and Timothy Morris (on behalf of RG and SM Morris Family Trust) (OS1054.14) seek to amend Rule 10.3.2 to allow for normal farming and activities and to review Rule 10.3.2 in relation to coastal areas, including by removing Rule 10.3.2.3.b.iv (indigenous vegetation clearance in Coastal Environment Mapped Area). The submitters believe that the obligations associated with these provisions are too complicated, overly onerous on landowners, incompatible with Policy 16.2.1.1 of the 2GDP, incompatible with a range of cultural and economic considerations and at odds with various miscellaneous normal and routine farming and related activities undertaken in rural areas. They feel that significant amendment is necessary and that the extent of what DCC refer to as "coastal environment" has not been ground truthed or based on consultation with landowners, amendment is necessary.

Federated Farmers of New Zealand (FS2449.161, FS2449.162) supports Timothy George Morris (OS951.14) and Timothy Morris (on behalf of RG and SM Morris Family Trust) (OS1054.14) because they believe it is important that indigenous vegetation rules allow for normal farming activities to continue unhindered, given their appropriateness within the Rural Zones. Geoff Scurr Contracting Limited (FS2391.28) supports Timothy Morris (on behalf of RG and SM Morris Family Trust) (OS1054.14) because they believe that the concerns raised are justified.

Ben Graham (OS361.7), Mathew O'Connell (OS364.6) and John Scott (OS1084.5) seek to amend rules 10.3.2.2 - 10.3.2.4 to exempt areas that have been cultivated, oversown or burnt off in the last 15 years, because they believe the vegetation clearance provisions are unduly restrictive and uncertain and do not enable land owners to sustainably manage their property in accordance with the RMA 1991. Federated Farmers of New Zealand (FS2449.157, FS2449.158, FS2449.159) supports these submissions because the further submitter believes areas of land previously cleared of indigenous vegetation should be exempt from the indigenous vegetation rules.

Recommendations

In response to the submitters' requests that the rules should be amended to allow for normal farming activity, I note that I have recommended additional exemptions to Rule 10.3.2.2.b in section 5.8.6.2 below, to provide for control of regenerating indigenous vegetation on areas that have previously been farmed, and to allow for activities such as the erection and maintenance of fences and the construction and maintenance of tracks. I consider these amendments give some relief to the submissions.

In regards to the submissions to review Rule 10.3.2 in relation to coastal areas, as set out in section 5.4.12 above, the coastal environment was identified as part of a study that involved a range of experts including landscape experts, ecologists and geomorphologists. It is a requirement of

the NZCPS Policy 11 to protect indigenous biological diversity in the coastal environment. I consider that Rule 10.3.2.3.b.iv is a necessary part of giving effect to this requirement, and do not recommend any change to Rule 10.3.2 in response to these submissions. I note the range of exemptions provided by Rule 10.3.2.3.c in relation to vegetation clearance in coastal areas.

In response to the submitter's comment that the vegetation clearance provisions are incompatible with Policy 16.2.1.1, I note that I am recommending in section 5.8.6.3 below that assessment guidance is added to the assessment of all rural zones development performance standard contraventions to consider the positive effects of an activity in terms of supporting farming or conservation activity.

Request to have Rule 10.3.2 only apply to a new overlay "Area or Significant Indigenous Vegetation"

Ben Graham (OS361.6), Mathew O'Connell (OS364.5) and John Scott (OS1084.5) seek to amend Rule 10.3.2 so that it only applies to a new overlay "Area of Significant Indigenous Vegetation", identified following a process to accurately identify and map areas of significance, and to make consequential changes to other provisions. The submitters believe that the policy and associated provisions fail to allow for clearance and removal of indigenous vegetation in appropriate areas or circumstances and in some situations the removal of indigenous vegetation may be appropriate.

Waste Management (NZ) Limited (FS2444.12) opposes Ben Graham (OS361.6) because they would like to be involved in any discussions around performance standards relating to vegetation clearance. Federated Farmers of New Zealand (FS2449.154, FS2449.155) supports Ben Graham and Mathew O'Connell because not all indigenous vegetation needs to be maintained or protected, and the 2GP should provide flexibility in managing non-significant indigenous vegetation.

Recommendation

I do not consider that a new overlay is required as requested. The schedule of ASCVs provides for the mapping and scheduling of areas of significance, including both areas of indigenous vegetation and habitats. Outside of these scheduled significant areas, the 2GP also seeks to sustainably manage indigenous fauna and habitats with the rationale for this set out in section 5.4.2 above, in response to submissions on Objective 10.2.1. I acknowledge the submitters' view that indigenous vegetation clearance may be appropriate in some areas or circumstances and draw their attention to my recommendations to expand the list of exemptions to Rule 10.3.2.2 in section 5.8.6.2 below.

Request to review track sizes in Rule 10.3.2

Marrafin Trust (OS581.4) seeks to review Rule 10.3.2 (Vegetation Clearance because the track width is unrealistic, with no further reasons given or suggested alternative width provided.

Recommendation

I do not consider that the track widths provided in Rule 10.3.2 are unrealistic. The width was determined in consultation with the DCC Parks and Recreation team. The width is set to provide for tracks for non-motorised use, although it is recognised that occasional use by small vehicles such as quad bikes may be required for purposes such as track maintenance. In the absence of any alternate proposed by the submitter, I

recommend that this submission is rejected.

Request for indigenous vegetation clearance that does not meet standards to be discretionary

Department of Conservation (OS949.14) seeks to amend Rule 10.3.2 so that any clearance of indigenous vegetation for any activity above the permitted standard, in an area that is not an ASCV or a UCMA, is a discretionary activity. The submitter has not given a specific reason for this request, but they generally oppose the indigenous vegetation rules, consider them overly complex, and seek more identification and scheduling of areas of indigenous vegetation deemed to be significant. I note that the submitter also has a submission on the activity status of indigenous vegetation clearance in ASCVs or areas deemed to be significant, which is considered in section 5.12.1 below.

Recommendation

I do not consider the activity status for a contravention of the vegetation clearance standards should be a discretionary activity. The restricted discretionary assessment of any contravention of these standards assesses the effects on biodiversity and, where in coastal or riparian margins, effects on natural character values of riparian margins and the coast. I also note again that I am recommending in section 5.8.6.3 below that assessment guidance is added to the assessment of all rural zones development performance standard contraventions to consider the positive effects of an activity in terms of supporting farming or conservation activity. I consider this provides adequate scope to assess any application for vegetation clearance and, in absence of any specific reasons provided by the submitter, do not recommend this submission is accepted.

Request to remove exemption for activities provided for by conservation and reserve management plans or covenants

Department of Conservation (OS949.15) seeks to remove Rules 10.3.2.1.f, 10.3.2.2.b.iii, 10.3.2.3.c.vii, 10.3.2.4.b.iv. These rules provide the exemption to vegetation clearance rules for clearance that is "provided for as part of a conservation management strategy, conservation management plan, reserve management plan or covenant established under the Conservation Act 1987 or any other Act specified in the First Schedule of the Conservation Act 1987". The submitter states that "For land-use activities on land administered by the Department of Conservation, proposed Rules 10.3.2.1.f, 10.3.2.2.b.iii, 10.3.2.3.c.vii, 10.3.2.4.b.iv are not consistent with section 4(3) of the RMA, as they require the activity be "provided for" rather than that it be "consistent with" the relevant statutory documents."

Recommendation – Amendment 1

Section 4(3) of the RMA states that the act binds the Crown except that section 9(3), which sets out restrictions on the use of land, does not apply to any work or activity of the Crown that "is consistent with a conservation management strategy, conservation management plan, or management plan established under the Conservation Act 1987 or any other Act specified in Schedule 1 of that Act".

I accept the point made by the submitter, but consider that the exemption should be retained and the wording amended to reflect this submission. I consider that retention of the listed exemptions will provide more clarity and certainty to plan users.

I note that the exemptions also cover work that may be taken out by other agencies than the Crown, as they also include reserve management plans and covenants. I consider that the addition of the wording "consistent with" will give relief to this submission, noting that this amendment

should also be made to the definition of indigenous vegetation clearance. I have recommended amendments to this effect below.

Request to exempt material infected by unwanted organisms

Horticulture New Zealand (OS1090.27) seeks to amend rules 10.3.2.1, 10.3.2.2, 10.3.2.3, 10.3.2.4 by adding an exemption as follows "Removal of material infected by unwanted organisms as declared by MPI Chief Technical Officer or an emergency declared by the Minister under the Biosecurity Act 1993". The submitter seeks an enabling response for biosecurity purposes where unwanted organisms are found.

Recommendation – Amendments 2 and 3

I agree with Horticulture NZ that the requested changes should be made (with minor drafting amendments) to Rule 10.3.2.1 Maximum area of vegetation clearance (UCMA), Rule 10.3.2.2 Maximum area of indigenous vegetation clearance, Rule 10.3.2.3 Protected areas and Rule 10.3.2.4 Protected species, for the reasons given by the submitter, and recommend that these rules be amended as shown below. I note that, because indigenous vegetation clearance is always a restricted discretionary activity (regardless of compliance with performance standards) in ASCVs, ONCCs, HNCCs and NCCs, in order to exempt removal of material infected by unwanted organisms from the provisions applying in these areas, it is also necessary to add an exemption to the definition of "indigenous vegetation clearance". Therefore, I also recommend that this definition be amended as shown below.

Recommended amendment:

Amendment 1

Amend rules 10.3.2.1.f, 10.3.2.2.b.iii, 10.3.2.3.c.vii, 10.3.2.4.b.iv and the definition of Indigenous Vegetation Clearance as follows:

"...consistent with or {NatEnv949.15} provided for as part of a conservation management strategy, conservation management plan, reserve management plan or covenant established under the Conservation Act 1987 or any other Act specified in the First Schedule of the Conservation Act 1987..."

Refer to section 5.8.6.2 below for recommended amendments to Rule 10.3.2.2.b.

Amendment 2

Add exemptions to rule 10.3.2.1, 10.3.2.2, 10.3.2.3 and 10.3.2.4, in the form of new rules 10.3.2.1.g, 10.3.2.2.b.xii, 10.3.2.3.c.x and 10.3.2.4.b.v as shown below:

"Vegetation clearance required to remove material infected by unwanted organisms as declared by Ministry for Primary Industries' Chief Technical Officer, or to respond to an emergency declared by the Minister for Primary Industries under the Biosecurity Act 1993. {NatEnv 1090.27}

Amendment 3

Amend definition of "indigenous vegetation clearance" as follows:

"Vegetation clearance of indigenous vegetation.

In Areas of Significant Conservation Value, Outstanding Natural Coastal Character Areas, High Natural Coastal Character Areas and Natural Coastal Character Areas that are not within a hazard overlay, this definition excludes:

- clearance that is part of conservation activity involving vegetation clearance and replacement with indigenous species;
- clearance for the erection, maintenance or alteration of fences (including gates);
- clearance for the maintenance (but not extension) of existing network utilities, tracks, drains, structures, or roads;
- clearance for the construction or maintenance of tracks up to 2m in width; ~~and~~
- clearance that is provided for as part of a conservation management strategy, conservation management plan, reserve management plan or covenant established under the Conservation Act 1987 or any other Act specified in the First Schedule of the Conservation Act 1987; and
- clearance that is required to remove material infected by unwanted organisms as declared by Ministry for Primary Industries' Chief Technical Officer, or to respond to an emergency declared by the Minister for Primary Industries under the Biosecurity Act 1993. {NatEnv 1090.27} ..."

5.8.5 Urban Conservation Mapped Area provisions

5.8.5.1 Policy 10.2.1.5 Vegetation clearance and earthworks in Urban Conservation Mapped Areas

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/ Accept in part	Staff Recommendation
OS457.29	Aurora Energy Limited	I seek to have the above provision amended	Amend Policy 10.2.1.5 as follows: Only allow vegetation clearance over the maximum area, and earthworks - large scale in an Urban Conservation Mapped Area (UCMA) where the conservation values of the UCMA are maintained or <u>where appropriate</u> enhanced.	Reject	Do not amend Policy 10.2.1.5 as requested
FS2449.87	Federated Farmers of New Zealand	I support the submission	Support OS457.29. Allow submission.	Reject	Do not amend Policy 10.2.1.5 as requested
OS900.30	Save The Otago	I seek to have the	Amend Policy 10.2.1.5 as follows: Only	Reject	Do not amend Policy

OS958.23	Peninsula (STOP) Inc Soc Forest and Bird NZ	above provision amended	allow vegetation clearance over the maximum area, and earthworks - large scale in exceptional circumstances, or where undertaken to enhance the conservation values in an Urban Conservation Mapped Area (UCMA) where the conservation values of the UCMA are maintained-protected or enhanced.		10.2.1.5 as requested
FS2391.52	Geoff Scurr Contracting Limited	I oppose the submission	Oppose OS900.30. Disallow submission and retain Policy 10.2.1.5 as proposed in the 2GP.	Accept	Do not amend Policy 10.2.1.5 as requested
FS2449.88, FS2449.89	Federated Farmers of New Zealand	I oppose the submission	Oppose OS900.30 and OS958.23. Disallow submissions.	Accept	Do not amend Policy 10.2.1.5 as requested
FS2459.6	Mercy Dunedin Hospital Limited	I oppose the submission	Oppose OS958.23. Disallow submission.	Accept	Do not amend Policy 10.2.1.5 as requested
OS900.31	Save The Otago Peninsula (STOP) Inc Soc	I seek to have the above provision amended	Add a Schedule of Urban Conservation Mapped Areas and their biodiversity values including those conservation assessments undertaken by Ahika Consulting.	Accept	Add Appendix A10 Urban Conservation Mapped Area Values
OS958.112	Forest and Bird NZ	I seek to have the above provision amended	Add a Schedule of Urban Conservation Mapped Areas and their values including those recommended by Ahika Consulting.	Accept	Add Appendix A10 Urban Conservation Mapped Area Values

Background

Policy 10.2.1.5 states “Only allow vegetation clearance over the maximum area, and earthworks - large scale in an Urban Conservation Mapped Area (UCMA) where the conservation values of the UCMA are maintained or enhanced”.

This policy leads to Rule 10.3.2.1 which sets the maximum vegetation clearance for a UCMA, and Rule 10.5.2.10 which assesses earthworks – large scale in a UCMA.

Request to change wording to “maintained or where appropriate enhanced”

Aurora Energy Limited (OS457.29) seeks to amend Policy 10.2.1.5 by changing “maintained or enhanced” to “maintained or where appropriate enhanced”. While supportive of measures that seek to reduce the loss of biodiversity values, particularly in locations identified as Urban Conservation Management areas (UCMA), the submitter considers there will be instances where Aurora will be required to remove indigenous vegetation to ensure that operational efficiency of its network is maintained and to remove potential fire risks.

Federated Farmers of New Zealand (FS2449.87) supports Aurora Energy Limited (OS457.29) because the RMA does not require that all indigenous vegetation be enhanced.

Recommendation

I do not support the recommended policy wording change as I do not consider it adds anything to the policy, the “or” already providing a choice between maintenance and enhancement of conservation values. The corresponding assessment rule for vegetation clearance in a UCMA, Rule 10.4.3.2, does not provide any preference for either. This leaves the situation in the hands of the applicant who may, as part of any application to undertake activities in a UCMA that includes vegetation clearance, endeavour to improve the overall biodiversity of the UCMA to support their application.

In relation to the submitter’s concerns regarding the effects of indigenous vegetation on the operational efficiency of its network, I note that there is an exemption to the vegetation clearance standard for clearance for the maintenance (but not extension) of existing network utilities activities, tracks, drains, or roads (Rule 10.3.2.1.d).

Requests to only allow vegetation clearance “in exceptional circumstances” or to enhance conservation values, and to amend policy so that conservation values are “protected or enhanced”

STOP (OS900.30) and Forest and Bird NZ (OS958.23) seek to amend Policy 10.2.1.5 as follows: “Only allow vegetation clearance ~~over the maximum area, and earthworks – large scale~~ in exceptional circumstances, or where undertaken to enhance the conservation values in an Urban Conservation Mapped Area (UCMA) where the conservation values of the UCMA are maintained-protected or enhanced.” The reasons given relate to the submitters’ request to add a schedule of UCMA’s and their values, which is considered below, rather than the wording of the policy itself. The submitters state that the policy refers to conservation values of the UCMA which do not appear to be listed in the Plan.

Geoff Scurr Contracting Limited (FS2391.52) opposes STOP because the further submitter prefers the original wording. Federated Farmers (FS2449.88, FS2449.89) opposes both STOP and Forest and Bird because the amendments are overly restrictive and don’t align with the sustainable management purpose and principles of the RMA.

Mercy Dunedin Hospital Limited (FS2459.6) opposes Forest and Bird NZ because the proposed amendment contains an ambiguous reference to “exceptional circumstances” which is unclear as to when the threshold of such circumstances is met. The terminology also departs from providing for the reasonable development expectations for urban land zoned for urban purposes. The proposed use of the term “protected” may

prompt an interpretation of the policy that means any adverse effects on UCMA's must be avoided and managing approaches involving remediation or mitigation of adverse effects are unacceptable. If implemented, this would be an unduly onerous level of regulation. It is more akin to an approach that might be adopted towards the management of matters of national importance under RMA s6.

Recommendation

I do not recommend the proposed amendment is accepted. I consider the suggested wording of "exceptional circumstances" sets a very high bar and suggests a non-complying rather than restricted discretionary status. I consider this too stringent a test, noting also the relatively stringent clearance threshold of 20m² per three year period beyond which resource consent is required.

I also do not recommend the change to "protect" conservation values. The drafting protocol used in the 2GP encourages the use of 'outcome statements' as policy tests. While there is little difference in the definitions of protect versus maintain, I consider maintenance of values is more appropriate wording as maintenance means "preserving a condition or situation" – it is focused on the outcome, whereas "protect" means "aim to preserve" or "keep safe" and is more related to the action taken (legal instrument) to achieve maintenance. Therefore, I do not recommend that this amendment is accepted.

Requests to add a UCMA schedule

STOP (OS900.31) and Forest and Bird NZ (OS958.112) seek to add an Urban Conservation Mapped Area (UCMA) schedule in the 2GP including the areas listed in the assessments undertaken by Ahika Consulting. The submitters note that the Urban Conservation Area assessments by Ahika Consulting are not complete assessments and submit that for certainty the areas need to be included in a schedule with the values listed. The submitters also note that "the assessments recommended additions to these areas that do not appear to have been included in the proposed plan".

Recommendation – Amendment 1

The submitters have noted that recommended additions from Ahika Consulting to UCMA's have not been included in the 2GP. It is intended that these are the subject of future plan change work, as there will need to be further assessment work conducted and liaison with landowners, which was not able to be completed prior to 2GP notification.

I agree with the submitters that some of the assessments by Ahika Consulting are more detailed than others with respect to description and values provided. However, I consider that an appendix setting out the values of the UCMA's should be added to the 2GP, with the opportunity to expand on this at a later date. I consider that listing the conservation values described by Ahika in an appendix will assist in the assessment of any application to clear vegetation in UCMA's, as well as applications for earthworks – large scale, or subdivision (which is considered under Policy 10.2.1.9).

An appendix has been drafted by Dr Mandy Tocher, an ecologist and planner currently working for the DCC, and reviewed by Ahika Consulting. This appendix is attached as Appendix One to this report and I recommend that this is added to the 2GP as Appendix A10 Urban Conservation

Mapped Area Values. I have also recommended an amendment to Policy 10.2.1.5 so that it references to the values listed in the new Appendix A10.

I also recommend that assessment rules 10.4.3.2 and 10.5.2.10 are amended to allow for consideration of the values listed in this appendix when considering applications for vegetation clearance, earthworks – large scale and subdivision in UCMA's.

I note that the 2GP maps have inaccurate labelling of UCMA's, labelling them "ULCA1" etc. This reflects the title of Urban Landscape Conservation Areas (ULCAs) from the operative Plan. I have listed a minor and inconsequential amendment in Section 6.0 below to rectify this. I also consider the UCMA's should be renumbered in the 2GP maps to reflect the numbering in the proposed new Appendix A10, rather than the notified numbering which is based on a numbering system employed for Urban Landscape Conservation Areas (ULCAs) in the operative Plan. I have recommended this as a consequential amendment to the addition of Appendix A10.

Recommended amendments:

Amendment 1

Add Appendix A10 Urban Conservation Mapped Area Values as set out in Appendix One to this report, and consequentially renumber UCMA's in 2GP mapping to reflect UCMA numbers in Appendix A10. {NatEnv900.31}

Amend Policy 10.2.1.5 as follows, and make consequential changes to the assessment rules:

"Only allow vegetation clearance over the maximum area, and earthworks - large scale in an Urban Conservation Mapped Area (UCMA) where the conservation values of the UCMA are maintained or enhanced, including, but not limited to, those conservation values listed in Appendix A10." {NatEnv900.31}

5.8.5.2 Rule 10.3.2.1 Vegetation clearance in Urban Conservation Mapped Areas

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
OS241.54	Mercy Dunedin Hospital Limited	I support the provision	Retain Rule 10.3.2.1 (maximum area of vegetation clearance - urban conservation mapped area) and related provisions.	Accept	Retain Rule 10.3.2.1
OS322.88	KiwiRail Holdings Limited	I support the provision	Retain Rule 10.3.2.1.	Accept	Retain Rule 10.3.2.1

OS900.146	Save The Otago Peninsula (STOP) Inc Soc	I seek to have the above provision amended	Amend Rule 10.3.2.1 as follows: "Vegetation clearance in an urban conservation mapped area must not exceed 20m ² , as measured from stems at ground level, on any site over any threefive year period,..."	Reject	Do not amend Rule 10.3.2.1 as requested
OS958.47	Forest and Bird NZ				
FS2449.191	Federated Farmers of New Zealand	I oppose the submission	Oppose OS900.146. Disallow submission.	Accept	Do not amend Rule 10.3.2.1 as requested
FS2459.29, FS2459.7	Mercy Dunedin Hospital Limited	I oppose the submission	Oppose OS900.146 and OS958.47. Disallow submissions.	Accept	Do not amend Rule 10.3.2.1 as requested
OS927.5	Christian Jordan	I support the provision	Amend Rule 10.3.2.1 so that the maximum area of vegetation clearance in an Urban Conservation Mapped Area is 15% of the total site area as measured between the dripline of vegetation, with a maximum distance between the dripline of any vegetation being 15m.	Reject	Do not amend Rule 10.3.2.1 as requested
OS928.5	Ludgate Sharp Family Trust	I seek to have the above provision amended	Amend Rule 10.3.2 (vegetation clearance) by removing 10.3.2.1 Maximum area of vegetation clearance (UCMA) and replacing with Rule 13.8.2 of the operative Plan OR broaden the matters over which the Council has discretion in relation to amenity (see separate submission point on assessment of performance standard contraventions).	Reject	Do not amend Rule 10.3.2.1 as requested
FS2068.4	Margaret Thomson	I support the submission	Support OS928.5. Allow submission and amend Rule 10.3.2 as requested by the original submitter.	Reject	Do not amend Rule 10.3.2.1 as requested
FS2091.5	Frederick William Rolfe	I support the submission	Support OS928. Allow submission and make changes as requested by submitter.	Reject	Do not amend Rule 10.3.2.1 as requested
FS2099.5	Diane Smith	I support the submission	Support OS928. Allow submission and make changes as requested by submitter.	Reject	Do not amend Rule 10.3.2.1 as requested
FS2102.7	Louise Croot	I support the	Support OS928. Allow submission and make	Reject	Do not amend Rule

		submission	changes as requested by submitter.		10.3.2.1 as requested
FS2459.30	Mercy Dunedin Hospital Limited	I oppose the submission	Oppose OS928.5. Disallow submission.	Accept	Do not amend Rule 10.3.2.1 as requested
OS928.6	Ludgate Sharp Family Trust	I seek to have the above provision amended	Amend Rule 10.4.3 Assessment of performance standard contraventions located in Natural Environment as follows: Clause 2. Vegetation clearance (Maximum area of vegetation clearance) in a UCMA Matters of Discretion Limited to Biodiversity and in relation to the UCMA over and adjoining the Mercy Hospital Zone, consideration of any loss of residential amenity as a consequence of vegetation removal".	Reject	Do not amend Rule 10.4.3.2 as requested
FS2068.5	Margaret Thomson	I support the submission	Support OS928.6. Allow submission and amend Rule 10.4.3 as requested by the original submitter.	Reject	Do not amend Rule 10.4.3.2 as requested
FS2091.6	Frederick William Rolfe	I support the submission	Support OS928. Allow submission and make changes as requested by submitter.	Reject	Do not amend Rule 10.4.3.2 as requested
FS2099.6	Diane Smith	I support the submission	Support OS928. Allow submission and make changes as requested by submitter.	Reject	Do not amend Rule 10.4.3.2 as requested
FS2102.8	Louise Croot	I support the submission	Support OS928. Allow submission and make changes as requested by submitter.	Reject	Do not amend Rule 10.4.3.2 as requested
FS2459.31	Mercy Dunedin Hospital Limited	I oppose the submission	Oppose OS928.6. Disallow submission.	Accept	Do not amend Rule 10.4.3.2 as requested

Background

Rule 10.3.2.1 sets out the maximum area of indigenous vegetation clearance for an urban conservation mapped area as follows:

“Vegetation clearance in an **urban conservation mapped area** must not exceed 20m², as measured from stems at ground level, on any site over any three year period, except for the following instances of vegetation clearance which are exempt from this standard:

- a. clearance that is part of conservation activity involving vegetation clearance and replacement with indigenous species;

- b. clearance of a pest plant listed in Appendix 10B;
- c. vegetation clearance for the erection, maintenance or alteration of fences (including gates);
- d. vegetation clearance for the maintenance (but not extension) of existing network utilities activities, tracks, drains, or roads;
- e. vegetation clearance for the construction or maintenance of tracks up to 2m in width; or
- f. vegetation clearance that is provided for as part of a conservation management strategy, conservation management plan, reserve management plan or covenant established under the Conservation Act 1987 or any other Act specified in the First Schedule of the Conservation Act 1987."

Submissions in support

Mercy Dunedin Hospital Limited (OS241.54) supports Rule 10.3.2.1 and related provisions, as the submitter considers that the provisions relating to vegetation clearance in an UCMA are commensurate with the efficient operation of the land for a hospital.

KiwiRail Holdings Limited (OS322.88) supports Rule 10.3.2.1, as the submitter supports that the maintenance, but not upgrade, of network utilities is exempt in relation to the area of vegetation clearance permitted in the Urban Conservation Mapped Area. (I note that KiwiRail have submitted in support of a number of vegetation clearance rules that exempt network utilities. This support may be based on their request to be considered a network utility, a request that was recommended to be rejected in the Network Utilities Section 42a report. However, I note also my recommended amendment to add maintenance of the rail corridor to the vegetation clearance rule exemptions, as set out in section 5.8.7.2 below).

Request to have Rule 10.3.2.1 apply over a 5 year period

STOP (OS900.146) and Forest and Bird NZ (OS958.47) support clauses a-f in Rule 10.3.2.1, but consider that the rule should apply over a five year period.

Federated Farmers of New Zealand (FS2449.191) opposes the STOP submission, as a 5 year period is unnecessarily restrictive and the submitters have not justified the need for the amendment or what the 5 year figure has been based upon. Mercy Dunedin Hospital Limited (FS2459.29, FS2459.7) oppose both submissions, as the amendment that the timeframe be extended from three to five years is considered to be overly onerous and in the view of Mercy Dunedin Hospital the notified provisions achieve a balance between the purposes of urban land-use zonings and the values of vegetation in urban areas.

Recommendation

I do not support the recommendation to extend the time period in Rule 10.3.2.1 to a five year period. I consider that the amount of vegetation clearance provided for over a three year period is already quite restrictive, and agree with the further submission of Federated Farmers that the

submitters have not justified the need for such an increase.

Request to amend Rule 10.3.2.1 to 15% of total site area

Christian Jordan (OS927.5) seeks to amend Rule 10.3.2.1 so that the maximum vegetation clearance in a UCMA is 15% of the total site area, as measured between the dripline of vegetation, with a maximum distance between the dripline of any vegetation being 15m. The submitter believes the 20m² is absurdly restrictive and most vegetation will have a dripline of at least 3m from the stem, therefore the allowance is effectively zero. Allowing 15% clearance will mean that 85% is protected and the use of land for gardening or other purposes would be allowed. The submitter states that wind-blown seeds of native plants get an outrageously high level of protection, imposing significant costs on the landowner and preventing full and free access to their own land, which will lead to neglect and invasion of weed species.

Recommendation

I do not support the suggestion of allowing vegetation clearance of 15% of any site in a UCMA, as I consider this provides for too much clearance of urban vegetation and will not achieve Objective 10.2.1 to maintain and enhance vegetation and habitats. I note that the operative Plan does not provide for any "removal of bush" in Urban Landscape Conservation Areas (from which UCMA's have been derived) as of right. The inclusion of a small amount of clearance in the 2GP recognises that there are private landowners that may wish to keep parts of their properties free from regenerating vegetation or undertake gardening or other activities in areas that are currently in bush. I note that the clearance of pest plant species is provided for in the exemptions to Rule 10.3.2.1. I also draw the submitter's attention to the outcomes-focused definition of vegetation clearance, as discussed in section 5.8.3 above.

I consider that the measurement of the area defined by Rule 10.3.2.1 at ground level provides for easier measurement of any area that is to be cleared and its effects than the use of driplines, particularly where the rule may have to be applied retrospectively.

I do not recommend any amendment to address this submission point.

Request to replace Rule 10.3.2.1 with operative Rule 13.8.2, or expand Rule 10.4.3.2 to consider effects on residential amenity

Ludgate Sharp Family Trust (OS928.5) seeks to either replace Rule 10.3.2 with Rule 13.8.2 of the operative Plan or broaden the matters over which the Council has discretion in relation to amenity. The submitter is concerned that the focus on maintaining and enhancing the biodiversity of the UCMA, as opposed to amenity, natural character and landscape values of the locality and biodiversity values increases the vulnerability of that part of the Mercy Hospital site. In a related point, Ludgate Sharp Family Trust (OS928.6) seeks to amend Rule 10.4.3.2 to expand the matters of discretion beyond biodiversity, to include any loss of residential amenity as a consequence of vegetation removal. The submitter considers that the amenity, natural character and landscape values of the UCMA surrounding the Mercy Hospital and its buffering effects on

surrounding residential areas needs to be considered.

Margaret Thomson (FS2068.4, FS2068.5), Frederick William Rolfe (FS2091.5, FS2091.6), Diane Smith (FS2099.5, FS2099.6) and Louise Croot (FS2102.7, FS2102.8) support Ludgate Sharp Family Trust (OS928.5) because they believe landscaping plans should place a greater thought for pedestrians and their safety, ask that the council reject any aspects of the 2GP that function to liberalise the current operative zone in Mercy's favour or that seek to limit council's discretion with respect to their development and believe that the amenity value of re vegetation including trees is a crucial aspect of its ambiance and links to a possible heritage precinct.

Mercy Dunedin Hospital Limited (FS2459.30) opposes Ludgate Sharp Family Trust (OS928.5) as it is appropriate that the 2GP includes a permitted activity pathway for small-scale vegetation clearance in the UCMA as per Rule 10.3.2.1. This enables minor vegetation clearance where associated with hospital activities (for example: gardening, landscaping, installation of outdoor furniture) while recognising the conservation values of the UCMA. This approach recognises that the Mercy Hospital site is the only private property proposed to be encumbered by a UCMA. The submitter also contends that because the UCMA consists of up to 50% exotic vegetation, the focus of the proposed provisions on biodiversity values rather than amenity values provides minimal protection for vegetation with lower biodiversity values, despite the contribution to surrounding amenity values exotic vegetation may make. "Conservation values" are defined as "the use of land for the establishment, maintenance or enhancement of indigenous vegetation and/or habitat for indigenous fauna". This purpose therefore does not relate to management of amenity matters at zone interfaces. The Proposed Plan manages amenity effects through a number of other methods. While the Hospital has a vested interest in maintaining the high level of amenity provided by its vegetation, this amenity is incidental and borrowed and the management regime proposed by Ludgate Sharp Family Trust is unjustified because all vegetation worthy of protection has already been identified.

Recommendation

I note that related submission points from these submitters on the issue of vegetation protection in respect to amenity concerns were addressed at the Mercy Hospital hearing with an exchange of ideas between the parties and the planner to resolve this matter. I defer to that process in terms of recommended amendments necessary to address any outstanding issues related to vegetation protection for amenity purposes.

I do not recommend any amendments to address these submission points.

Recommended amendment:

None.

5.8.5.3 Rule 10.4.3.2 Assessment of Vegetation clearance in a UCMA

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
OS900.160 OS958.80	Save The Otago Peninsula (STOP) Inc Soc Forest and Bird NZ	I seek to have the above provision amended	Amend Rule 10.4.3.2 by adding the following relevant objectives and policies: <u>Objective 2.2.3 and policies 2.2.3.1, 2.2.3.3, 2.2.3.4</u>	Reject	Do not amend Rule 10.4.3.2 as requested
FS2449.209, FS2449.213	Federated Farmers of New Zealand	I oppose the submission	Oppose OS900.160 and OS958.80. Disallow submissions.	Accept	Do not amend Rule 10.4.3.2 as requested
OS919.43	Federated Farmers of New Zealand	I seek to have the above provision amended	Amend Rule 10.4.3.2 (assessment of vegetation clearance in an Urban Conservation Mapped Area) by adding a new para to 'Potential circumstances or mitigation measures that may support a consent application' as follows: 'The adverse effects are no more than minor.'	Accept	Amend Rule 10.4.3.2 as shown below
FS2482.32	Forest and Bird NZ	I oppose the submission	Oppose OS919.43. Disallow submission.	Reject	Amend Rule 10.4.3.2 as shown below

Background

Rule 10.4.3.2 (assessment of contravention of maximum area of vegetation clearance in an Urban Conservation Mapped Area) is as follows:

2.	Vegetation clearance (Maximum area of vegetation clearance) in a UCMA	a. Effects on biodiversity	<p><i>Relevant objectives and policies:</i></p> <ul style="list-style-type: none"> i. Objective 10.2.1. ii. Vegetation clearance maintains or enhances the conservation values of an UCMA (Policy 10.2.1.5). <p><i>Potential circumstances or mitigation measures that may support a consent application include:</i></p> <ul style="list-style-type: none"> iii. The clearance is of a non-local indigenous species that has extended beyond its range.
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Request to include Objective 2.2.3 and policies 2.2.3.1, 2.2.3.3 and 2.2.3.4

STOP (OS900.160) and Forest and Bird (OS958.80) seek to amend Rule 10.4.3.2 by including Objective 2.2.3 and policies 2.2.3.1, 2.2.3.3 and 2.2.3.4 as relevant objectives and policies, with no specific reason given for this requested amendment.

Federated Farmers of New Zealand (FS2449.209, FS2449.213) oppose these submissions because “the amendments proposed go significantly further than appropriate or required for performance standards in this area”.

Recommendation

As was introduced in the Plan Overview hearing, the 2GP is designed to have a direct and linear relationship between policies and rules in the plan, which is reinforced through the drafting protocol and the reference to related objectives and policies in assessment rules. This direct relationship is something that has been encouraged by the Environment Court. The assessment rules provide links to the objectives and policies that are most relevant to the assessment, based on those that have a direct relationship with the provision. In terms of strategic directions policies, these set up the Plan’s methods and are mainly referred to in the case of non-complying activities, as they are an important part of testing the effect of granting non-complying activities on plan integrity.

I do not consider Rule 10.4.3.2 should be amended as requested, as the objectives and policies do not have a direct relationship with the rule. However, I note a recommendation in section 5.13.2 below to amend the rule to include consideration of whether the area affected meets the significance criteria set out in strategic Policy 2.2.3.1.

Request to add “The adverse effects are no more than minor”

Federated Farmers of New Zealand (OS919.43) seeks to amend Rule 10.4.3.2 to add a potential circumstance to support a consent application as follows: “The adverse effects are no more than minor.” The submitter states that “the proposed rule, as written, appears to deal with vegetation clearance generally, not indigenous vegetation clearance specifically. Subsequently we consider an additional clause should be added to the potential circumstances or mitigation measures that may support a consent application.”

Forest and Bird NZ (FS2482.32) in page 5 of their submission oppose this relief because “the amendments sought are not consistent with the purpose of Part II RMA or the provisions of this plan, or the NCPS”.

Recommendation – Amendment 1

The submitter is correct in stating that the proposed rule relates to vegetation clearance in general, in recognition that exotic vegetation can play an important conservation in urban areas, including as ecological corridors and provision of habitat for indigenous species.

Policy wording in the 2GP is of two types – those that set out a level of effects that is acceptable and those that give an outcome statement. The proposed wording suggested by the submitter regarding effects being no more than minor reflects wording often employed in the 2GP in policies that set out an acceptable level of effects. I note that Policy 10.2.1.5 is of the latter type and instead refers to an outcome statement of conservation values being “maintained or enhanced”.

While Policy 10.2.1.5 is outcome-focused, I consider that the amendment to the assessment rule proposed by the submitter may be of value in guiding assessment at a site-specific level. In consideration that UCMA's may contain vegetation of relatively mixed value and the permitted clearance area is relatively low, I am recommending acceptance of this submission by Federated Farmers.

Recommended amendment:

Amendment 1

Amend Rule 10.4.3.2.a to add the following under **Potential circumstances or mitigation measures that may support a consent application:**

iv. The adverse effect of the clearance is no more than minor. {NatEnv919.43}

5.8.6 Maximum area of indigenous vegetation clearance provisions

5.8.6.1 Policy 10.2.1.3 Maximum area of indigenous vegetation clearance

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
OS361.2	Ben Graham	I seek to have the above provision amended	Amend Policy 10.2.1.3 as follows: 'Limit indigenous vegetation clearance in the rural and rural residential zones to a size that avoids any adverse effects on the biodiversity values of the area of indigenous vegetation <u>on the site</u> or, if avoidance is not possible, ensures that adverse effects are no more than minor.'	Reject	Do not amend Policy 10.2.1.3 as requested
OS364.2	Mathew O'Connell				
OS1084.2	John Scott				
FS2449.75,	Federated Farmers	I support the	Support OS361.2, OS364.2 and OS1084.2.	Reject	Do not amend Policy

FS2449.76, FS2449.77	of New Zealand	submission	Allow submissions.		10.2.1.3 as requested
OS447.16	Harboursides and Peninsula Preservation Coalition	I seek to have the above provision amended	Amend Policy 10.2.1.3 by appending the words ' <u>and not greater than 10% of the total indigenous vegetation area.</u> '	Reject	Do not amend Policy 10.2.1.3 as requested
FS2373.11	Howard Saunders	I oppose the submission	Oppose OS447.16. Disallow submission to amend Policy 10.2.1.3.	Accept	Do not amend Policy 10.2.1.3 as requested
FS2391.7	Geoff Scurr Contracting Limited	I oppose the submission	Oppose OS447.16. Disallow submission.	Accept	Do not amend Policy 10.2.1.3 as requested
FS2439.15	Oceana Gold (New Zealand) Limited	I oppose the submission	Oppose OS447.16. Disallow submission.	Accept	Do not amend Policy 10.2.1.3 as requested
FS2449.78	Federated Farmers of New Zealand	I oppose the submission	Oppose OS447.16. Disallow submission.	Accept	Do not amend Policy 10.2.1.3 as requested
OS900.28 OS958.21	Save The Otago Peninsula (STOP) Inc Soc Forest and Bird NZ	I seek to have the above provision amended	Amend Policy 10.2.1.3 as follows: <u>Limit Avoid any adverse effects of indigenous vegetation clearance on biodiversity in the rural and rural residential zones to a size that avoids any adverse effects on the biodiversity values of the area of indigenous vegetation or, if avoidance is not possible, ensures that adverse effects are no more than minor and the biodiversity values are maintained or enhanced.</u>	Accept in part	Amend Policy 10.2.1.3 as shown below
FS2140.26, FS2140.6	John Scott	I oppose the submission	Oppose OS900.28 and OS958.21. Disallow submissions and do not make changes as requested by submitters.	Reject	Amend Policy 10.2.1.3 as shown below
FS2279.26, FS2279.6	Ben Graham	I oppose the submission	Oppose OS900.28 and OS958.21. Disallow submissions and do not make changes as requested by submitters.	Reject	Amend Policy 10.2.1.3 as shown below
FS2300.26, FS2300.6	Mathew O'Connell	I oppose the submission	Oppose OS900.28 and OS958.21. Disallow submissions and do not make changes as requested by submitters.	Reject	Amend Policy 10.2.1.3 as shown below

FS2391.50, FS2391.81	Geoff Scurr Contracting Limited	I oppose the submission	Oppose OS900.28 and OS958.21. Disallow submissions.	Reject	Amend Policy 10.2.1.3 as shown below
FS2416.26, FS2416.6	Alan Brown, Carrowmore Properties Limited, Robyn and Stephan Smith and Rick and Jill Clarke ("Pigeon Flat Road Group")	I oppose the submission	Oppose OS900.28 and OS958.21. Disallow submissions and do not make changes as requested by submitters.	Reject	Amend Policy 10.2.1.3 as shown below
FS2449.79, FS2449.80	Federated Farmers of New Zealand	I oppose the submission	Oppose OS900.28 and OS958.21. Disallow submissions.	Reject	Amend Policy 10.2.1.3 as shown below
OS919.23	Federated Farmers of New Zealand	I seek to have the above provision amended	Amend Policy 10.2.1.3 as follows: Limit <u>Avoid</u> indigenous vegetation clearance in the rural and rural residential zones <u>where it</u> <u>would result in the significant degradation of</u> <u>indigenous vegetation stock or values to a</u> <u>size that avoids any adverse effects on the</u> <u>biodiversity values of the area of indigenous</u> <u>vegetation or, if avoidance is not possible,</u> <u>ensures that adverse effects are no more</u> <u>than minor.</u>	Reject	Do not amend Policy 10.2.1.3 as requested
FS2482.20	Forest and Bird NZ	I oppose the submission	Oppose OS919.23. Disallow submission.	Accept	Do not amend Policy 10.2.1.3 as requested
OS951.6 OS1054.6	Timothy George Morris Timothy Morris (on behalf of RG and SM Morris Family Trust)	I seek to have the above provision amended	Amend Policy 10.2.1.3 to provide for the control of regrowth indigenous vegetation as part of long term maintenance of rural land for productive rural activities	Accept in part	Amend Rule 10.3.2.2.b as shown in section 5.8.6.2 below
FS2449.82, FS2449.83	Federated Farmers of New Zealand	I support the submission	Support OS951.6 and OS1054.6. Allow submissions.	Accept in part	Amend Rule 10.3.2.2.b as shown in section 5.8.6.2

Background

Policy 10.2.1.3 states “Limit indigenous vegetation clearance in the rural and rural residential zones to a size that avoids any adverse effects on the biodiversity values of the area of indigenous vegetation or, if avoidance is not possible, ensures that adverse effects are no more than minor”.

This policy is linked to Rule 10.3.2.2 Maximum area of indigenous vegetation clearance, which sets thresholds for indigenous vegetation clearance beyond which resource consent is required as a restricted discretionary activity.

Request to avoid adverse effects on biodiversity values within a site

Ben Graham (OS361.2) and Mathew O’Connell (OS364.2) and John Scott (OS1084.2) seek to amend Policy 10.2.1.3 so that it avoids any adverse effects on the biodiversity values of indigenous vegetation on the site, rather than on a wider area of indigenous vegetation. The submitters believe the vegetation clearance provisions are unduly restrictive and uncertain. Federated Farmers of New Zealand (FS2449.75, FS2449.76, FS2449.77) supports these submissions as the proposed amendments help to clarify the meaning and scope of the policy.

Recommendation

While Rule 10.3.2.2 manages indigenous vegetation clearance at a site-specific level, the associated Policy 10.2.1.3 considers the adverse effects of vegetation clearance on the area of indigenous vegetation itself, which may or may not span site boundaries. I consider this is the appropriate approach, as the Objective 10.2.1 is concerned with outcomes for areas of indigenous vegetation and habitats rather than the sites that may contain these. I consider that it is important that cross-boundary effects on indigenous biodiversity are taken into account, and do not recommend this amendment is accepted.

Request to limit indigenous vegetation clearance to not greater than 10% of the total area

HPPC (OS447.16) seeks to amend Policy 10.2.1.3 to append “and not greater than 10% of the total indigenous vegetation area”. The submitter believes that this will ensure reasonable “maintenance and enhancement” and consistency in consents decision-making on the vegetation clearance “bottom line” and that flexibility based on topography, etc. in nearly all situations will still dominate.

Howard Saunders (FS2373.11), Geoff Scurr Contracting Limited (FS2391.7), Oceana Gold (New Zealand) Limited (FS2439.15) and Federated Farmers of New Zealand (FS2449.78) oppose HPPC (OS447.16). Howard Saunders thinks that the amendment is too prescriptive. Geoff Scurr

Contracting and Federated Farmers consider it too restrictive; prevents consideration of all circumstances; and places an arbitrary limit on indigenous vegetation clearance. Ocean Gold considers that it restricts locationally constrained activities, such as mining, where clearance may be justified and can be mitigated, offset or compensated.

Recommendation

I do not recommend that this amendment is made to the policy as it would place it out of context with Rule 10.3.2.2 which specifies maximum thresholds for clearance over a three calendar year period. The submission does not specify any time period and therefore may allow cumulative clearances that total more than 10% of an area. Further, I consider that with no justification for the 10% threshold, the wrong signals may be sent to landowners. There may be situations where clearance of up to 10% has an adverse effect on an area of vegetation or habitat, for instance, where the part that is to be cleared involves species or habitat of relatively high biodiversity value. The 10% figure may also be viewed as out of line with the thresholds in Rule 10.3.2.2 – for instance, it suggests that the clearance of up to 1000m² of every hectare of indigenous vegetation may be acceptable. I agree with the further submitters who regard this amendment as arbitrary and do not recommend that the amendment is accepted.

Requests to change terminology to "avoid"

STOP (OS900.28) and Forest and Bird (OS958.21) seek to amend Policy 10.2.1.3 as follows:

~~Limit~~ Avoid any adverse effects of indigenous vegetation clearance on biodiversity in the rural and rural residential zones ~~to a size that avoids any adverse effects on the biodiversity values of the area of indigenous vegetation~~ or, if avoidance is not possible, ensures that adverse effects are no more than minor and the biodiversity values are maintained or enhanced.

The submitters believe that indigenous biodiversity conservation values need to be maintained or enhanced. They believe location and type of clearance should be considered as well as size, and that maintenance and enhancement of indigenous biodiversity requires the protection of the values of existing areas and habitats, and restoration and enhancement of degraded areas.

John Scott (FS2140.26, FS2140.6), Ben Graham (FS2279.26, FS2279.6), Mathew O'Connell (FS2300.26, FS2300.6), Geoff Scurr Contracting Limited (FS2391.50, FS2391.81), Pigeon Flat Road Group (FS2416.26, FS2416.6) and Federated Farmers of New Zealand (FS2449.79, FS2449.80) oppose these submissions. John Scott, Ben Graham, Mathew O'Connell and the Pigeon Flat Road Group oppose the change from "Limit" to "Avoid" and the suggestion that biodiversity values should be maintained or enhanced in all situations because they believe this is not necessary or practical. Geoff Scurr Contracting and Federated Farmers state that as a result of the NZ King Salmon case, 'avoid' is taken as 'prohibit', and as such the proposed amendments result in an inappropriate and unworkable policy that is not consistent with the RMA.

Federated Farmers of New Zealand (OS919.23) seek to amend Policy 10.2.1.3 as follows:

~~Limit Avoid indigenous vegetation clearance in the rural and rural residential zones where it would result in the significant degradation of indigenous vegetation stock or values to a size that avoids any adverse effects on the biodiversity values of the area of indigenous vegetation or, if avoidance is not possible, ensures that adverse effects are no more than minor.~~

Federated Farmers believes that if indigenous vegetation is primarily protected through the appropriate schedules, there should be a focus on providing a permitted activity framework for land use which seeks to provide certainty for land users. This more permissive approach recognises that areas outside of the defined and protected areas of indigenous vegetation are primarily used for the primary purposes of the rural areas, rural activities.

Forest and Bird NZ (FS2482.20) opposes Federated Farmers of New Zealand (OS919.23) because they believe the amendments sought are not consistent with the purpose of Part II RMA or the provisions of the 2GP, or the NZCPS.

Recommendation – Amendment 1

I do not support the submissions to change the wording of Policy 10.2.1.3 to begin with “avoid”. According to the 2GP drafting protocol, the word “avoid” should be used in conjunction with non-complying activities. Policy 10.2.1.3 sets up a performance standard and hence the use of the word “limit”, although more commonly the word “require” is used in association with a policy associated with a performance standard that sets some form of limit. I favour the use of the word “require” in this policy to be consistent with the 2GP drafting protocol. However, as it seems to imply a requirement to clear indigenous vegetation, I consider the policy should start with the words “require any”.

I do not support the proposed wording by Federated Farmers that indigenous vegetation clearance should only be avoided where “it would result in the significant degradation of indigenous vegetation stock or values”. I consider this too high a test and would not be an appropriate policy wording to achieve Objective 10.2.1.

In relation to that part of the STOP and Forest and Bird submissions that seek that “biodiversity values are maintained or enhanced”, I consider the policy should be amended to provide for this outcome-focused wording. However, I also consider that the wording relating to tolerance of effects should be removed from the policy, so that it solely provides an outcome as a policy test, rather than having both an effects test and an outcome test.

I consider the advantages of moving to this outcome-focused drafting are that:

- it provides consistency with other vegetation and indigenous vegetation clearance policies (10.2.1.4, 10.2.1.5, 10.2.2.3);
- it provides a policy framework for the consideration of biodiversity offsetting as a potential circumstance or mitigation measure that may support a consent application;
- the current effects-based wording, particularly as it relates to adverse effects on an “area” of indigenous vegetation, does not provide sufficient clarity in terms of a policy test in terms of what the “area” is; and
- the current effects-based wording does not provide for consideration of any positive effects on indigenous biodiversity that may be used in mitigation of an application to clear indigenous vegetation.

I have recommended an amendment to Policy 10.2.1.3 below, in partial acceptance of the submissions of STOP (OS900.28) and Forest and Bird (OS958.21).

Request to amend Policy 10.2.1.3 to provide for the control of regrowth indigenous vegetation

Timothy Morris (OS951.6) and Timothy Morris (on behalf of RG and SM Morris Family Trust) (OS1054.6) seek to amend Policy 10.2.1.3 to provide for the control of regrowth indigenous vegetation as part of long term maintenance of rural land for productive rural activities. The submitters feel this maintenance of rural land for productive rural activities is encouraged elsewhere within the 2GP. Federated Farmers (FS2449.82, FS2449.83) supports these submissions as regenerating scrub can reduce productivity of farmland and has little value in terms of overall biodiversity across the region.

Recommendation

I do not consider that Policy 10.2.1.3 should be amended in response to this submission. The policy sets out how the activity of indigenous vegetation clearance will be managed in rural and rural residential zones, but does not go into the detail of how this will be specifically managed in relation to other activities such as farming or network utilities activities. I note that I am recommending additional exemptions to the associated performance standard Rule 10.3.2.2 in section 5.8.6.2 of this report below, and I consider this will give some relief to these submissions.

Recommended amendment:

Amendment One

Amend Policy 10.2.1.3 as follows, and make consequential changes to assessment rules:

~~"Limit~~ Require any indigenous vegetation clearance in the rural and rural residential zones to ~~a size that avoids any adverse effects on the~~ maintain or enhance biodiversity values of the area of indigenous vegetation or, if avoidance is not possible, ensures that adverse effects are no more than minor". {NatEnv900.28}

5.8.6.2 Rule 10.3.2.2 Maximum area indigenous vegetation clearance performance standard

Sub pt #	Submitter Name	Support/Oppose/ Seek Amend	Summary Of Submission	Accept/Reject/ Accept in part	Staff Recommendation
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Submissions to retain all or part of Rule 10.3.2.2.a (maximum area of indigenous vegetation clearance)					
OS900.148	Save The Otago Peninsula (STOP) Inc Soc	I support the provision	Retain Rule 10.3.2.2.a.(iii)-(v), (vii) and (viii) for maximum area of indigenous vegetation clearance in the Hill Country, Hill Slopes, Middlemarch Basin and Taieri Plains rural zones and the rural residential zones	Accept in part	Retain Rule 10.3.2.2.a.v, vii, viii
OS958.62	Forest and Bird NZ	I support the provision	Retain Rule 10.3.2.2.a.i (maximum area indigenous vegetation clearance - Coastal Rural Zone)	Accept	Retain Rule 10.3.2.2.a.i
OS958.50	Forest and Bird NZ	I support the provision	Retain Rule 10.3.2.2.a.iii (maximum area indigenous vegetation clearance - Hill Country Rural Zone)	Reject	Amend Rule 10.3.2.2.a.iii as shown below
OS958.63	Forest and Bird NZ	I support the provision	Retain Rule 10.3.2.2.a.iv (maximum area indigenous vegetation clearance - Hill Slopes Rural Zone)	Reject	Amend Rule 10.3.2.2.a.iv as shown below
FS2155.6	Robert Andrew Van Turnhout	I oppose the submission	Oppose OS958.63. Disallow submission.	Accept	Amend Rule 10.3.2.2.a.iv as shown below
OS958.51	Forest and Bird NZ	I support the provision	Retain Rule 10.3.2.2.a.v (maximum area indigenous vegetation clearance - Middlemarch Basin Rural Zone)	Accept	Retain Rule 10.3.2.2.a.v
OS958.52	Forest and Bird NZ	I support the provision	Retain Rule 10.3.2.2.a.vii (maximum area indigenous vegetation clearance - Taieri Plains Rural Zone)	Accept	Retain Rule 10.3.2.2.a.vii
OS958.53	Forest and Bird NZ	I support the provision	Retain Rule 10.3.2.2.a.viii (maximum area indigenous vegetation clearance - rural residential zones)	Accept	Retain Rule 10.3.2.2.a.viii
Submissions to remove Rule 10.3.2.2 (maximum area of indigenous vegetation clearance)					
OS735.1	Lynnore Joan Templeton	I oppose the provision	Remove Rule 10.3.2.2 (maximum area indigenous vegetation clearance) or adopt more targeted approach	Reject	Do not remove Rule 10.3.2.2
FS2449.167	Federated Farmers	I support the	Support OS735.1. Allow submission.	Reject	Do not remove Rule

	of New Zealand	submission			10.3.2.2
OS850.1	Bevan Thomas Wilson	I oppose the provision	Remove 10.3.2.2 (Maximum area indigenous clearance)	Reject	Do not remove Rule 10.3.2.2
OS886.4	Barry James Williams	I oppose the provision	Remove Rule 10.3.2.2 (maximum area indigenous vegetation clearance) (inferred not stated)	Reject	Do not remove Rule 10.3.2.2
OS905.3	Strath Taieri Community Board	I oppose the provision	Remove Rule 10.3.2.2 (maximum area indigenous vegetation clearance)	Reject	Do not remove Rule 10.3.2.2
OS1018.1	Alistair Hope	I oppose the provision	Remove Rule 10.3.2.2 (maximum area indigenous vegetation clearance) (inferred not stated)	Reject	Do not remove Rule 10.3.2.2
Submissions to decrease thresholds and increase time period in Rule 10.3.2.2.a					
OS900.147	Save The Otago Peninsula (STOP) Inc Soc	I seek to have the above provision amended	Amend Rule 10.3.2.2.a as follows: "Indigenous vegetation clearance must not exceed the following maximum areas on any site over any three -five calendar year period, measured from stems at ground level: ..." and by changing the maximum area for tussock clearance in the High Country Rural Zone to 1000m ² and the maximum area for indigenous vegetation clearance in the Peninsula Coast Rural Zone to 100m ²	Accept in part	Amend Rule 10.3.2.2 as shown below
FS2140.31	John Scott	I oppose the submission	Oppose OS900.147. Disallow submission and do not make changes as requested by submitter.	Reject	Amend Rule 10.3.2.2.a as shown below
FS2267.20	Harboursides and Peninsula Preservation Coalition	I support the submission	Support OS900.147. Allow submission.	Accept in part	Amend Rule 10.3.2.2.a as shown below
FS2279.31	Ben Graham	I oppose the submission	Oppose OS900.147. Disallow submission and do not make changes as requested by submitter.	Reject	Amend Rule 10.3.2.2.a as shown below

FS2300.31	Mathew O'Connell	I oppose the submission	Oppose OS900.147. Disallow submission and do not make changes as requested by submitter.	Reject	Amend Rule 10.3.2.2.a as shown below
FS2391.42	Geoff Scurr Contracting Limited	I oppose the submission	Oppose OS900.147. Disallow submission.	Reject	Amend Rule 10.3.2.2.a as shown below
FS2416.31	Alan Brown, Carrowmore Properties Limited, Robyn and Stephan Smith and Rick and Jill Clarke ("Pigeon Flat Road Group")	I oppose the submission	Oppose OS900.147 (part). Disallow submission in part, in relation to indigenous vegetation clearance in the High Country Rural Zone, and do not make changes as requested by submitter.	Reject	Amend Rule 10.3.2.2.a as shown below
FS2449.163	Federated Farmers of New Zealand	I oppose the submission	Oppose OS900.147. Disallow submission.	Reject	Amend Rule 10.3.2.2.a as shown below
OS958.48	Forest and Bird NZ	I seek to have the above provision amended	Amend Rule 10.3.2.2.a as follows: 'Indigenous vegetation clearance must not exceed the following maximum areas on any site over any three <u>five</u> calendar year period, measured from stems at ground level: ...'	Accept in part	Amend Rule 10.3.2.2.a as shown below
FS2449.164	Federated Farmers of New Zealand	I oppose the submission	Oppose OS958.48. Disallow submission.	Reject	Amend Rule 10.3.2.2.a as shown below
OS958.49	Forest and Bird NZ	I seek to have the above provision amended	Amend Rule 10.3.2.2.a.ii (maximum area indigenous vegetation clearance - High Country Rural Zone) by retaining 500m ² for non-tussock species and reduce area for tussock species to 1000m ²	Accept in part	Amend Rule 10.3.2.2.a as shown below
FS2449.172	Federated Farmers of New Zealand	I oppose the submission	Oppose OS958.49. Disallow submission.	Reject	Amend Rule 10.3.2.2.a as shown below

OS958.54	Forest and Bird NZ	I oppose the provision	Amend Rule 10.3.2.2.a.vi so the maximum area of indigenous vegetation clearance in the Peninsula Coast Rural Zone is 100m ² .	Reject	Do not amend Rule 10.3.2.2.a.vi as requested
FS2449.177	Federated Farmers of New Zealand	I oppose the submission	Oppose OS958.54. Disallow submission.	Accept	Do not amend Rule 10.3.2.2.a.vi as requested
Submissions to review or increase maximum thresholds in Rule 10.3.2.2.a					
OS1082.1	Hummock Run Ltd	I oppose the provision	Review Rule 10.3.2.2 - Maximum area of indigenous vegetation clearance - pursuant to more discussion with landowners, particularly in the rural country hill zones.	Accept in part	Amend Rule 10.3.2.2.a.iii as shown below
FS2449.156	Federated Farmers of New Zealand	I support the submission	Support OS1082.1. Allow submission.	Accept in part	Amend Rule 10.3.2.2.a.iii as shown below
OS355.11	Robert George & Sharron Margaret Morris	I seek to have the above provision amended	Amend Rule 10.3.2.2 to increase maximum indigenous vegetation clearance thresholds in all zones, including 1000m ² in the Peninsula Coast Rural Zone	Accept in part	Amend Rule 10.3.2.2.a as shown below
FS2449.166	Federated Farmers of New Zealand	I support the submission	Support OS355.11. Allow submission.	Accept in part	Amend Rule 10.3.2.2.a as shown below
OS951.68 OS1054.68	Timothy George Morris Timothy Morris (on behalf of RG and SM Morris Family Trust)	I seek to have the above provision amended	Amend Rule 10.3.2.2 to increase all permitted indigenous vegetation clearance thresholds including to at least 1,000m ² in the Peninsula Coast Rural Zone, to include exemptions for removal of regrowth indigenous vegetation within areas used for farming or forestry, and to include the exemptions listed in Rules 10.3.2.3.c and 10.3.2.4.b	Accept in part	Amend Rule 10.3.2.2.a and 10.3.2.2.b as shown below
FS2391.16	Geoff Scurr Contracting Limited	I support the submission	Support OS1054.68. Allow submission.	Accept in part	Amend Rule 10.3.2.2.b as shown below

OS588.6	Otago Peninsula Community Board	I seek to have the above provision amended	Amend Rule 10.3.2.2 to either allow for greater maximum for Otago Peninsula or exempt clearance of regenerating native grassland species or kanuka (inferred not stated)	Accept in part	Amend Rule 10.3.2.2.b as shown below
OS794.8	Geoff Scurr Contracting Limited	I seek to have the above provision amended	Amend Rule 10.3.2.2 (maximum area indigenous vegetation clearance) to replace 500m ² in 10.3.2.2.a.i-iv with 2.5ha, and to exempt matagouri	Accept in part	Amend Rule 10.3.2.2.b as shown below
FS2155.14	Robert Andrew Van Turnhout	I support the submission	Support OS794.8. Allow submission.	Accept in part	Amend Rule 10.3.2.2.b as shown below
OS919.34	Federated Farmers of New Zealand	I seek to have the above provision amended	Amend Rule 10.3.2.2.a so that the maximum permitted area of indigenous vegetation clearance on any site over any three calendar year period is 500m ² for all areas of the rural zone	Reject	Do not amend Rule 10.3.2.2.a as requested
FS2267.21	Harboursides and Peninsula Preservation Coalition	I oppose the submission	Oppose OS919.34. Disallow submission and instead allow amendments to Rule 10.3.2.2.a as proposed by submission 900.148.	Accept	Do not amend Rule 10.3.2.2.a as requested
FS2482.28	Forest and Bird NZ	I oppose the submission	Oppose OS919.34. Disallow submission.	Accept	Do not amend Rule 10.3.2.2.a as requested
OS1002.1	Donald & Heather Ramsay	I seek to have the above provision amended	Amend Rule 10.3.2.2 so that all rural zone maximum areas are 500m ² per site over any 3 calendar year period and to exempt matagouri from the rule	Accept in part	Amend Rule 10.3.2.2.b as shown below
OS860.5 OS872.5 OS879.5	Lindsay Carruthers David Frew John Carruthers	I seek to have the above provision amended	Amend Rule 10.3.2.2.a.ii to either exempt the clearance of Matagouri, or to increase the 500m ² for permitted indigenous vegetation clearance, in the High Country Rural Zone	Accept in part	Amend Rule 10.3.2.2.a.ii and Rule 10.3.2.2.b as shown below

OS883.5	Neil Grant				
FS2449.168, FS2449.169, FS2449.170, FS2449.171	Federated Farmers of New Zealand	I support the submission	Support OS860.5, OS872.5, OS879.5, OS883.5. Allow submissions.	Accept in part	Amend Rule 10.3.2.2.a.ii and Rule 10.3.2.2.b as shown below
OS860.4 OS872.4 OS879.4 OS883.4	Lindsay Carruthers David Frew John Carruthers Neil Grant	I seek to have the above provision amended	Amend Rule 10.3.2.2.a.v to either exempt the clearance of Matagouri, or to increase the 100m2 for permitted indigenous vegetation clearance, in the Middlemarch Basin Rural Zone	Accept in part	Amend Rule 10.3.2.2.b as shown below
FS2449.173, FS2449.174, FS2449.175, FS2449.176	Federated Farmers of New Zealand	I support the submission	Support OS860.4, OS872.4, OS879.4 and OS883.4. Allow submissions.	Accept in part	Amend Rule 10.3.2.2.b as shown below
OS926.1	David Graham	I seek to have the above provision amended	Amend Rule 10.3.2.2.a.iii (maximum area indigenous vegetation clearance) so that in the Hill Country Rural Zone all sites under one hectare are exempt from the standard, to increase the maximum from 500m ² to an allowance of 20 to 50 hectares per year, and to provide exemptions so that land can continue to be farmed economically.	Accept in part	Amend Rule 10.3.2.2.b as shown below
OS740.5	Michael Ovens	I seek to have the above provision amended	Amend Rule 10.3.2.2.a.viii to increase the maximum area of vegetation clearance in rural residential zones to 500m ² .	Reject	Do not amend Rule 10.3.2.2.a.viii as requested
Rule 10.3.2.2.b Exemptions					
OS900.149	Save The Otago Peninsula (STOP) Inc Soc	I support the provision	Retain Rule 10.3.2.2.b (indigenous vegetation clearance exemptions)	Accept in part	Retain Rule 10.3.2.2.b subject to amendments as shown below
FS2155.10	Robert Andrew Van	I oppose the	Oppose OS900.149. Disallow submission.	Reject	Retain Rule

	Turnhout	submission			10.3.2.2.b subject to amendments as shown below
OS958.55	Forest and Bird NZ	I support the provision	Retain Rule 10.3.2.2.b (maximum area indigenous vegetation clearance - exemptions)	Accept in part	Retain Rule 10.3.2.2.b subject to amendments as shown below
FS2155.5	Robert Andrew Van Turnhout	I oppose the submission	Oppose OS958.55. Disallow submission.	Reject	Retain Rule 10.3.2.2.b subject to amendments as shown below
OS388.2	Robert Andrew Van Turnhout	I seek to have the above provision amended	Amend Rule 10.3.2.2 (maximum area indigenous vegetation clearance) to allow for additional exemptions listed (inferred not stated)	Accept	Amend Rule 10.3.2.2.b as shown below
OS908.29	Otago Regional Council	I seek to have the above provision amended	Amend Rule 10.3.2.2.b (Exemptions to Maximum area indigenous clearance) to provide for unrestricted clearance of indigenous vegetation for pest control in accordance with the ORC Pest Management Plan for Otago 2009; and unrestricted clearance of indigenous vegetation that poses a toxic threat to livestock with appropriate controls, which would give effect to Proposed RPS Policies 2.2.2(e) 4.3.1 and 4.5.5.	Reject	Do not amend Rule 10.3.2.2.b as requested
FS2155.15	Robert Andrew Van Turnhout	I support the submission	Support OS908.29. Allow submission.	Reject	Do not amend Rule 10.3.2.2.b as requested
FS2391.39	Geoff Scurr Contracting Limited	I support the submission	Support OS908.29. Allow submission.	Reject	Do not amend Rule 10.3.2.2.b as requested
FS2449.179	Federated Farmers of New Zealand	I support the submission	Support OS908.29. Allow submission.	Reject	Do not amend Rule 10.3.2.2.b as

					requested
OS138.1	Martin and Macy Cameron	I seek to have the above provision amended	Amend Rule 10.3.2.2.b (maximum area indigenous vegetation clearance) so that clearance of Matagouri is included as an exemption	Accept in part	Amend Rule 10.3.2.2.b as shown below
FS2449.178	Federated Farmers of New Zealand	I support the submission	Support OS138.1. Allow submission.	Accept in part	Amend Rule 10.3.2.2.b as shown below
OS919.38	Federated Farmers of New Zealand	I seek to have the above provision amended	Amend Rule 10.3.2.2.b to exempt the clearance of Matagouri (Discaria toumatou) from controls on the clearance of indigenous vegetation.	Accept in part	Amend Rule 10.3.2.2.b as shown below
FS2267.22	Harboursides and Peninsula Preservation Coalition	I oppose the submission	Oppose OS919.38. Disallow submission and retain Rule 10.3.2.2.b as proposed in the 2GP.	Reject	Amend Rule 10.3.2.2.b as shown below
FS2482.29	Forest and Bird NZ	I oppose the submission	Oppose OS919.38. Disallow submission.	Reject	Amend Rule 10.3.2.2.b as shown below
OS969.1	Jeremy David & Julie Maxine Cameron	I seek to have the above provision amended	Amend Rule 10.3.2.2.b so that clearance of Matagouri is included as an exemption	Accept in part	Amend Rule 10.3.2.2.b as shown below
OS1067.3	Shane Johnson and Sharee Watts	I seek to have the above provision amended	Amend Rule 10.3.2.2.b (maximum area indigenous vegetation clearance) to include an exemption for the establishment of a 1000m ² building platform and 3.5m wide accessway on sites where residential activity is a permitted activity, and an exemption for the ability to put in firebreaks.	Reject	Do not amend Rule 10.3.2.2 as requested

Background

Rule 10.3.2.2 sets out the maximum area of indigenous vegetation clearance for rural and rural residential zones as follows:

"a. Indigenous vegetation clearance must not exceed the following maximum areas on any site over any three calendar year period, measured from stems at ground level:

Zone		Maximum Area
i.	Coastal Rural Zone	500m ²
ii.	High Country Rural Zone	500m ² non-tussock species
		10,000m ² (1ha) tussock species
iii.	Hill Country Rural Zone	500m ²
iv.	Hill Slopes Rural Zone	500m ²
v.	Middlemarch Basin Rural Zone	100m ²
vi.	Peninsula Coast Rural Zone	250m ²
vii.	Taieri Plains Rural Zone	100m ²
viii.	Rural Residential 1 and Rural Residential 2 Zones	250m ²

b. The following instances of indigenous vegetation clearance are exempt from this standard:

- i. vegetation clearance as part of existing forestry activity where the clearance involves an understorey of indigenous vegetation, or is for the maintenance of forestry access or firebreaks;
- ii. vegetation clearance of an area of Manuka that is adversely affected by Manuka Blight caused by *Eriococcus orariensis*; or
- iii. vegetation clearance provided for as part of a conservation management strategy, conservation management plan, reserve management plan or covenant established under the Conservation Act 1987 or any other Act specified in the First Schedule of the Conservation Act 1987.

c. For the purposes of this standard, if an area of indigenous vegetation straddles two zones, the lesser maximum area will apply."

These thresholds were determined based on an analysis of patterns of indigenous vegetation cover and types across different management zones. More information can be found in the section 32 report, *Determining indigenous vegetation clearance thresholds for Dunedin's rural zones (DCC 2015)*.

Note that Rule 10.3.2.2 and its associated assessment rule 10.4.3.3 were granted immediate legal effect by order of the Environment Court from notification of the 2GP.

Rule 10.3.2.2.a Maximum areas for indigenous vegetation clearance

Requests to retain all or part of Rule 10.3.2.2.a

STOP (OS900.148) seeks to retain Rule 10.3.2.2.a. (iii)-(v), (vii) and (viii) for maximum area of indigenous vegetation clearance in the Hill Country, Hill Slopes, Middlemarch Basin and Taieri Plains rural zones and the rural residential zones. The submitter believes 500m² is an appropriate size to provide for Part II RMA and maintain existing biodiversity.

Forest and Bird NZ (OS958.62) seeks to retain Rule 10.3.2.2.a.i (maximum area indigenous vegetation clearance - Coastal Rural Zone), as the submitter believes that 500m² is an appropriate maximum area of indigenous vegetation clearance to provide for Part II of the RMA and maintain existing biodiversity. Forest and Bird (OS958.50, 51, 52, 53, 63) also seeks to retain the maximum areas for indigenous vegetation clearance for the Hill Country, Hill Slopes, Middlemarch Basin, Taieri Plains rural zones and the rural residential zones, with no specific reasons given.

Robert Andrew Van Turnhout (FS2155.6) opposes Forest and Bird NZ (OS958.63) in relation to the maximum area for indigenous vegetation clearance in the Hill Slopes Rural Zone, because the submitter "needs to be able to keep my areas of pasture free of regenerating native bush in order to continue farming".

I note the support of the submitters, but also note that I am recommending amendments to some of the maximum area thresholds in Rule 10.3.2.2.a as discussed below.

Requests to remove all or part of Rule 10.3.2.2.a

Lynnore Joan Templeton (OS735.1) seeks to remove Rule 10.3.2.2 or adopt a more targeted approach. She believes that the benefits of developed land and the allowance of areas of native regeneration are a more sustainable approach for both the farmers and the environment than a blanket ban on vegetation clearance as determined by the 30% rule. Federated Farmers of New Zealand (FS2449.167) supports Lynnore Joan Templeton (OS735.1) as the Plan needs a more flexible approach to vegetation clearance and is currently too restrictive without any clear connection to effects or workability.

Bevan Thomas Wilson (OS850.1) seeks to remove 10.3.2.2 because he believes the rule should exclude previously developed land; matagouri is an invasive pest that can rapidly overtake other vegetation and subsequently degrade the landscape; it is removing the rights as a free holding landowner; it does not permit sustainable farming both financially and environmentally; and geographically this area is very different from 'Dunedin City' and operates in a different way therefore should be treated accordingly. He also questions what defines the 'area' in 30% of vegetation i.e. 30% of total farm area, per hectare etc. (this part of his submission is addressed in section 5.8.1 of this report).

Barry James Williams (OS886.4) seeks to remove Rule 10.3.2.2 (inferred not stated) because most farmers need to increase production for income so he questions why these restrictions are needed. Strath Taieri Community Board (OS905.3) questions the restrictions on developing farms where there may be tussock or matagouri.

Alistair Hope (OS1018.1) seeks to remove Rule 10.3.2.2 (inferred not stated), as he believes that if landowners cannot develop land which they own and is protected for its environmental features, then DCC should purchase the land for the benefit of the community at large.

Recommendations

I do not recommend removal of Rule 10.3.2.2. The 2GP mandate to protect indigenous biodiversity was outlined in section 5.4.2 above in discussing Objective 10.2.1, and Rule 10.3.2.2 directly gives effect to this objective. In relation to those submitters who have raised concerns regarding matagouri and regenerating indigenous vegetation, I note that these matters are discussed below in response to submissions on exemptions to Rule 10.3.2.2.

Request to change thresholds and/or time period

Requests to decrease thresholds and increase time period in Rule 10.3.2.2.a

STOP (OS900.147) and Forest and Bird NZ (OS958.48, OS958.49, OS958.54) seek to amend Rule 10.3.2.2.a so that the maximum area thresholds apply over a five year calendar period rather than a three year calendar period. The submitters also seek to change the maximum area for tussock clearance in the High Country Rural Zone from 10,000m² to 1,000m² and the maximum area for indigenous vegetation clearance in the Peninsula Coast Rural Zone from 250m² to 100m². There is no specific reason given for the change in time period, except for stating that it should be over a five year period. The reason for the change for the High Country zone is that 10,000m² is a significant size for permitted activity status for tussock grasslands, given their important ecosystem services. The reason for the Peninsula Coast change is that any remaining indigenous vegetation is likely to be significant and, as there is so little left, what is remaining needs to be protected in order to maintain the Peninsula's biodiversity.

HPPC (FS2267.20) supports STOP (OS900.147) because they believe it is good conservation.

John Scott (FS2140.31), Ben Graham (FS2279.31), Mathew O'Connell (FS2300.31), Geoff Scurr Contracting Limited (FS2391.42) and Pigeon Flat Road Group (FS2416.31) oppose STOP (OS900.147). John Scott, Ben Graham, Mathew O'Connell and Pigeon Flat Road Group believe that the reduction to 1000m² for tussock species is onerous and unnecessary. Geoff Scurr Contracting opposes a change to a five year period as the submitter believes the three year calendar period is long enough.

Federated Farmers (FS2449.163, FS2449.164, FS2449.172, FS2449.177) opposes STOP (OS900.147) and Forest and Bird (OS958.48, OS958.49, OS958.54). Federated Farmers opposes a change to a five year period as the submitter believes that this is unnecessarily restrictive and the original submitters have not justified the need for the amendment or shown where the 5 year figure has been obtained from. Federated Farmers also opposes the proposed reduction in maximum areas, stating these are inappropriate, too restrictive, do not allow for flexible management on land with indigenous vegetation on it and don't allow for maintenance and development of farmland in the rural zone.

Requests to review or increase maximum thresholds in Rule 10.3.2.2.a

Hummock Run Ltd (OS1082.1) believe the proposed restriction of indigenous vegetation clearance thresholds (500m² over hill country zones) on any site over any three year calendar year period is severe and would have serious economic impacts, both short and long term for landowners affected, and by default the greater region. The submitter believes it is unrealistic to expect private landowners to take on a major responsibility

both ecologically and financially for the protection of indigenous vegetation for the greater region. Federated Farmers of New Zealand (FS2449.156) supports Hummock Run Ltd as the Plan should provide flexibility in managing non-significant indigenous vegetation and consultation with affected landowners is appropriate.

Robert & Sharron Morris (OS355.11), Timothy Morris (OS951.68) and RG and SM Morris Family Trust (OS1054.68) seek to amend Rule 10.3.2.2 to increase maximum indigenous vegetation clearance thresholds in all zones, including 1000m² in the Peninsula Coast Rural Zone, to include exemptions for removal of regrowth indigenous vegetation within areas used for farming or forestry, and to include the exemptions listed in Rules 10.3.2.3.c and 10.3.2.4.b. Their reason is that excessive regrowth contributes to reductions of effective farming and forestry areas.

Federated Farmers of New Zealand (FS2449.166) supports Robert & Sharron Morris (OS355.11) as the proposed rule is too restrictive, and it is appropriate for the maximum clearance areas to be increased. Geoff Scurr Contracting Limited (FS2391.16) supports and RG and SM Morris Family Trust as the proposed rule is too restrictive, it is appropriate for the maximum clearance areas to be increased and that an exception for regrowth is required.

Otago Peninsula Community Board (OS588.6) seeks to amend Rule 10.3.2.2 to either allow for a greater maximum for Otago Peninsula or exempt clearance of regenerating native grassland species or kanuka (inferred not stated). The submitter believes that the rules are problematic for farmers on the Otago Peninsula. The maximum area of 250m² does not take into account historical regeneration of species such as Poa cita and other grassland species after 19th and 20th century land clearances. This is particularly relevant to Peninsula farmers who have land on the eastern coastline of the Peninsula. Traditional use of these areas has included the planting of fodder crops for stock feed. Such areas that are left fallow often see native grassland species regenerate. Under the proposed rules these areas will no longer be available for production as technically peripheral areas of Poa cita would be ploughed. There is no definition of original indigenous vegetation or differentiation between regeneration of grassland or shrublands. Another example is that of kanuka regeneration in areas cleared in the 19th and early 20th century.

Geoff Scurr Contracting Limited (OS794.8) seeks to amend Rule 10.3.2.2 to replace 500m² in 10.3.2.2.a.i-iv with 2.5ha, and to exempt matagouri. They take issue with the vegetation clearance thresholds specified and consider that there needs to be a distinction between tussock and non-tussock species when specifying areas for protection. This needs to apply to all rural zones and not just the High Country Rural Zone. It is likely to be guided by the rural subzone to which the vegetation clearance thresholds apply. For example, in many areas bush (such as broad leaf hardwoods or indigenous forest) may require more protection than tall tussock grassland or matagouri. Robert Andrew Van Turnhout (FS2155.14) supports Geoff Scurr Contracting Limited (OS794.8) as he needs to be able to keep his areas of pasture free from regenerating native bush in order to continue farming in the Silverpeaks area.

Federated Farmers of New Zealand (OS919.34) seeks to amend Rule 10.3.2.2.a so that the maximum permitted area of indigenous vegetation clearance on any site over any three calendar year period is 500m². The submitter is alarmed at the limiting nature of Rule 10.3.2.2 and strongly recommend Council reconsider the proposed maximum areas given the nature of the rural areas where these limits are being proposed is primarily intended for primary production and associated activities, as well as whether the proposed maximum clearance limits are the best mechanism for achieving the desired result of protection of indigenous species, given the myriad other planning mechanisms available both within and outside of the proposed plan, including covenanted land. HPPC (FS2267.21) opposes Federated Farmers because of the need for comprehensive conservation. Forest and Bird NZ (FS2482.28) opposes Federated Farmers as the amendments sought are not consistent with

the purpose of Part II RMA or the provisions of this plan, or the NCPS.

Donald & Heather Ramsay (OS1002.1) seek to amend Rule 10.3.2.2.a so that the maximum permitted area of indigenous vegetation clearance on any site over any three calendar year period is 500m² and so that matagouri is exempt. The submitters do not consider that the proposed limits are reasonable, particularly as they apply over a 3 year period. They believe protection of indigenous grasslands vegetation on private freehold land should strike a balance between ensuring indigenous species are appropriately protected while providing for a reasonable and productive use of the land.

Lindsay Carruthers (OS860.5, OS860.4), David Frew (OS872.5, OS872.4), John Carruthers (OS879.5, OS879.4) and Neil Grant (OS883.5, OS883.4) seek to amend Rule 10.3.2.2.a.ii and Rule 10.3.2.2.a.v to either exempt the clearance of matagouri, or to increase the 500m² for permitted indigenous vegetation clearance in the High Country and Middlemarch Basin rural zones. The submitters believe that there is no clearly defined parameter of what is a 'site' and that the limits for the Middlemarch Basin Rural Zone and High Country Rural Zone of 100msq and 500msq respectively, does not allow for land to be cleared for productive farming purposes. By removing matagouri from the definition, this is not to enable clear-felling of vegetation, but ensure that productive rural activities e.g. pastoral farming, can take place on suitable land unimpeded. By limiting the clearance in this zone to these levels, it does not mar the overall need and purpose for why vegetation is being cleared. The rule permits vegetation to be cleared on a three yearly basis, in which the land can continue to be completely cleared over time, this is elongating the process that is permitted to occur. Federated Farmers of New Zealand (FS2449.168-FS2449.171, FS2449.173-FS2449.176) supports these submissions as clearance of regenerating scrub is an appropriate farming activity in the rural zones and should not be subject to restrictions.

David Graham (OS926.1) seeks to amend Rule 10.3.2.2.a.iii so that in the Hill Country Rural Zone all sites under one hectare are exempt from the standard, to increase the maximum from 500m² to an allowance of 20 to 50 hectares per year, and to provide exemptions so that land can continue to be farmed economically. The submitter's reasons include:

- In the case of 1307 Hindon Road which is a village section near the Hindon Railway Station, the section is so small that you could be in breach of the rules even if you are only undertaking your household gardening.
- In the case of 1257 Hindon Road approximately 100 hectares is subject to an Outstanding Natural Landscape designation, the limitation of clearance of up to 500 square metres will mean that no economic programme for control of non-indigenous species is possible because provided 30 percent of the area is covered with indigenous species you are caught by the 500 square metre rule even if 70 percent is various noxious weeds and other non-indigenous species. In practice you have to have a continuous control programme whereby 20 to 50 hectares are cleared each year because the clearance lasts about five years before the rotation must begin again. If this is not done the farm will revert to scrub and be unable to carry sufficient stock units to be a viable sheep and beef farm.
- Significant parts of the farm are in tussock which needs to be controlled to allow the grass to grow. There needs to be an allowance of 20 to 50 hectares of tussock clearance each year to maintain a viable control programme.
- In the case of forestry areas there needs to be an exemption for the harvesting of the trees in their natural rotation. If this is not allowed then it amounts to a refusal to allow the harvesting of the forest.

Michael Ovens (OS740.5) seeks to amend the maximum clearance threshold for rural residential zones to 500m². The submitter believes that the

combination of the Rural Residential 2 rules and requirements of this provision as it stands make doing anything on this property very difficult to do and that it's all too limiting and may not be the best method for achieving the outcomes.

Recommendations – Amendment 1

I note that a number of the submissions on the maximum area thresholds also requested additional exemptions for the clearance of regrowth vegetation, or matagouri, or to include the same exemptions that are listed in Rules 10.3.2.3.c and 10.3.2.4.b. This part of these submissions is considered below with the exemptions listed in Rule 10.3.2.2.b.

The submissions relating to the time period specified in Rule 10.3.2.2 have been reviewed in the evidence of Kelvin Lloyd (paragraph 32). Referring to the request for a shorter timeframe, Dr Lloyd states that “While this would obviously be more restrictive, the submitters have not advanced any reasons for this request. The rural zones where this greater level of restriction would be more justifiable are the zones where there is the least amount of indigenous vegetation remaining, i.e. the Taieri Plains Rural Zone, Middlemarch Basin Rural Zone, and Peninsula Coast Rural Zone.”

On this basis of the statement of Dr Lloyd that the three rural zones specified are those with very little indigenous vegetation cover (refer Figure 2, *Determining indigenous vegetation clearance thresholds for Dunedin's rural zones 2015*), I consider it is justifiable to increase the time period specified in Rule 10.3.2.2.a to five years for these three zones and have **recommended** an amendment to this effect below.

Dr Lloyd's evidence also considers the maximum area thresholds across all rural and rural residential zones (paragraphs 25-43). Dr Lloyd does not recommend a decrease in the maximum threshold for the Peninsula Coast Rural Zone, although I note the recommended increase to a five year period rather than a three year period within which 250m² of indigenous vegetation may be cleared as of right.

Dr Lloyd (paragraphs 33-37) discusses the maximum threshold of 500m² for the Coastal Rural Zone stating that it seems “anomalously high for parts of the zone with little indigenous vegetation remaining, equal with the proposed maximum areas of permitted clearance for the High Country, Hill Country, and Hill Slopes Rural Zones. The Rural Coastal Zone has a much lower proportion of indigenous vegetation and habitat remaining than these other rural zones, and has a much greater area of Acutely Threatened and Chronically Threatened land environments, and a large proportion of the remaining indigenous vegetation occurs on these environments.”

Dr Lloyd considers that “the maximum area of permitted clearance of indigenous vegetation in parts of the northern part of the Rural Coastal Zone should be no more than 250m² in any three year period, as the protection of the remaining indigenous vegetation in this zone is very important. The parts of the northern Rural Coastal Zone where this greater restriction could apply are the areas north of Blueskin Bay, and east of Purakaunui Creek.”

While I accept this part of the evidence of Dr Lloyd, I note that there have been no submissions seeking a decrease in the maximum area threshold for the Coastal Rural Zone, so am uncertain of the scope for any change. I note that there has been a submission from Hummock Run Ltd (OS1082.1) to review all areas in discussion with landowners. However, the reasons given with this submission relate most closely to the Hill Country Zone and it is unlikely that the submitter is seeking a decrease in any maximum area thresholds. Due to this uncertainty around scope,

I have not recommended an amendment to Rule 10.3.2.2.a.vi at this point.

Dr Lloyd considers (paragraph 39) that the maximum areas in the High Country, Hill Country, and Hill Slopes Rural Zone could be larger than 500m², as “there are substantial areas of indigenous vegetation remaining in these zones, including areas of indigenous vegetation in ‘depleted grassland’ and ‘low producing grassland’ cover types.” Dr Lloyd considers that an increase to 1,000m² would not result in significant loss of indigenous vegetation and habitat within these zones. On the basis of this evidence of Dr Lloyd, I have **recommended** amendments to Rule 10.3.2.2.a.ii, iii, iv to this effect below.

Dr Lloyd assesses the submissions to change the maximum area for tussock clearance in the High Country Rural Zone to 1000m² in paragraphs 40 and 41 of his evidence. Dr Lloyd considers that there is merit in this submission for the Taieri Ridge and Mare Burn catchment parts of the High Country Rural Zone, stating that “This part of Dunedin City District lies within or adjacent to the Macraes Ecological District, which is noted for very high vascular plant species diversity, including many Threatened and At Risk plant species, and is also an important area for Threatened and At Risk lizard species. Many of these species occur in tussock grassland habitats, which are also important for frequent and safe dispersal of indigenous lizards. Thus the remaining less modified areas of indigenous tussock grassland on the Taieri Ridge and Mare Burn catchment warrant greater protection. In my opinion, permitted clearance of indigenous tussock grassland vegetation should not exceed 1,000m² in this part of the Rural High Country Zone.”

On the basis of the evidence of Dr Lloyd that remnant tussock areas in this part of the High Country Rural Zone are of high value and worthy of greater protection through a reduced maximum area for permitted clearance of tussock species, I have **recommended** an amendment to Rule 10.3.2.2.a.ii to this effect below. I note that a mapped area will need to be added to the 2GP maps to indicate the Taieri Ridge and Mare Burn catchment, and I have included this as part of the recommendation.

In relation to the rural residential zones, Dr Lloyd states (paragraph 42) “In my opinion the 250m² standard is justified, as Rural Residential Zones tend to be in local areas that have had more intensive land use and vegetation clearance than in the surrounding zone. In particular, they often contain indigenous vegetation in gullies, which can have important ecological functions.” I agree with the conclusion of Dr Lloyd that these zones are likely to have experienced pressure for vegetation clearance. I do not recommend the amendment proposed by the submitter is accepted.

In relation to the point raised by David Graham that an exemption is required for the harvesting of forestry trees, I note the exemption in Rule 10.3.2.2.b.i which exempts “vegetation clearance as part of existing forestry activity where the clearance involves an understorey of indigenous vegetation, or is for the maintenance of forestry access or firebreaks”. I do not believe any other exemptions are necessary.

Rule 10.3.2.2.b Exemptions

Requests to retain Rule 10.3.2.2.b

STOP (OS900.149) and Forest and Bird NZ (OS958.55) seek to retain Rule 10.3.2.2.b, with no specific reasons given. Robert Andrew Van Turnhout (FS2155.10, FS2155.5) opposes these submissions, because he needs to be able to keep his areas of pasture free of regenerating

native bush in order to continue farming.

Request to allow additional exemptions for regrowth vegetation and areas previously cultivated

Robert Andrew Van Turnhout (OS388.2) seeks to amend Rule 10.3.2.2 to allow for additional exemptions. The submitter states that he gets significant seeding as a result of the native bush that he has kept and he feels the new Plan destroys his ability to keep the native bush in check, continue with planting forestry in suitable areas and maintain the basics of farm tracks, whilst his neighbours on two sides who have turned their land into forestry blocks are completely exempt from these draconian provisions. Mr Van Turnhout seeks to be able to undertake indigenous vegetation clearance on land that has been cultivated in the last 15 years and to remove regrowth manuka and fern on areas of land used for stock grazing.

I note that a number of those submitters above who sought increases to the maximum thresholds also sought exemptions for regenerating indigenous vegetation, as well as to include the exemptions listed in Rules 10.3.2.3.c and 10.3.2.4.c. Also, submission points OS361.7, OS364.6 and OS1084.7, in section 5.8.4 above, sought an exemption for areas that have been cultivated (including oversowing, top dressing, spraying or burning off), oversown or burnt off in the last 15 years.

Recommendations - Amendment 2

Kelvin Lloyd has considered the submission of Mr Van Turnhout, along with other submissions seeking additional exemptions under Rule 10.3.2.2.b (refer paragraphs 55-64). Dr Lloyd also considers the exemptions listed in the operative Plan indigenous vegetation clearance rule 16.6.2.

Dr Lloyd considers that Rule 10.3.2.2.b should be amended to provide for clearance of indigenous vegetation that has regenerated on previously-cleared farmland. Dr Lloyd makes the following observations:

“Scattered regeneration of mānuka and kānuka on farmland does not have very high ecological value, and could be exempt from vegetation clearance rules....An exemption could be provided for previously-cleared land with indigenous tree regeneration that is less than 15 years old without significantly affecting indigenous vegetation and habitat....A similar exemption could be provided for land cultivated within the last 15 years, because cultivation generally destroys indigenous vegetation, and it is not likely that much indigenous regeneration would be present within 15 years of cultivation.”

Dr Lloyd does not support exemptions for land that has experienced topdressing, oversowing, spraying with herbicide or burning off in the last 15 years, stating that “These activities can be applied at relatively low cost over any kind of indigenous vegetation, thus potentially allowing any indigenous vegetation to be ‘cleared’”.

Dr Lloyd does not support the current exemption for Manuka that is adversely affected by Manuka Blight caused by *Eriococcus orariensis*, stating

that other scale insects which do not kill the host plant have replaced *Eriococcus orariensis* which is now no longer common. Dr Lloyd states that this exemption is likely to have little effect and should be removed. However, I am uncertain of the scope to do this, as there do not appear to have been any submissions relating to this.

Dr Lloyd also considers the exemptions listed in two other vegetation rules 10.3.2.3.c and 10.3.2.4.b, and considers that it would be reasonable to grant them in respect of the general indigenous vegetation clearance rule 10.3.2.2.

On the basis of the evidence of Dr Lloyd, I consider that there should be expansion of the exemptions provided in Rule 10.3.2.2.b to provide for control of regenerating indigenous vegetation on areas that have previously been farmed, and to allow for activities such as the erection and maintenance of fences and the construction and maintenance of tracks. I have **recommended** amendments to Rule 10.3.2.2.b below.

Request to exempt vegetation clearance for pest control or where indigenous vegetation provides a toxic threat to livestock

Otago Regional Council (OS908.29) seeks to amend Rule 10.3.2.2.b to provide for unrestricted clearance of indigenous vegetation for pest control in accordance with the ORC Pest Management Plan for Otago 2009; and unrestricted clearance of indigenous vegetation that poses a toxic threat to livestock with appropriate controls, which would give effect to pORPS-dv Policies 2.2.2(e), 4.3.1 and 4.5.5 (note that these are renumbered in the pORPS-dv). The submitter believes that proposed Rule 10.3.2.2 does not provide for the clearance of vegetation in locations where that vegetation restricts pest control of rabbits (exacerbating the pest problem) and/or is toxic to livestock - examples being matagouri (rabbit habitat) and tutu (a toxic species). Primary productivity may be lost if rabbits are not controlled, as well as having costs imposed on a neighbouring property where an affected land owner's rabbit control is insufficient. The inability to clear vegetation as part of a rabbit control program may also cause the land owner to be in breach of the ORC's Pest Management Plan for Otago 2009.

Robert Andrew Van Turnhout (FS2155.15), Geoff Scurr Contracting Limited (FS2391.39) and Federated Farmers of New Zealand (FS2449.179) support Otago Regional Council (OS908.29) because they believe that clearance of toxic and pest species that pose a risk to the health of stock should be a permitted activity.

Recommendation

Kelvin Lloyd's evidence considers the ORC submission in paragraphs 65 and 66. In relation to the request to provide for unrestricted clearance of indigenous vegetation for pest control, Dr Lloyd states that "It is not clear why unrestricted clearance is being sought by the submitter. This could potentially allow a 'scorched earth' approach to indigenous vegetation, where indigenous vegetation providing habitat for pest animals is able to be cleared, so as to remove this habitat. An ecologically appropriate exemption for clearance of matagouri is described above."

In relation to the request to allow unrestricted clearance of indigenous vegetation that poses a toxic threat to livestock, Dr Lloyd states "Toxicity to livestock is a property of plant species, not vegetation, and the species cited in the submission is tutu (*Coriaria* spp.). *Coriaria sarmentosa*, a shrubby species that dies back in winter, is the most common species of tutu in the Dunedin area, occurring in mostly upland areas, where its

primary habitat is naturally-disturbed riparian sites. Similarly, *Coriaria arborea*, a small tree, primarily occurs in riparian sites in Dunedin City District. Other species that have toxic effects include ngaio (*Myoporum laetum*), kowhai (*Sophora microphylla*), and tree nettle (*Urtica ferox*) which are important native tree and shrub species of highly reduced coastal forest types. As such, clearance of indigenous vegetation containing these species would potentially generate other adverse effects, particularly on coastal, riparian and freshwater values, which may also be inconsistent with the proposed Otago RPS. Alternative strategies, such as fencing off areas of riparian and coastal vegetation containing these species, could potentially be used to prevent stock access to plants."

I agree with the evidence of Dr Lloyd that allowing for unrestricted clearance of indigenous vegetation to control pest species could potentially allow for a 'scorched earth' approach to indigenous vegetation, which would not achieve the 2GP objectives in relation to indigenous biodiversity. Dr Lloyd notes that a potential exemption for matagouri has been described, and this is discussed below. I note that all species from the Pest Management Strategy for Otago 2009 are listed in Appendix 10B to the Natural Environment Strategy, which exempts clearance of these (exotic) species when undertaking vegetation clearance under rules 10.3.2.1 and 10.3.2.3. I also note that the tutu species described in the evidence of Dr Lloyd are not listed in the Pest Management Strategy. I am not recommending any change in response to this submission.

Requests to exempt clearance of Matagouri

Martin and Macy Cameron (OS138.1) seek to exempt the clearance of matagouri from Rule 10.3.2.2. The submitters believe that pests thrive in matagouri; the plant poses Health and Safety concerns; it is unattractive when it becomes a thick, dense mass. The submitters believe that matagouri needs to be controlled, not eliminated, but it needs to be left to their discretion so they can continue to farm sustainably into the future. Federated Farmers of New Zealand (FS2449.178) supports this submission, because they believe the clearance of regenerating scrub is an appropriate farming activity in the rural zones and should not be subject to restrictions.

Federated Farmers of New Zealand (OS919.38) also seeks to exempt the clearance of matagouri from Rule 10.3.2.2. The submitter is concerned because matagouri is a drought tolerant plant which may become prevalent on pasture that has not been grazed for some time. If unchecked, it could house both pest plants and pest animals and can cause problems for shearers and wool processing as it becomes attached to sheep wool.

HPPC (FS2267.22) opposes the submission of Federated Farmers because of the desire for comprehensive conservation. Forest and Bird NZ (FS2482.29) also opposes the submission of Federated Farmers because they believe the amendments sought are not consistent with the purpose of Part II RMA or the provisions of this plan, or the NCPS.

Jeremy David & Julie Maxine Cameron (OS969.1) also seek to exempt the clearance of matagouri from Rule 10.3.2.2. The submitter believes that matagouri provides significant rabbit habitat and rabbit population control becomes difficult and very expensive. It also provides habitat for wild pigs and Opossums which carry TB. Contamination of wool by matagouri is also ongoing.

I note that a number of those submitters above who sought increases to the maximum thresholds also sought an exemption for matagouri.

Recommendation – Amendment 3

The evidence of Kelvin Lloyd considers a possible exemption for matagouri in paragraphs 45-54. Dr Lloyd states that “Matagouri is a shrub of inland South Island environments. It is able to thrive on non-cultivated land in the inland rural zones as it can re-sprout after fire, has thorns that deter grazing, and like many legumes (e.g. white clover - *Trifolium repens*, and gorse - *Ulex europaeus*), responds positively to application of superphosphate fertiliser. It is very likely to have increased significantly in extent in Central Otago following anthropogenic fires that destroyed the previous woody vegetation. Historically, matagouri most likely occupied sites that were either too cold, too disturbed, or had too thin soils to support taller indigenous woody vegetation. More natural stands of matagouri therefore occur on alluvial terraces and fans, and around rock outcrops.”

Dr Lloyd does not support a complete exemption for matagouri, stating (paragraphs 52-53) that: “Within the inland zones of Dunedin City District, stands of matagouri beside streams, on alluvial terraces, and on alluvial fans are likely to best represent the historic distribution of matagouri. Matagouri on these landforms should not therefore be covered by an exemption. These stands of matagouri are generally taller, and could also be captured by a maximum height criterion. More diverse shrubland stands containing matagouri should not be exempt from clearance, because these are likely to represent less modified shrublands and have more important ecological functions, such as providing habitat for indigenous birds, lizards, and invertebrates.”

Dr Lloyd suggests (para 79a) that “The vegetation clearance rule could exempt stands of matagouri-dominant shrubland that contain no matagouri individuals greater than 1.5 m tall and that contain no more than one additional indigenous shrub species.”

I acknowledge the concerns of the submitters regarding the spread of matagouri and its impacts on farming operations. I also note the evidence of Dr Lloyd details its importance in its more natural and pre-human setting and/or in conjunction with other shrubland species. I **recommend** a moderated amendment to exempt the clearance of matagouri where it is located in its more natural setting (with height forming a proxy for this) and/or in conjunction with other shrubland species. This recommended amendment is set out below.

Request to exempt establishment of 1000m² building platform, 3.5m wide accessway and firebreaks

Shane Johnson and Sharee Watts (OS1067.3) seek to amend Rule 10.3.2.2.b to include an exemption for the establishment of a 1000m² building platform and 3.5m wide accessway on sites where residential activity is a permitted activity, and an exemption for the ability to put in firebreaks. The submitters believe that there is a conflict with the Forest and Rural Fires Act 1977 as the rule states you can 'maintain' firebreaks but you cannot put them in. The submitters state it will take 9 years of clearing before a house and track can be put in.

Recommendation

This submission has been considered in the evidence of Kelvin Lloyd (paragraphs 67-69). Dr Lloyd points out that he is now recommending an increase to provide for 1,000m² thresholds in the Hill Slopes, Hill Country and High Country zones which would provide for a 1,000m² building platform but not necessarily for an access road. Dr Lloyd points out that with no definition of the length of an access road, the area of indigenous

vegetation affected could be quite large.

Dr Lloyd also discusses the proposed exemption for establishing firebreaks, stating “Fire risk can be a significant issue for residential areas within indigenous vegetation, and can be addressed by the use of ‘firesmart’ principles, including maintaining green vegetation around residences and removing potential fuel (woody debris) from within adjacent indigenous vegetation. Additional clearance for firebreaks could also be applied for in a resource consent application.”

The recommended increase in thresholds to 1,000m² in three rural zones which would allow for a building platform of 1,000m² to be established in these zones, and I note that most but not all of the submitters’ property is in one of these, namely the Hill Slopes Rural Zone. However, this does not provide for additional clearance of indigenous vegetation for the establishment of access roads and fire breaks. This does not mean that it would take 9 years of clearing to establish these, but that resource consent would be required to clear more than the permitted amount, in order to assess the effects on biodiversity. This gives some measure of discretion over assessing the effects on indigenous biodiversity and allowing input into the design and location of these development activities. I note that in many situations resource consent will already be required under earthworks standards when establishing access roads or firebreaks.

I consider that this is the appropriate approach to managing indigenous vegetation clearance associated with the establishment of residential activities, and do not recommend this submission is accepted.

Recommended amendment:

Amendment One

Amend Rule 10.3.2.2.a as shown below:

“a. Indigenous vegetation clearance must not exceed the following maximum areas on any site over ~~any three calendar year period~~ the time period indicated, {NatEnv900.147} measured from stems at ground level:

Zone	Maximum Area	Time period
i. Coastal Rural Zone	500m ²	<u>Three calendar years</u>
ii. High Country Rural Zone <i>within the Taieri Ridge and Mare Burn Mapped Area</i>	500m² 1000m ² non-tussock species {NatEnv860.5 and others} 1000m ² tussock species {NatEnv900.147, NatEnv958.49}	<u>Three calendar years</u>
iii. High Country Rural Zone <i>not within the Taieri Ridge and Mare Burn Mapped Area</i>	500m² 1000m ² non-tussock species {NatEnv860.5 and others} 10,000m ² (1ha) tussock species {NatEnv900.147, NatEnv958.49}	<u>Three calendar years</u>
iii. iv. Hill Country Rural Zone	500m² 1000m ² {NatEnv1082.1 and others}	<u>Three calendar years</u>

iv.	Hill Slopes Rural Zone	500m ² -1000m ² {NatEnv355.1 and others}	Three calendar years
vj.	Middlemarch Basin Rural Zone	100m ²	Five calendar years {NatEnv900.147}
vij.	Peninsula Coast Rural Zone	250m ²	Five calendar years {NatEnv900.147}
viii.	Taieri Plains Rural Zone	100m ²	Five calendar years {NatEnv900.147}
viii-ix.	Rural Residential 1 and Rural Residential 2 Zones	250m ²	Three calendar years

Add a Taieri Ridge and Mare Burn Mapped Area to the 2GP mapping to indicate the different application of Rule 10.3.2.2.a in the High Country Rural Zone {NatEnv900.147}

Amendments Two and Three

Amend Rule 10.3.2.2.b as shown below:

- "b. The following instances of indigenous vegetation clearance are exempt from this standard:
- i. vegetation clearance as part of existing forestry activity where the clearance involves an understorey of indigenous vegetation, or is for the maintenance of forestry access or firebreaks;
 - ii. vegetation clearance of an area of Manuka that is adversely affected by Manuka Blight caused by *Eriococcus orariensis*; ~~or~~
 - iii. vegetation clearance of stands of matagouri-dominant shrubland that contain no matagouri individuals greater than 1.5 m tall and that contain no more than one other non-matagouri indigenous shrub species; {NatEnv138.1 and others}
 - iv. vegetation which has grown naturally on land that has been clear of such vegetation less than 15 years prior; {NatEnv388.2 and others}
 - v. clearance of areas that have been cultivated in the last 15 years; {NatEnv361.7 and others}
 - vi. clearance that is part of conservation activity involving vegetation clearance and replacement with indigenous species;
 - vii. clearance of a pest plant listed in Appendix 10B;
 - viii. for the erection, maintenance or alteration of fences (including gates);
 - ix. for the maintenance (but not extension) of existing network utilities activities (including irrigation infrastructure), tracks, drains, roads, or fire breaks;
 - x. for the construction or maintenance of tracks up to 2m in width; {NatEnv951.68, NatEnv1054.68}
 - ~~iii-xi.~~ vegetation clearance provided for as part of a conservation management strategy, conservation management plan, reserve management plan or covenant established under the Conservation Act 1987 or any other Act specified in the First Schedule of the Conservation Act 1987."

5.8.6.3 Rule 10.4.3.3 Indigenous vegetation clearance (maximum area) assessment rule

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
OS919.157	Federated Farmers of New Zealand	I support the provision	Retain Rule 10.4.3.3 (assessment of contravention of indigenous vegetation clearance maximum areas), but only if the decisions requested in Federated Farmers' submissions relating to the maximum permitted areas of indigenous vegetation clearance (Rule 10.3.2.2.a.v-viii) and the proposed exemption from these controls for Matagouri clearance (Rule 10.3.2.2.b) are accepted.	Accept in part	Retain Rule 10.4.3.3
OS1088.50	Oceana Gold (New Zealand) Limited	I seek to have the above provision amended	Amend Rule 10.4.3.3 (assessment of contravention of indigenous vegetation clearance maximum areas) by adding the following paragraph under 'Potential circumstances or mitigation measures that may support a consent application': ' <u>The activity is unable to be undertaken anywhere else and unavoidably exceeds the maximum area allowed.</u> '	Reject	Do not amend Rule 10.4.3.3 as requested
FS2267.25	Harboursides and Peninsula Preservation Coalition	I oppose the submission	Oppose OS1088.50. Disallow submission and retain Rule 10.4.3.3 as proposed in the 2GP.	Accept	Do not amend Rule 10.4.3.3 as requested
OS900.159 OS958.81	Save The Otago Peninsula (STOP) Inc Soc Forest and Bird NZ	I seek to have the above provision amended	Amend Rule 10.4.3.3 by adding the following relevant objectives and policies: <u>Objective 2.2.3 and policies 2.2.3.1, 2.2.3.2, 2.2.3.3, and policy 10.2.1.2</u> (as amended by this submission)	Reject	Do not amend Rule 10.4.3.3 as requested
FS2449.208, FS2449.214	Federated Farmers of New Zealand	I oppose the submission	Oppose OS900.159 and OS958.81. Disallow submissions.	Accept	Do not amend Rule 10.4.3.3 as requested

OS951.18	Timothy George Morris				
OS1054.18	Timothy Morris (on behalf of RG and SM Morris Family Trust)	I seek to have the above provision amended	Amend Rules 10.4.3.3, 10.4.3.4 and 10.4.3.5 (assessment of performance standard contraventions located in Natural Environment) to include Policy 16.2.1.1 as a consideration	Accept in part	Amend Rule 16.9.4 as shown below

Background

Rules 10.4.3.3 (assessment of contravention of maximum area of indigenous vegetation clearance) is as follows:

3.	Vegetation clearance (Maximum area of indigenous vegetation clearance)	a. Effects on biodiversity	<p><i>Relevant objectives and policies:</i></p> <ul style="list-style-type: none"> i. Objective 10.2.1. ii. Indigenous vegetation clearance avoids adverse effects on the biodiversity values of areas of indigenous vegetation, or ensures adverse effects are no more than minor (Policy 10.2.1.3). <p><i>Potential circumstances or mitigation measures that may support a consent application:</i></p> <ul style="list-style-type: none"> iii. The clearance is of a non-local indigenous species that has extended beyond its range. iv. The clearance is part of conservation activity involving the clearance of indigenous species and replacement by other indigenous species. v. The clearance is of indigenous vegetation that is diseased and unlikely to regain health and viability.
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Rule 10.4.3.3 was granted immediate legal effect by order of the Environment Court from notification of the 2GP.

Submissions in Support

Federated Farmers of New Zealand (OS919.157) seek to retain Rule 10.4.3.3 as proposed, but only if the proposed increase in maximum limits in Rule 10.3.2.2 and the proposed exemption to Rule 10.3.2.2 for matagouri are adopted.

I note that the submissions of Federated Farmers in relation to Rule 10.3.2 have effectively been accepted in part, by the increase in maximum

area thresholds in the High Country, Hill Country and Hill Slopes zones, and by the inclusion of matagouri (where not greater than 1.5m tall and not in shrubland with more than two other indigenous shrub species) in the exemptions.

Request to amend Rule 10.4.3.3 to consider locationally-constrained activities

Oceana Gold (New Zealand) Limited (OS1088.50) supports Rule 10.4.3.3 in part based on the submitter's submissions on Objective 10.2.1 and Policy 10.2.1.4 being accepted. Oceana Gold also seeks to add a potential circumstance to support a consent application as follows: "The activity is unable to be undertaken anywhere else and unavoidably exceeds the maximum area allowed". The submitter states that some mining operations are likely to unavoidably exceed the maximum area allowed, and therefore the inclusion of this as a potential circumstance to support a consent application should be allowed.

HPPC (FS2267.25) opposes the Ocean Gold submission for reasons of indigenous vegetation protection.

Recommendation

I do not support the amendment to Rule 10.4.3.3 proposed by the submitter. I consider the wording does not provide adequate guidance for assessment of a resource consent application, particularly in relation to the wording "unavoidably exceeds the maximum area allowed".

However, I note the proposed amendments to Rule 10.4.3.3 and Policy 10.2.1.8 (which considers restoration of indigenous vegetation after mining activity) as a result of submissions seeking improved recognition and support for biodiversity offsetting. I consider these amendments, set out in section 5.1.3 above, provide more appropriate relief to address the submitter's concerns in part.

Requests to add relevant objectives and policies to Rule 10.4.3.3

STOP (OS900.159) and Forest and Bird (OS958.81) seek to amend Rule 10.4.3.3 to add as relevant objectives and policies Objective 2.2.3 and policies 2.2.3.1, 2.2.3.2, 2.2.3.3, and 10.2.1.2 as amended by their submissions. The submitters consider that effects on biodiversity should specifically mention potential areas of significant indigenous vegetation and significant habitats of indigenous fauna.

Federated Farmers of New Zealand (FS2449.208, FS2449.214) opposes these submissions because "the amendments proposed go significantly further than appropriate or required for performance standards in this area".

Timothy George Morris (OS951.18) and Timothy Morris (on behalf of RG and SM Morris Family Trust (OS1054.18) seek to amend Rules 10.4.3.3, 10.4.3.4 and 10.4.3.5 to include Policy 16.2.1.1 as a relevant policy. This submission applies to assessment rules 10.4.3.4 and 10.4.3.5 as well as 10.4.3.3 but will be fully considered here.

Recommendation – Amendment 1

I do not support the STOP and Forest and Bird submissions to add strategic objectives and policies to Rule 10.4.3.3, for the same reasons as outlined above to the same submitters in relation to Rule 10.4.3.2 in section 5.8.5.3. However, I note a recommendation in section 5.13.2 below to amend the rule to include consideration of whether the area affected meets the significance criteria set out in strategic Policy 2.2.3.1.

With regard to the request from Mr. Morris to add Policy 16.2.1.1, I do not recommend this amendment as it is contrary to the Plan structure to include reference to a management zone policy in a city wide section. Policy 16.2.1.1 sets up the permitted activity status of farming, grazing and conservation activities in the rural zones as one way of achieving Objective 16.2.1 (which also clearly supports these activities).

In order to address the concerns of the submitter, I recommend a more appropriate amendment would be to add a row to Rule 16.9.4 (assessment of all development performance standard contraventions) as follows:

	Activity	Matters of discretion	Guidance on the assessment of resource consents
1.	All RD activities	Positive effects in terms of supporting farming or conservation activity	Relevant objectives and policies: Objective 16.2.1

This amendment will allow positive effects and the attainment of Objective 16.2.1 to be considered when assessing any performance standard contravention in the rural zones. I note that the Morris's make similar requests in relation to the assessment of restricted discretionary and discretionary activities (refer sections 5.13.5 and 5.13.9 of this report), where I make a similar recommendation.

Recommended amendment:

Amendment 1

Amend Rule 16.9.4 by adding the following row as the start of the table (creating a new rule 16.9.4.1) and consequentially renumbering following rules:

	Activity	Matters of discretion	Guidance on the assessment of resource consents
1.	<u>All development performance standard contraventions</u>	<u>Positive effects in terms of supporting farming or conservation activity</u>	<u>Relevant objectives and policies: Objective 16.2.1</u>

{NatEnv951.18}

5.8.7 Provisions for Protected Areas and Protected Species

5.8.7.1 Policy 10.2.1.4

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
OS457.28	Aurora Energy Limited	I seek to have the above provision amended	Amend Policy 10.2.1.4 by adding the following: '... , where the biodiversity values of the area of indigenous vegetation are maintained or <u>where appropriate</u> enhanced.'	Reject	Do not amend Policy 10.2.1.4 as requested
FS2449.84	Federated Farmers of New Zealand	I support the submission	Support OS457.28. Allow submission.	Reject	Do not amend Policy 10.2.1.4 as requested
OS900.29	Save The Otago Peninsula (STOP) Inc Soc	I seek to have the above provision amended	Amend Policy 10.2.1.4 as follows: Only allow indigenous vegetation clearance in a Scheduled Area of Significant Conservation Value (ASCV), or a wetland, or where there are threatened plant species, <u>or wildlife species</u> or mature trees on the important native tree species list present, <u>where or an area that meets the criteria in Policy 2.2.3.1 for significant natural areas, for the enhancement of conservation values provided</u> the biodiversity values of the area of indigenous vegetation are maintained <u>protected</u> or enhanced.	Accept in part	Amend Policy 10.2.1.4 as shown below
FS2140.27	John Scott	I oppose the submission	Oppose OS900.29. Disallow submission and do not make changes as requested by submitter.	Accept in part	Amend Policy 10.2.1.4 as shown below
FS2279.27	Ben Graham	I oppose the submission	Oppose OS900.29. Disallow submission and do not make changes as requested by submitter.	Accept in part	Amend Policy 10.2.1.4 as shown below
FS2300.27	Mathew O'Connell	I oppose the	Oppose OS900.29. Disallow submission and	Accept in part	Amend Policy

		submission	do not make changes as requested by submitter.		10.2.1.4 as shown below
FS2391.51	Geoff Scurr Contracting Limited	I oppose the submission	Oppose OS900.29. Disallow submission and retain Policy 10.2.1.4 as proposed in the 2GP.	Accept in part	Amend Policy 10.2.1.4 as shown below
FS2416.27	Alan Brown, Carrowmore Properties Limited, Robyn and Stephan Smith and Rick and Jill Clarke ("Pigeon Flat Road Group")	I oppose the submission	Oppose OS900.29. Disallow submission and do not make changes as requested by submitter.	Accept in part	Amend Policy 10.2.1.4 as shown below
FS2449.85	Federated Farmers of New Zealand	I oppose the submission	Oppose OS900.29. Disallow submission.	Accept in part	Amend Policy 10.2.1.4 as shown below
OS958.22	Forest and Bird NZ	I seek to have the above provision amended	Amend Policy 10.2.1.4 as follows: Only allow indigenous vegetation clearance in a Scheduled Area of Significant Conservation Value (ASCV), or a wetland, or where there are threatened plant species, <u>or wildlife species</u> or mature trees on the important native tree species list present, <u>or an area that meets the criteria in Schedule xx for significant natural areas, and Schedule xxx for Important Bird Areas, for the enhancement of conservation values provided</u> where the biodiversity values of the area of indigenous vegetation are maintained <u>protected</u> or enhanced.	Accept in part	Amend Policy 10.2.1.4 as shown below
FS2449.86	Federated Farmers of New Zealand	I oppose the submission	Oppose OS958.22. Disallow submission.	Accept in part	Amend Policy 10.2.1.4 as shown below
OS919.24	Federated Farmers of New Zealand	I seek to have the above provision	Amend Policy 10.2.1.4 as follows: 'Only allow indigenous vegetation clearance in a	Reject	Do not amend Policy 10.2.1.4 as requested

		amended	Scheduled Area of Significant Conservation Value (ASCV), or a wetland, or where there are threatened plant species or mature trees on the important native tree species list present, where the biodiversity values of the area of indigenous vegetation are maintained or enhanced.'		
FS2267.15	Harboursides and Peninsula Preservation Coalition	I oppose the submission	Oppose OS919.24. Disallow submission and retain Policy 10.2.1.4 as proposed in the 2GP.	Accept	Do not amend Policy 10.2.1.4 as requested
FS2482.21	Forest and Bird NZ	I oppose the submission	Oppose OS919.24. Disallow submission.	Accept	Do not amend Policy 10.2.1.4 as requested
OS949.5	Department of Conservation	I oppose the provision	Remove Policy 10.2.1.4	Accept in part	Amend Policy 10.2.1.4 as shown below

Background

Policy 10.2.1.4 states “Only allow indigenous vegetation clearance in a Scheduled Area of Significant Conservation Value (ASCV), or a wetland, or where there are threatened plant species or mature trees on the important native tree species list present, where the biodiversity values of the area of indigenous vegetation are maintained or enhanced”.

This policy leads to the use of a restricted discretionary activity status for indigenous vegetation clearance in ASCVs, and to the performance standards for protected areas and protected species in rules 10.3.2.3 and 10.3.2.4.

Submission to change wording to “maintained or where appropriate enhanced”

Aurora Energy Limited (OS457.28) seeks to amend Policy 10.2.1.4 so that it ends “where the biodiversity values of the area of indigenous vegetation are maintained or where appropriate enhanced”. While supportive of measures that seek to reduce the loss of biodiversity values particularly in locations identified as Areas of Significant Conservation Value (ASCV), there will be instances where Aurora will be required to remove indigenous vegetation to ensure that operational efficiency of its network is maintained and to remove potential fire risks. Federated Farmers of New Zealand (FS2449.84) supports Aurora Energy Limited because the RMA does not require that all indigenous vegetation be enhanced, therefore they support the addition of “where appropriate”.

Recommendation

A similar submission was made in relation to Policy 10.2.1.5 above by the same submitter in section 5.8.5.1 above. I do not recommend acceptance of this submission for the same reasons as given in that section, and note again that there are exemptions in place for vegetation clearance for the maintenance of existing network utilities – in the definition of Indigenous Vegetation Clearance (in relation to ASCVs), and in rules 10.3.2.3 and 10.3.2.4.

Requests to expand policy to include wildlife species, to reference significance criteria, and to “protect” areas of indigenous vegetation

STOP (OS900.29) seeks to amend Policy 10.2.1.4 as follows:

Only allow indigenous vegetation clearance in a Scheduled Area of Significant Conservation Value (ASCV), or a wetland, or where there are threatened plant species, or wildlife species or mature trees on the important native tree species list present, where or an area that meets the criteria in Policy 2.2.3.1 for significant natural areas, for the enhancement of conservation values provided the biodiversity values of the area of indigenous vegetation are ~~maintained~~ protected or enhanced.

Forest and Bird (OS958.22) seeks a slightly different version, with reference to their proposed schedules for significance:

Only allow indigenous vegetation clearance in a Scheduled Area of Significant Conservation Value (ASCV), or a wetland, or where there are threatened plant species, or wildlife species or mature trees on the important native tree species list present, or an area that meets the criteria in Schedule xx for significant natural areas, and Schedule xxx for Important Bird Areas, for the enhancement of conservation values provided where the biodiversity values of the area of indigenous vegetation are ~~maintained~~ protected or enhanced.

The submitters understand this policy is to enable activities that support conservation, but believe as written it is much broader than this and fails to meet RMA provisions. Section 6(c) requires provisions for the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna. As noted above not all these sites have been identified or included in the schedules. No new development activities should be allowed in areas of significant indigenous vegetation and significant habitats of indigenous fauna, unless there are no adverse effects – includes mining, subdivisions, wind generators etc.

John Scott (FS2140.27), Ben Graham (FS2279.27), Mathew O'Connell (FS2300.27), Geoff Scurr Contracting Limited (FS2391.51), Pigeon Flat Road Group (FS2416.27) oppose STOP (OS900.29). John Scott, Ben Graham, Mathew O'Connell and the Pigeon Flat Road Group are opposed to amendments which further restrict indigenous vegetation clearance in particular areas, including significant natural areas. They consider all of the amendments sought are too restrictive, impractical and unnecessary. The requirement to protect, rather than maintain, is more onerous and is not appropriate for the areas identified in the policy. Geoff Scurr Contracting prefers the original wording.

Federated Farmers of New Zealand (FS2449.85, 86) opposes STOP (OS900.29) and Forest and Bird NZ (OS958.22), as the amendments are

inconsistent with the RMA purpose and principles and too vague and ill-defined.

Recommendations – Amendment 1

I respond to these submissions as follows:

“or wildlife species” – As I am recommending the addition of threatened wildlife species to Rule 10.3.2.4 (refer section 5.8.7.4 below), I have made a recommendation below that “threatened wildlife species” is added to Policy 10.2.1.4.

“or an area that meets the criteria in Policy 2.2.3.1 for significant natural areas / or an area that meets the criteria in Schedule xx for significant natural areas, and Schedule xxx for Important Bird Areas” – I do not recommend that these are added to the policy as these potentially significant areas are not directly controlled by the associated performance standards (rules 10.3.2.3 and 10.3.2.4). I note, however, that I am recommending that any contravention of these and other vegetation clearance standards will assess whether the area affected meets one or more of the significance criteria.

“for the enhancement of conservation values provided” – I do not recommend that this phrase is added to the policy. The policy seeks to “maintain or enhance” biodiversity values, whereas this phrase seeks that conservation values are always enhanced, which is a more onerous requirement. I also consider it would deter from plan clarity to refer to both conservation values and biodiversity values in the same policy, although they are obviously closely and directly related. I consider the outcome sought by the policy relates more closely to biodiversity values in contributing towards the achievement of Objective 10.2.1, with conservation relating more as an activity utilised to maintain or enhance biodiversity.

“the biodiversity values of the area of indigenous vegetation are ~~maintained~~ protected or enhanced” – I do not recommend this amendment is made to the policy. I consider protection of areas is achieved at the level of the 2GP strategic policies, which include the methods of identification and protection (through scheduling or promoting as QEII covenants) of significant indigenous vegetation and habitats. I consider that “maintaining or enhancing” biodiversity values is more appropriate terminology for this policy. I note a similar submission to Objective 10.2.1 was considered in section 5.4.2 above.

Request to remove reference to threatened plant species or mature trees on the important native tree species list

Federated Farmers of New Zealand (OS919.24) seeks to amend Policy 10.2.1.4 by removing the clause “or where there are threatened plant species or mature trees on the important native tree species list present”. The submitter believes the requirement for plan users to assess whether or not there are threatened plant species or mature trees on the important native tree species list present in an area prior to undertaking clearance is an unnecessary and onerous requirement, particularly if these species are protected through schedules. It is also unclear what Rule is associated with this policy. Rule 10.3.2.3 doesn't require maintenance or enhancement when clearing, it simply requires a

setback from wetlands, high tide and water bodies.

HPPC (FS2267.15) opposes Federated Farmers, as the further submitter disagrees with the statement that this policy represents an 'onerous requirement' on landowners, consider that vegetation clearance is not a regular repeated landowner activity, and would unlikely be done more often than a few times over a 10 or 20-year period. Also, through free input by volunteer groups, a landowner can learn about his species with little effort or cost. Forest and Bird NZ (FS2482.21) opposes Federated Farmers, as the further submitter considers the amendments sought are not consistent with the purpose of Part II RMA or the provisions of the 2GP, or the NCPS.

Recommendation

In response to Federated Farmers, I can clarify that it is Rule 10.3.2.4 that relates to the threatened plant species or mature trees on the important native tree species list, rather than Rule 10.3.2.3. The reason for having this part of Policy 10.2.1.4 and Rule 10.3.2.4 is in recognition that not all areas that contain threatened plant species or larger specimens of important native trees are scheduled as ASCVs.

I do not consider this an unnecessary requirement, as I consider the protection of these important species necessary to give effect to objectives 10.2.1 and 2.2.3, and not all examples of these species will be currently protected in scheduled areas. I do not recommend that this amendment is accepted.

However, I note the view of Federated Farmers in terms of it being an onerous requirement to identify the species covered by Rule 10.3.2.4. I consider this a valid concern which raises questions in terms of the relevant support that may be available to landowners – for example, information, education or liaison with DCC ecological staff. I am not making any recommendation in relation to the application of non-regulatory methods at this point. However, I draw this matter to the Panel's attention as a topic for wider consideration at the hearing.

Request to remove Policy 10.2.1.4

Department of Conservation (OS949.5) seek to remove Policy 10.2.1.4 because the submitter believes that it is in effect a duplication of Policy 10.2.1.2, but as it only provides for the maintenance of biodiversity values it is in conflict with the purpose of Policy 10.2.1.2, which provides for the protection of those values as required by section 6(c) of the RMA.

Recommendation – Amendment 2

I do not consider that Policy 10.2.1.4 is a completed duplication of Policy 10.2.1.2. Policy 10.2.1.2 relates to all land use and development activities in ASCVs, whereas Policy 10.2.1.4 specifically relates to indigenous vegetation clearance in a range of 'protected' areas including but not limited to ASCVs. I do not recommend that Policy 10.2.1.4 is removed.

However, I consider that it is duplication for both policies 10.2.1.2 and 10.2.1.4 to be managing indigenous vegetation clearance in ASCVs. I consider that indigenous vegetation clearance in ASCVs should be managed under Policy 10.2.1.2 for sake of consistency with other activities in ASCVs and to enhance plan clarity. I am recommending an amendment to Policy 10.2.1.4 below. As this would mean that Policy 10.2.1.4 solely

leads to the performance standards for protected areas and protected species in rules 10.3.2.3 and 10.3.2.4, I am also recommending changing the start of the policy to a “Require” wording.

I also consider that the wording of the policy should be amended to provide for a wider consideration of the effects on biodiversity values when indigenous vegetation clearance is proposed. Such an amendment would allow for the use of offsetting in response to a clearance proposal. I consider scope for this is provided by the DOC submission (OS949.4) on Policy 10.2.1.3, discussed in section 5.1.3, which seeks introduction of a range of options for mitigation or offsetting to mitigate adverse effects of indigenous vegetation clearance in all areas that are not considered to be an ASCV.

Recommended amendment:

Amendments One and Two

Amend Policy 10.2.1.4 as follows, and make consequential changes to assessment rules, including by removing Policy 10.2.1.4 from Rule 10.5.2.7:

~~“Only allow Require any {NatEnv949.5} indigenous vegetation clearance in a Scheduled Area of Significant Conservation Value (ASCV), or {NatEnv949.5} a wetland, or where there are threatened plant species or wildlife species {NatEnv900.29} or mature trees on the important native tree species list present, to ensure that where the biodiversity values of the area of indigenous vegetation {NatEnv949.4} are maintained or enhanced.”~~

5.8.7.2 Policy 10.2.2.3 Setback of vegetation clearance from the coast and water bodies

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
OS322.32	KiwiRail Holdings Limited	I seek to have the above provision amended	Amend Policy 10.2.2.3 as follows: Require vegetation clearance to be set back an adequate distance from the coast and water bodies <u>where practicable</u> to minimise the risk of erosion and protect, or enable the enhancement of, biodiversity and natural character values.	Accept in part	Amend Rule 10.3.2 and the definition of indigenous vegetation clearance as shown below

FS2449.102	Federated Farmers of New Zealand	I support the submission	Support OS322.32. Allow submission.	Accept in part	Amend Rule 10.3.2 and the definition of indigenous vegetation clearance as shown below
OS1088.39	Oceana Gold (New Zealand) Limited	I seek to have the above provision amended	Amend Policy 10.2.2.3 as follows: 'Require vegetation clearance to be set back an adequate distance from the coast and water bodies <u>where practicable</u> to minimise the risk of erosion and protect, or enable the enhancement of, biodiversity and natural character values.'	Reject	Do not amend Policy 10.2.3.3 as requested
OS900.39 OS958.33	Save The Otago Peninsula (STOP) Inc Soc Forest and Bird NZ	I seek to have the above provision amended	Amend Policy 10.2.2.3 as follows: Require vegetation clearance to be set back an adequate distance from the coast and water bodies to <u>avoid</u> minimise the risk of erosion and protect, or enable the enhancement of, biodiversity and natural character values, <u>with particular regard to wildlife habitats and native fish spawning areas.</u>	Reject	Do not amend Policy 10.2.2.3 as requested
FS2140.29, FS2140.9	John Scott	I oppose the submission	Oppose OS900.39 and OS958.33. Disallow submissions and do not make changes as requested by submitters.	Accept	Do not amend Policy 10.2.2.3 as requested
FS2279.29, FS2279.9	Ben Graham	I oppose the submission	Oppose OS900.39 and OS958.33. Disallow submissions and do not make changes as requested by submitters.	Accept	Do not amend Policy 10.2.2.3 as requested
FS2300.29, FS2300.9	Mathew O'Connell	I oppose the submission	Oppose OS900.39 and OS958.33. Disallow submissions and do not make changes as requested by submitters.	Accept	Do not amend Policy 10.2.2.3 as requested
FS2391.55, FS2391.84	Geoff Scurr Contracting Limited	I oppose the submission	Oppose OS900.39 and OS958.33. Disallow submissions.	Accept	Do not amend Policy 10.2.2.3 as requested
FS2416.29, FS2416.9	Alan Brown, Carrowmore Properties Limited,	I oppose the submission	Oppose OS900.39 and OS958.33 (part). Disallow submissions in part and retain the word "minimise" in Policy 10.2.2.3 as	Accept	Do not amend Policy 10.2.2.3 as requested

	Robyn and Stephan Smith and Rick and Jill Clarke ("Pigeon Flat Road Group")		proposed in the 2GP.		
FS2449.103, FS2449.104	Federated Farmers of New Zealand	I oppose the submission	Oppose OS900.39 and OS958.33. Disallow submissions.	Accept	Do not amend Policy 10.2.2.3 as requested
FS2202.5	Clifton Trust	I oppose the submission	Oppose OS958.33. Disallow submission and do not make changes as requested by submitter.	Accept	Do not amend Policy 10.2.2.3 as requested
OS951.7 OS1054.7	Timothy George Morris Timothy Morris (on behalf of RG and SM Morris Family Trust)	I seek to have the above provision amended	Amend Policy 10.2.2.3 to provide for the control of regrowth indigenous vegetation as part of long term maintenance of rural land for productive rural activities	Reject	Do not amend Policy 10.2.2.3 as requested
FS2449.105, FS2449.106	Federated Farmers of New Zealand	I support the submission	Support OS951.7 and OS1054.7. Allow submissions.	Reject	Do not amend Policy 10.2.2.3 as requested
OS949.6	Department of Conservation	I seek to have the above provision amended	Insert new policy under Objective 10.2.2 as follows: <u>Manage the clearance of indigenous vegetation within 20 meters of water bodies, and ensure that such clearance does not create or contribute to erosion, or reduce natural character and indigenous biodiversity values of riparian corridors.</u>	Reject	Do not add new policy as requested
FS2439.21	Oceana Gold (New Zealand) Limited	I support the submission	Support OS949.6 (part). Allow submission in part and amend as follows: " and ensure <u>with a preference where possible</u> that any such clearance does not create or contribute to erosion or <u>significantly</u> reduce nature character and <u>significant</u> indigenous biodiversity values of riparian corridors".	Reject	Do not add new policy as requested
FS2449.96	Federated Farmers of New Zealand	I oppose the submission	Oppose OS949.6. Disallow submission.	Accept	Do not add new policy as requested

Background

Policy 10.2.2.3 states “Require vegetation clearance to be set back an adequate distance from the coast and water bodies to minimise the risk of erosion and protect, or enable the enhancement of, biodiversity and natural character values”.

This policy leads to Rule 10.3.2.3 which manages vegetation clearance and indigenous vegetation clearance along the margins of the coast and water bodies.

Requests to amend Policy 10.2.2.3 to require vegetation clearance “where practicable”

KiwiRail Holdings Limited (OS322.32) and Oceana Gold (New Zealand) Limited (OS1088.39) seek to amend Policy 10.2.2.3 as follows: “Require vegetation clearance to be set back an adequate distance from the coast and water bodies where practicable to minimise the risk of erosion and protect, or enable the enhancement of, biodiversity and natural character values.”

KiwiRail Holdings states that there are sometimes practicalities around where vegetation clearance can occur in light of existing development and the location of that, and the policy should recognise that. Federated Farmers of New Zealand (FS2449.102) supports KiwiRail Holdings Limited because it may not always be practicable to create a buffer between vegetation clearance and the coast and water bodies and the policy should allow for the consideration of such situations.

Oceana Gold believes this setback requirement is not always possible for vegetation clearance associated with major mining earthworks, and it should only be a requirement in circumstances where it is practicable to do so.

Recommendation – Amendment 1

In my opinion this policy and its related performance standard are appropriate, and I note that contravention of the performance standard only results in a restricted discretionary activity status. I do not recommend the policy is amended in response to these submissions.

I note there are a number of exemptions to the vegetation clearance standards, including for the maintenance of existing network utilities activities (including irrigation infrastructure), tracks, drains, roads, or fire breaks. These exemptions do not include vegetation clearance for the maintenance of the rail corridor. I consider this to be inconsistent, and am recommending amendments to the vegetation clearance standards and the definition of indigenous vegetation clearance below to add the maintenance of the rail corridor as an exemption.

Requests to amend Policy 10.2.2.3 to “avoid” risk of erosion and have “particular regard to wildlife habitats and native fish spawning areas”

STOP (OS900.39) and Forest and Bird NZ (OS958.33) seek to amend Policy 10.2.2.3 as follows: “Require vegetation clearance to be set back an

adequate distance from the coast and water bodies to ~~avoid~~ minimise the risk of erosion and protect, or enable the enhancement of, biodiversity and natural character values, with particular regard to wildlife habitats and native fish spawning areas." The submitters state that sedimentation is a significant adverse threat to the life supporting capacity of water bodies and any receiving coastal waters and should be avoided.

John Scott (FS2140.29, FS2140.9), Ben Graham (FS2279.29, FS2279.9), Mathew O'Connell (FS2300.29, FS2300.9), Geoff Scurr Contracting Limited (FS2391.55, FS2391.84), Pigeon Flat Road Group (FS2416.29, FS2416.9) and Federated Farmers of New Zealand (FS2449.103, FS2449.104) oppose these submissions. John Scott, Ben Graham, Mathew O'Connell, Pigeon Flat Road Group and Geoff Scurr Contracting believe this change to be prejudicial to farming activities. Federated Farmers believe as a result of the NZ King Salmon case, 'avoid' is taken as 'prohibit', and it is unworkable for the provision to require all risks of erosion to be eliminated. Clifton Trust (FS2202.5) opposes Forest and Bird NZ (OS958.33) because they believe this change to be prejudicial to farming activities.

Recommendation

The same submitters proposed a similar amendment in relation to Policy 10.2.2.4, seeking to "avoid" the risk of sediment entering the sea or water bodies. This was considered in section 5.4.10 above. As with that response, I do not consider it appropriate to replace the word "minimise" with "avoid". In my opinion requiring the setback of vegetation clearance to avoid the risk of any erosion sets an unrealistically high standard in creating an expectation that there will be no risk at all.

I also do not consider that the phrase "particular regard to wildlife habitats and native fish spawning areas" should be appended to the policy. In managing vegetation clearance, the policy contributes to an objective which seeks to maintain and enhance the biodiversity values and natural character of the coast and riparian margins. I am uncertain why particular aspects of this outcome should be prioritised over others.

If the Panel is of a mind to highlight this aspect, I recommend that this be done instead by adding it to relevant assessment rule under the heading of general assessment guidance stating "In assessing the effects of contraventions of this standard, Council will give special consideration to the effects on wildlife habitats and native fish spawning areas"; however, I do not think this is necessary.

Requests to amend Policy 10.2.2.3 to provide for control of regrowth indigenous vegetation

Timothy George Morris (OS951.7) and Timothy Morris (on behalf of RG and SM Morris Family Trust) (OS1054.7) seek to amend Policy 10.2.2.3 as control of regrowth indigenous vegetation is necessary as part of long term maintenance of rural land for productive rural activities and the policy appears to conflict with Policy 16.2.1.1. Federated Farmers of New Zealand (FS2449.105, FS2449.106) supports these submissions as regenerating scrub can reduce the productivity of farmland and has little value in terms of overall biodiversity across the region.

Recommendation

I do not recommend that Policy 10.2.2.3 should be amended as requested. I am not recommending changes to Rule 10.3.2.3 in relation to the exemption of regrowth vegetation in riparian and coastal margins, as discussed in the next section. For this reason, I do not consider that Policy

10.2.2.3 should be amended as requested.

Submission to add new policy to manage clearance of indigenous vegetation within 20 metres of water bodies

Department of Conservation (OS949.6) believes that a new policy under Objective 10.2.2 as follows: "Manage the clearance of indigenous vegetation within 20 meters of water bodies, and ensure that such clearance does not create or contribute to erosion, or reduce natural character and indigenous biodiversity values of riparian corridors." The submitter states that the policy is required to ensure that the values of riparian margins of lakes, rivers and wetlands are recognised and their protection provided for.

Oceana Gold (New Zealand) Limited (FS2439.21) supports Department of Conservation (OS949.6) in part as while they support the management of erosion, it may not always be possible to avoid reducing natural character and all indigenous biodiversity values. Federated Farmers of New Zealand (FS2449.96) opposes Department of Conservation (OS949.6) because they feel the proposed policy is too specific and the broader intent of the new policy is covered by other provisions.

Recommendations

The policy requested by the submitter is in effect a restatement of Policy 10.2.2.3 which seeks to set back vegetation clearance an adequate distance from water bodies to minimise the risk of erosion and protect or enhance biodiversity and natural character values. While the policy does not specify a required setback, it leads to Rule 10.3.2.2.b which specifies that indigenous vegetation clearance must not occur within 20m of any water body with a defined bed of at least 3m width in the rural, rural residential and recreation zones (and within 5m in other zones through Rule 10.3.2.3.a). I consider that this achieves the intent of the policy requested by the submitter, and do not recommend a new policy is added as requested.

Recommended amendment:

Amendment One

Amend rules 10.3.2.1.d, 10.3.2.2.b.ix, 10.3.2.3.c.iv and 10.3.2.4.b.ii as shown below:

"...for the maintenance (but not extension) of existing ... tracks, drains, roads, rail corridor ..." {NatEnv322.32}

Amend definition of "indigenous vegetation clearance" as follows:

"Vegetation clearance of indigenous vegetation.

In Areas of Significant Conservation Value, Outstanding Natural Coastal Character Areas, High Natural Coastal Character Areas and Natural Coastal Character Areas that are not within a hazard overlay, this definition excludes:

- clearance that is part of conservation activity involving vegetation clearance and replacement with indigenous species;
- clearance for the erection, maintenance or alteration of fences (including gates);
- clearance for the maintenance (but not extension) of existing network utilities, tracks, drains, structures, ~~or~~ roads or the rail corridor; {NatEnv322.32} ...”

5.8.7.3 Rule 10.3.2.3 Protected Areas

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
Submissions in support of all or part of Rule 10.3.2.3					
OS189.6	Joel A Vanderburg	I support the provision	Retain Rule 10.3.2.3.a.iii (protected areas vegetation clearance) and 10.3.2.3.b.iii (protected areas - indigenous vegetation clearance)	Accept	Retain Rule 10.3.2.3.a.iii and 10.3.2.3.b.iii
OS322.89	KiwiRail Holdings Limited	I support the provision	Retain Rule 10.3.2.3.	Accept	No amendment required
FS2264.10	Powernet Limited	I support the submission	Support OS322.89. Allow submission	Accept	No amendment required
OS806.47	Transpower New Zealand Limited	I support the provision	Retain 10.3.2.3.c (iv) Exemptions to vegetation clearance controls.	Accept	Retain Rule 10.2.3.c.iv
OS860.6	Lindsay Carruthers	I support the provision	Retain Rule 10.3.2.3 (maximum clearance protected areas)	Accept	No amendment required
OS872.6	David Frew	I support the provision	Retain Rule 10.3.2.3 (maximum clearance protected areas)	Accept	No amendment required
OS879.6	John Carruthers	I support the provision	Retain Rule 10.3.2.3 (maximum clearance protected areas)	Accept	No amendment required
OS883.6	Neil Grant	I support the provision	Retain Rule 10.3.2.3 (maximum clearance protected areas)	Accept	No amendment required
OS900.150	Save The Otago	I support the	Retain Rule 10.3.2.3.a (protected areas -	Accept	Retain Rule 10.3.2.3.a

	Peninsula (STOP) Inc Soc	provision	vegetation clearance)		
OS900.151	Save The Otago Peninsula (STOP) Inc Soc	I support the provision	Retain Rule 10.3.2.3.b (protected areas - indigenous vegetation clearance)	Accept	Retain Rule 10.3.2.3.b
OS900.154	Save The Otago Peninsula (STOP) Inc Soc	I support the provision	Retain Rule 10.3.2.3.d (protected areas - calculation of distance from wetland or water body)	Accept	Retain Rule 10.3.2.3.d
OS958.64	Forest and Bird NZ	I support the provision	Retain Rule 10.3.2.3.a.i-iii (protected areas - vegetation clearance)	Accept	Retain Rule 10.3.2.3.a.iii
OS958.65	Forest and Bird NZ	I support the provision	Retain Rule 10.3.2.3.b.i-v (protected areas - indigenous vegetation clearance)	Accept	Retain Rule 10.3.2.3.b.iii
OS958.66	Forest and Bird NZ	I support the provision	Retain Rule 10.3.2.3.c.i, ii, iv, vi, vii and viii (protected areas - vegetation clearance exceptions)	Accept	Retain Rule 10.3.2.3.c.i, ii, iv, vi, vii and viii
OS958.70	Forest and Bird NZ	I support the provision	Retain Rule 10.3.2.3.d (protected areas - calculation of distance from wetland or water body)	Accept	Retain Rule 10.3.2.3.d
Requests to remove all or part of Rule 10.3.2.3					
OS355.12	Robert George & Sharron Margaret Morris	I oppose the provision	Remove Rule 10.3.2.3 (vegetation clearance - protected areas) and Rule 16.6.12.3	Reject	Do not remove Rule 10.3.2.3 and Rule 16.6.12.3
OS735.2	Lynnore Joan Templeton	I oppose the provision	Remove or amend Rule 10.3.2.3 (Protected Areas) to allow for vegetation clearance along water bodies for the purposes of irrigation	Reject	Do not remove or amend Rule 10.3.2.3
OS740.23	Michael Ovens	I oppose the provision	Remove Rule 10.3.2.3.b.iii (indigenous vegetation clearance not within 20m of a water body).	Reject	Do not remove Rule 10.3.2.3.b.iii
OS919.39	Federated Farmers of New Zealand	I oppose the provision	Remove Rule 10.3.2.3 (vegetation clearance - protected areas)	Reject	Do not remove Rule 10.3.2.3

FS2140.41	John Scott	I support the submission	Support OS919.39. Allow submission and make changes requested by submitter.	Reject	Do not remove Rule 10.3.2.3
FS2267.23	Harboursides and Peninsula Preservation Coalition	I oppose the submission	Oppose OS919.39. Disallow submission and retain Rule 10.3.2.3 as proposed in the 2GP.	Accept	Do not remove Rule 10.3.2.3
FS2279.41	Ben Graham	I support the submission	Support OS919.39. Allow submission and make changes requested by submitter.	Reject	Do not remove Rule 10.3.2.3
FS2300.41	Mathew O'Connell	I support the submission	Support OS919.39. Allow submission and make changes requested by submitter.	Reject	Do not remove Rule 10.3.2.3
FS2416.45	Alan Brown, Carrowmore Properties Limited, Robyn and Stephan Smith and Rick and Jill Clarke ("Pigeon Flat Road Group")	I support the submission	Support OS919.39. Allow submission.	Reject	Do not remove Rule 10.3.2.3
FS2482.30	Forest and Bird NZ	I oppose the submission	Oppose OS919.39. Disallow submission.	Accept	Do not remove Rule 10.3.2.3
Requests to amend Rule 10.3.2.3.c Exemptions					
OS900.152	Save The Otago Peninsula (STOP) Inc Soc	I seek to have the above provision amended	Amend Rule 10.3.2.3.c (protected areas - vegetation clearance exemptions) by amending para (iii) to specify that it does not include earthworks, and by amending para (v) to restrict track construction to non vehicular recreation purposes only, and by amending para (ix) as follows: 'part of an existing forestry activity and involves or is incidental to the harvesting or maintenance of trees, provided that all vegetation that is felled within 5m <u>20m</u> of a water body must be felled away from the water body, and that all forestry activity must be conducted in accordance with recognised industry	Reject	Do not amend Rule 10.3.2.3 as requested

			environmental codes of practice.' Retain paras (i), (ii), (iv), (vi)-(viii) of Rule 10.3.2.3.c.		
FS2449.180	Federated Farmers of New Zealand	I oppose the submission	Oppose OS900.152. Disallow submission.	Accept	Do not amend Rule 10.3.2.3 as requested
OS958.67	Forest and Bird NZ	I seek to have the above provision amended	Amend Rule 10.3.2.3.c.iii (protected areas - vegetation clearance exceptions) to add a proviso that this exception does not cover the earthworks involved in the erection, maintenance or alteration of fences	Reject	Do not amend Rule 10.3.2.3 as requested
FS2140.11	John Scott	I oppose the submission	Oppose OS958.67. Disallow submission and do not make changes as requested by submitter.	Accept	Do not amend Rule 10.3.2.3 as requested
FS2202.7	Clifton Trust	I oppose the submission	Oppose OS958.67. Disallow submission and do not make changes as requested by submitter.	Accept	Do not amend Rule 10.3.2.3 as requested
FS2279.11	Ben Graham	I oppose the submission	Oppose OS958.67. Disallow submission and do not make changes as requested by submitter.	Accept	Do not amend Rule 10.3.2.3 as requested
FS2300.11	Mathew O'Connell	I oppose the submission	Oppose OS958.67. Disallow submission and do not make changes as requested by submitter.	Accept	Do not amend Rule 10.3.2.3 as requested
FS2391.86	Geoff Scurr Contracting Limited	I oppose the submission	Oppose OS958.67. Disallow submission.	Accept	Do not amend Rule 10.3.2.3 as requested
FS2416.11	Alan Brown, Carrowmore Properties Limited, Robyn and Stephan Smith and Rick and Jill Clarke ("Pigeon Flat Road Group")	I oppose the submission	Oppose OS958.67. Disallow submission and do not make changes as suggested by submitter.	Accept	Do not amend Rule 10.3.2.3 as requested
FS2449.182	Federated Farmers of New Zealand	I oppose the submission	Oppose OS958.67. Disallow submission.	Accept	Do not amend Rule 10.3.2.3 as requested

OS958.68	Forest and Bird NZ	I seek to have the above provision amended	Amend Rule 10.3.2.3.c.v (protected areas - vegetation clearance exceptions) to restrict the exception for track construction to tracks for non-vehicular recreation purposes only.	Reject	Do not amend Rule 10.3.2.3.c.v as requested
FS2140.12	John Scott	I oppose the submission	Oppose OS958.68. Disallow submission and do not make changes as requested by submitter.	Accept	Do not amend Rule 10.3.2.3.c.v as requested
FS2202.8	Clifton Trust	I oppose the submission	Oppose OS958.68. Disallow submission and do not make changes as requested by submitter.	Accept	Do not amend Rule 10.3.2.3.c.v as requested
FS2279.12	Ben Graham	I oppose the submission	Oppose OS958.68. Disallow submission and do not make changes as requested by submitter.	Accept	Do not amend Rule 10.3.2.3.c.v as requested
FS2300.12	Mathew O'Connell	I oppose the submission	Oppose OS958.68. Disallow submission and do not make changes as requested by submitter.	Accept	Do not amend Rule 10.3.2.3.c.v as requested
FS2391.87	Geoff Scurr Contracting Limited	I oppose the submission	Oppose OS958.66. Disallow submission.	Accept	Do not amend Rule 10.3.2.3.c.v as requested
FS2416.12	Alan Brown, Carrowmore Properties Limited, Robyn and Stephan Smith and Rick and Jill Clarke ("Pigeon Flat Road Group")	I oppose the submission	Oppose OS958.68. Disallow submission and do not restrict exception for track construction to tracks for non-vehicular recreation purposes only.	Accept	Do not amend Rule 10.3.2.3.c.v as requested
FS2449.183	Federated Farmers of New Zealand	I oppose the submission	Oppose OS958.68. Disallow submission.	Accept	Do not amend Rule 10.3.2.3.c.v as requested
OS958.69	Forest and Bird NZ	I seek to have the above provision amended	Amend Rule 10.3.2.3.c.ix (protected areas - vegetation clearance exceptions) so that the exception reads as follows: 'part of an	Accept in part	Amend Rule 10.3.2.3.c.ix as shown below

			existing forestry activity and involves or is incidental to the harvesting or maintenance of trees, provided that all vegetation that is felled within 5m <u>20m</u> of a water body must be felled away from the water body, and that all forestry activity must be conducted in accordance with recognised industry environmental codes of practice.'		
FS2449.181	Federated Farmers of New Zealand	I oppose the submission	Oppose OS958.69. Disallow submission.	Reject	Amend Rule 10.3.2.3.c.ix as shown below
OS908.30	Otago Regional Council	I seek to have the above provision amended	Amend Rule 10.3.2.3.c (Vegetation clearance protected areas exemptions) to ensure suitable controls are provided for in the exemptions to Rules 10.3.2.3 a and b, to ensure adverse effects are avoided. Amend the exemption for allowing vegetation to be felled up to five metres from a water body in Rule 10.3.2.3(c)(ix), provided it is felled away from the water body, by increasing the distance to ten metres.	Accept in part	Amend Rule 10.3.2.3.c.ix as shown below
FS2391.40	Geoff Scurr Contracting Limited	I support the submission	Support OS908.30 (in part). Allow submission to amend Rule 10.3.2.3.c.ix to increase the distance to ten metres.	Accept	Amend Rule 10.3.2.3.c.ix as shown below
OS951.69	Timothy George Morris				
OS1054.69	Timothy Morris (on behalf of RG and SM Morris Family Trust)	I seek to have the above provision amended	Amend Rule 10.3.2.3 to include exemptions for removal of regrowth indigenous vegetation within areas used for farming or forestry	Reject	Do not amend Rule 10.3.2.3 as requested
FS2391.21	Geoff Scurr Contracting Limited	I support the submission	Support OS1054.69. Allow submission.	Reject	Do not amend Rule 10.3.2.3 as requested

Background

Rule 10.3.2.3 Protected areas is as follows:

- a. Vegetation clearance must not occur within:
 - i. 20m of any wetland identified in Appendix A1.2 (Areas of Significant Conservation Value);
 - ii. 5m of mean high water springs; and
 - iii. 5m of any water body.
- b. Indigenous vegetation clearance must not occur within:
 - i. 20m of any wetland identified in Appendix A1.2 (Areas of Significant Conservation Value);
 - ii. 20m of mean high water springs in the rural, rural residential and recreation zones;
 - iii. 20m of any water body with a clearly defined bed of at least 3m in width in the rural, rural residential and recreation zones;
 - iv. any coastal environment mapped area; or
 - v. any wetland in the rural, rural residential or recreation zones.
- c. Except that Rules 10.3.2.3.a and 10.3.2.3.b do not apply to vegetation clearance that is:
 - i. part of conservation activity involving vegetation clearance and replacement with indigenous species;
 - ii. clearance of a pest plant listed in Appendix 10B;
 - iii. for the erection, maintenance or alteration of fences (including gates);
 - iv. for the maintenance (but not extension) of existing network utilities activities (including irrigation infrastructure), tracks, drains, roads, or fire breaks;
 - v. for the construction or maintenance of tracks up to 2m in width;
 - vi. necessary to maintain the flow of water free from obstruction or for natural hazard mitigation activities;
 - vii. provided for as part of a conservation management strategy, conservation management plan, reserve management plan or covenant established under the Conservation Act 1987 or any other Act specified in the First Schedule of the Conservation Act 1987; or
 - viii. in the case of Rule 10.3.2.3.a and 10.3.2.3.b.i-iii, the vegetation to be cleared is separated from mean high water springs or the water body by a formed legal road;
 - ix. part of an existing forestry activity and involves or is incidental to the harvesting or maintenance of trees, provided that all vegetation that is felled within 5m of a water body must be felled away from the water body, and that all forestry activity must be conducted in accordance with recognised industry environmental codes of practice.
- d. The distance from a wetland or other water body within which vegetation clearance and indigenous vegetation clearance must not occur (rules 10.3.2.3.a and 10.3.2.3.b) must be calculated using Rule 10.3.3.7.

I note that this rule relies on the definition of vegetation clearance which is based on a probable effect:

"The removal, over-planting, crushing, spraying, burning, or any other activity that destroys or directly *{NatEnv919.86}* results in extensive failure of an area of vegetation, which ~~if destroyed~~ *{NatEnv900.3}* ~~could~~ is likely to *{NatEnv312.9}* lead to:

- land instability

- riverbank, coastal or soil erosion;
- loss of habitat for indigenous species (including areas of vegetation that act as ecological corridors connecting habitats);
- changes to the quality of the ecological habitat provided by a water body; or
- increased flood risk."

Submissions in support of all or part of Rule 10.3.2.3

Joel A Vanderburg (OS189.6) supports rules 10.3.2.3.a.iii and 10.3.2.3.b.iii for the prevention of vegetation clearance of exotic vegetation (5m) and indigenous vegetation (20m) from along waterways of 3m or more in width.

KiwiRail Holdings Limited (OS322.89) seeks to retain Rule 10.3.2.3 as the submitter supports that the maintenance of network utilities is exempt from compliance with the requirement for the setback of vegetation clearance from protected areas. Powernet Limited (FS2264.10) supports this submission because these exemptions will support the efficient and safe operation of network utilities and are consistent with Policies 3 and 5 of the NPSET 2008.

Transpower New Zealand Limited (OS806.47) supports Rule 10.3.2.3.c.iv, the provision to exempt existing network utilities activities from the vegetation clearance standard, provided that their request for the definition of Network Utilities Activities to include "transmission and distribution of electricity" is provided for. I note that as a result of the Network Utilities hearing, it is recommended that the definition of Network Utilities includes the following amendment: "the supply transmission and distribution of electricity, and of other forms of energy such as hot water or steam {NU 308.126 and others}".

Lindsay Carruthers (OS860.6), David Frew (OS872.6), John Carruthers (OS879.6) and Neil Grant (OS883.6) seek to retain Rule 10.3.2.3 as they believe that it is important to protect the riparian margins and ensure vegetation within these areas is protected.

STOP (OS900.150, OS900.151, OS900.154) and Forest and Bird NZ (OS958.64, 65, 66, 70) seek to retain Rule 10.3.2.3.a, Rule 10.3.2.3.b and Rule 10.3.2.3.d, with no specific reasons given.

Requests to remove all or part of Rule 10.3.2.3

Robert George & Sharron Margaret Morris (OS355.12) oppose Rule 10.3.2.3 as they believe that excessive regrowth contributes to reductions of effective farming and forestry areas.

Lynnore Joan Templeton (OS735.2) seeks to either remove Rule 10.3.2.3 or amend it to allow for vegetation clearance along water bodies for the purpose of irrigation. She makes this request because the Strath Taieri Irrigation Group are currently looking at the feasibility of transferring winter water via mountain creeks to the Loganburn dam and releasing that water in summer months down the main stem of the Taieri River - this would have benefits not only to irrigators but also for the health and well being of the river itself. In order for this to happen there is

requirement for earthworks and vegetative clearance alongside the creeks.

Federated Farmers of New Zealand (OS919.39) seeks to remove Rule 10.3.2.3, as the submitter questions the primary purpose for this proposed rule. It is not protection of vegetation or indigenous vegetation, as these are dealt with in other areas. The protection of regionally significant wetlands is addressed by Otago Regional Council, and there is sufficient information around wetland management for wetlands that do not meet these criteria already available to landowners. The submitter believes this rule does not add anything to existing regulation and should be deleted.

HPPC (FS2267.23) opposes the submission of Federated Farmers as HPPC seeks to retain protected areas. Forest and Bird NZ (FS2482.30) opposes Federated Farmers as the amendments sought are not consistent with the purpose of Part II RMA or the provisions of this plan, or the NCPS. John Scott (FS2140.41), Ben Graham (FS2279.41), Mathew O'Connell (FS2300.41) and Pigeon Flat Road Group (FS2416.45) support Federated Farmers of New Zealand (OS919.39) because they support the deletion of protected areas referenced here as these are covered elsewhere in different forms in the plan.

Michael Ovens (OS740.23) seeks to remove Rule 10.3.2.3.b.iii (indigenous vegetation clearance not within 20m of a water body). The submitter believes that the combination of the Rural Residential 2 rules and requirements of this provision as it stands make doing anything on this property very difficult to do and that it's all too limiting and may not be the best method for achieving the outcomes.

Recommendation

I do not consider that Rule 10.3.2.3 should be removed, as I consider it provides protection for areas of high importance for biodiversity and ecological values, namely the margins of the coast, wetlands, rivers and streams. As well as contributing to the fulfilment of DCC's functions in relation to biodiversity, management of vegetation clearance in these areas also contributes to preservation of the natural character of the coastal environment, wetlands and rivers and their margins, thereby giving effect to RMA section 6 and the NZCPS and having regard to the requirements of the pORPS-dv (for example, Policy 3.1.2).

In relation to the statement by Federated Farmers that this rule does not add anything to existing regulation, I consider it provides for management of vegetation clearance in the coastal environment and the margins of water bodies which is not specifically addressed elsewhere in other rules. In the case of indigenous vegetation, clearance activity may be captured by Rule 10.3.2.2 (maximum area of indigenous vegetation clearance) but not always, as it may not be of a size that triggers the thresholds. In addition, Rule 10.3.2.2 does not apply to clearance of non-indigenous vegetation.

In relation to the request to allow an exemption for irrigation infrastructure, I note that Rule 10.3.2.3.c.iv provides an exemption for "the maintenance (but not extension) of existing network utilities activities (including irrigation infrastructure)". I consider that it is appropriate that any installation of new irrigation infrastructure involving vegetation clearance in riparian margins should be assessed as to its effects on biodiversity and natural character values.

Requests to amend Rule 10.3.2.3.c to clarify that earthworks for fences are excluded, to restrict track construction to non-

vehicular recreation purposes, and to change the area within which forestry must be felled away from a water body

STOP (OS900.152) and Forest and Bird (OS958.67, OS958.68, OS958.69) seek to amend Rule 10.3.2.3.c as follows:

- Amend para (iii) to clarify that it does not include earthworks
- Amend para (v) to restrict track construction to non-vehicular recreation purposes only.
- Amend para (ix) to change the 5m to 20m limit for requiring forestry to be felled away from a water body

The submitters support other parts of Rule 10.3.2.3.c. The submitters' reasons for the requested changes include the belief that the erection of fences can involve bulldozing or scraping tracks which can degrade wetlands and adjacent water bodies, support for track construction if it is for walking or cycling purposes and a belief that vegetation that is felled within 20m of a water body should be felled away from the water body as trees can be more than 5m in height.

Federated Farmers of New Zealand (FS2449.180, 181) opposes STOP (OS900.152) and Forest and Bird (OS958.69) because they believe the proposed amendments are unnecessarily restrictive and are inconsistent with the sustainable management principles of the RMA. Federated Farmers of New Zealand (FS2449.182) opposes Forest and Bird (OS958.67) as it is important that landowners have the ability to erect and maintain fences in the rural zones, including in areas of indigenous vegetation. Federated Farmers of New Zealand (FS2449.183) opposes Forest and Bird (OS958.68) as it is important that landowners have the ability to construct tracks for vehicle and stock movements in areas of indigenous vegetation.

John Scott (FS2140.11, FS2140.12), Clifton Trust (FS2202.7, FS2202.8), Ben Graham (FS2279.11, FS2279.12), Mathew O'Connell (FS2300.11, FS2300.12), Geoff Scurr Contracting Limited (FS2391.86, FS2391.87) and Pigeon Flat Road Group (FS2416.11, FS2416.12) oppose Forest and Bird (OS958.67, OS958.68) as they believe that the amendments are unnecessarily restrictive and adversely impact on farming activities.

Otago Regional Council (OS908.30) seeks to amend Rule 10.3.2.3.c so that suitable controls are provided for in the exemptions to ensure adverse effects are avoided, and to increase the exemption in para (ix) for allowing clearance as part of forestry activity in proximity to a water body from 5m to at least 10m. The submitter states that some of the 'matters of discretion' through Rules 10.3A to 10.7 are not sufficient to ensure all potential effects can be considered and controlled via the consenting process. It is important that the effects of land based activities on water body values are considered when consent is sought. For example, track construction of up to two metres may still lead to the disturbance of endangered and critical plant species and/or coastal dune stability. The exemption of forestry activities is of particular concern as the scale and volume of such activities has the potential for significant adverse effects through sediment run-off and erosion.

Geoff Scurr Contracting Limited (FS2391.40) supports the submission of ORC, as the further submitter supports the increase to 10m.

Recommendation – Amendment 1

Rule 10.3.2.3.c.iii – I do not recommend this amendment is accepted. I consider that this exemption applies to the vegetation clearance activity alone, with any earthworks associated with the erection or maintenance of fences subject to the earthworks standards for the relevant zone (for

example, Rule 16.6.1 in the rural zones), which includes post holes as small scale earthworks but otherwise makes fences subject to volume limits. This will be the case for all exemptions listed in the vegetation clearance standards, with earthworks standards applying separately. For this reason, I do not consider it would aid plan clarity to amend only one exemption in this manner.

Rule 10.3.2.3.c.v – I do not recommend that this amendment is accepted. The intention of providing for tracks is that in general they are for use by other than motorised vehicles, whether for recreation or conservation or other purposes. It is anticipated that the upper limit of 2m in width will limit general use to this. However, there may be occasional requirements for access by smaller motorised vehicles such as quad bikes for purposes such as track maintenance or associated with conservation, farming or other activities in the vicinity. I do not consider that Rule 10.3.2.3.c.v should be amended to try to limit the use of these tracks to any specific type or purpose of use.

Rule 10.3.2.3.c.v – The exemption for vegetation clearance associated with forestry activity was a continuation of a rule in the operative Plan (Rule 6.5.3.vi.iii) which also exempts forestry felled within 5m of a water body as long it is felled away from a water body. This rule was carried into the 2GP in anticipation that this and other forestry-related provisions may need to be updated when the National Environmental Standard for Plantation Forestry comes into force. The draft NES³ says that to limit riparian disturbance during harvesting, fell away from the water body or riparian zone, except where unsafe or impractical to do so, and that no harvesting machinery must operate within 5m of perennial water bodies (with some exceptions listed).

I agree with the submitters that the 5m does not seem adequate given that trees will sometimes be much taller than 5m in height. I consider that this part of the rule is intended to capture vegetation or indigenous vegetation clearance incidental to forestry activity, with the harvesting of plantation trees being part of forestry activity and not directly covered by this rule. I note that the 2GP does not directly manage forestry activity in terms of setbacks from water bodies, leaving this to regional plan rules. I consider that the 5m figure in Rule 10.3.2.3.c.v should be increased, and in this case I take the lead from the ORC submission in relation to the impacts on water bodies and recommend that this figure is increased to 10m.

I am not recommending any other amendment in response to the ORC submission at this point, although I note that the submitter has raised concerns about the assessment rules and whether they adequately capture the effects of land based activities on water body values. In lieu of specific suggestions from the submitter, I will wait until the hearing to see if this matter is discussed further.

Request to amend Rule 10.3.2.3 to exempt regrowth indigenous vegetation

Timothy George Morris (OS951.69) and Timothy Morris (on behalf of RG and SM Morris Family Trust) (OS1054.69) seek to amend Rule 10.3.2.3 to include exemptions for removal of regrowth indigenous vegetation. The submitters believe that regrowth of indigenous vegetation (e.g. Kanuka) can be rapid and have significance adverse effect on farming and forestry activities and that control of regrowth is necessary as part of long term maintenance of rural land for productive rural activities. Geoff Scurr Contracting Limited (FS2391.21) supports RG and SM Morris

³ Refer p72, <https://www.mpi.govt.nz/news-and-resources/consultations/proposed-national-environmental-standard-for-plantation-forestry/>

Family Trust (OS1054.69) as he believes routine farming activities should be provided with appropriate exemption from the rules.

Recommendation

These submissions are considered in the evidence of Kelvin Lloyd (paragraphs 70-78). Dr Lloyd states in paragraph 72 that “The intent of 10.3.2.3 appears to be to avoid disturbances that clear vegetation adjacent to significant wetlands, water bodies, and the coast, which is a reasonable proposition given the sensitivity of these habitats to the kinds of disturbance that clear vegetation and cause erosion, sedimentation, and/or changes to wetland hydrology. If these areas have been disturbed in the past, and vegetation cover has regenerated, that vegetation should not be cleared again.” Dr Lloyd is not in favour of the additional exemptions sought by the submitters.

On the basis of the evidence of Dr Lloyd in relation to the sensitivity of these habitats and areas managed by Rule 10.3.2.3, and the effects that indigenous vegetation clearance would have on these areas, I do not recommend that the submissions to amend Rule 10.3.2.3 to include exemptions for removal of regrowth indigenous vegetation are accepted.

Recommended amendments:

Amendment 1

Amend Rule 10.3.2.3.c.ix as follows:

“ix. part of an existing forestry activity and involves or is incidental to the harvesting or maintenance of trees, provided that all vegetation that is felled within ~~5m~~ 10m {*NatEnv908.30*} of a water body must be felled away from the water body, and that all forestry activity must be conducted in accordance with recognised industry environmental codes of practice.”

5.8.7.4 Rule 10.3.2.4 Protected species (indigenous vegetation clearance)

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
Submissions in support					
OS322.90	KiwiRail Holdings Limited	I support the provision	Retain Rule 10.3.2.4.	Accept	No amendment required
FS2264.11	Powernet Limited	I support the	Support OS322.90. Allow submission	Accept	No amendment

		submission			required
OS806.48	Transpower New Zealand Limited	I support the provision	Retain the exemptions to Rule 10.3.2.4.b.ii Protected species (indigenous vegetation clearance).	Accept	No amendment required
OS1088.48	Oceana Gold (New Zealand) Limited	I seek to have the above provision amended	Retain Rule 10.3.2.4 if the Macraes Gold Project Overlay Zone is created and is exempt from this rule. Otherwise amend the rule by creating exemption for the Macraes Gold Project.	Reject	No amendment required
OS958.73	Forest and Bird NZ	I support the provision	Retain Rule 10.3.2.4.b.iv (protected species - indigenous vegetation clearance), the exception that applies to indigenous vegetation clearance that is provided for as part of a conservation management strategy, conservation management plan, reserve management plan or covenant established under the Conservation Act 1987 or any other Act specified in the First Schedule of the Conservation Act 1987.	Accept	Retain Rule 10.3.2.4.b.iv
FS2449.190	Federated Farmers of New Zealand	I oppose the submission	Oppose OS958.73. Disallow submission.	Reject	Retain Rule 10.3.2.4.b.iv
Requests to add "threatened wildlife species" to Rule 10.3.2.4					
OS900.155	Save The Otago Peninsula (STOP) Inc Soc	I seek to have the above provision amended	Amend Rule 10.3.2.4 by adding a new para (a)(iii) as follows " <u>one or more threatened wildlife species listed in Appendix 10?</u> and add an appendix listing the acutely and chronically threatened wildlife as per NZ Threat Classification list; by amending para (b)(i) to add a proviso that it does not include earthworks; by amending para (b)(iii) as follows: "or the construction or maintenance of tracks up to 2m in width"; and retain Rule 10.3.2.4.b.iv	Accept in part	Amend Rule 10.3.2.4 and add new Appendix 10A.2 as shown below

FS2391.43	Geoff Scurr Contracting Limited	I oppose the submission	Oppose OS900.155 (in part). Disallow submission to amend Rule 10.3.2.4.b.i.	Reject	Amend Rule 10.3.2.4 and add new Appendix 10A.2 as shown below
FS2439.30	Oceana Gold (New Zealand) Limited	I oppose the submission	Oppose OS900.155. Disallow submission	Reject	Amend Rule 10.3.2.4 and add new Appendix 10A.2 as shown below
FS2449.184	Federated Farmers of New Zealand	I oppose the submission	Oppose OS900.155. Disallow submission.	Reject	Amend Rule 10.3.2.4 and add new Appendix 10A.2 as shown below
OS958.56	Forest and Bird NZ	I seek to have the above provision amended	Amend Rule 10.3.2.4.a (protected species - indigenous vegetation clearance) by adding a new para (iii) as follows: 'one or more threatened wildlife species listed in Appendix 10?' and by adding an appendix listing the acutely and chronically threatened wildlife as per NZ Threat Classification list.	Accept	Amend Rule 10.3.2.4 and add new Appendix 10A.2 as shown below
FS2439.31	Oceana Gold (New Zealand) Limited	I oppose the submission	Oppose OS958.56. Disallow submission.	Reject	Amend Rule 10.3.2.4 and add new Appendix 10A.2 as shown below
FS2449.185	Federated Farmers of New Zealand	I oppose the submission	Oppose OS958.56. Disallow submission.	Reject	Amend Rule 10.3.2.4 and add new Appendix 10A.2 as shown below
OS900.5	Save The Otago Peninsula (STOP) Inc Soc	I seek to have the above provision amended	Add new definition of 'Threatened wildlife' as follows: <u>Threatened wildlife includes birds, bats and reptiles ranked as Nationally Critical, Nationally Endangered, Nationally Vulnerable or Declining in the New Zealand Threat Classification available on the</u>	Accept in part	Add new Appendix 10A.2 as shown below
OS958.6	Forest and Bird NZ				

			<u>Department of Conservation's website.</u>		
FS2449.253	Federated Farmers of New Zealand	I oppose the submission	Oppose OS900.5. Disallow submission.	Reject	Add new Appendix 10A.2 as shown below
FS2379.9	Department of Conservation	I support the submission	Support OS958.6. Allow submission and add new definition of Threatened Wildlife.	Accept in part	Add new Appendix 10A.2 as shown below
FS2449.260	Federated Farmers of New Zealand	I oppose the submission	Oppose OS958.6. Disallow submission.	Reject	Add new Appendix 10A.2 as shown below
OS908.34	Otago Regional Council	I seek to have the above provision amended	Reference the New Zealand Threat Classification System in policies and rules as required.	Reject	No amendment required
Requests to amend Rule 10.3.2.4.a Protected Species (indigenous vegetation clearance)					
OS919.40	Federated Farmers of New Zealand	I seek to have the above provision amended	Amend Rule 10.3.2.4 (indigenous vegetation clearance - protected species) to clarify that the intention in relation to indigenous vegetation is to capture a plant community rather than isolated examples of the species.	Reject	Do not amend Rule 10.3.2.4 as requested
FS2482.31	Forest and Bird NZ	I oppose the submission	Oppose OS919.40. Disallow submission.	Accept	Do not amend Rule 10.3.2.4 as requested
OS740.22	Michael Ovens	I oppose the provision	Remove Rule 10.3.2.4.a.ii (indigenous vegetation clearance of 15 year old trees)	Reject	Do not remove Rule 10.3.2.4.a.ii
Requests to amend Rule 10.3.2.4.b Exemptions					
OS958.71	Forest and Bird NZ	I seek to have the above provision amended	Amend Rule 10.3.2.4.b.i (protected species - indigenous vegetation clearance) to add a proviso that this exception does not include the earthworks involved in the erection, maintenance or alteration of fences	Reject	Do not amend Rule 10.3.2.4.b as requested
FS2140.43	John Scott	I oppose the submission	Oppose OS958.71. Disallow submission and do not make changes as requested by submitter.	Accept	Do not amend Rule 10.3.2.4.b as requested

FS2202.21	Clifton Trust	I oppose the submission	Oppose OS958.71. Disallow submission and do not make changes as requested by submitter.	Accept	Do not amend Rule 10.3.2.4.b as requested
FS2279.43	Ben Graham	I oppose the submission	Oppose OS958.71. Disallow submission and do not make changes as requested by submitter.	Accept	Do not amend Rule 10.3.2.4.b as requested
FS2300.43	Mathew O'Connell	I oppose the submission	Oppose OS958.71. Disallow submission and do not make changes as requested by submitter.	Accept	Do not amend Rule 10.3.2.4.b as requested
FS2391.124	Geoff Scurr Contracting Limited	I oppose the submission	Oppose OS958.71. Disallow submission.	Accept	Do not amend Rule 10.3.2.4.b as requested
FS2449.188	Federated Farmers of New Zealand	I oppose the submission	Oppose OS958.71. Disallow submission.	Accept	Do not amend Rule 10.3.2.4.b as requested
OS958.72	Forest and Bird NZ	I seek to have the above provision amended	Amend Rule 10.3.2.4.b.iii (protected species - indigenous vegetation clearance) so that the exception applies only to the maintenance of tracks up to 2m in width and not their construction	Accept in part	Amend Rule 10.3.2.4.b.i and iii as shown below
FS2140.13	John Scott	I oppose the submission	Oppose OS958.72. Disallow submission and do not make changes as requested by submitter.	Reject	Amend Rule 10.3.2.4.b.i and iii as shown below
FS2202.9	Clifton Trust	I oppose the submission	Oppose OS958.72. Disallow submission and do not make changes as requested by submitter.	Reject	Amend Rule 10.3.2.4.b.i and iii as shown below
FS2279.13	Ben Graham	I oppose the submission	Oppose OS958.72. Disallow submission and do not make changes as requested by submitter.	Reject	Amend Rule 10.3.2.4.b.i and iii as shown below
FS2300.13	Mathew O'Connell	I oppose the submission	Oppose OS958.72. Disallow submission and do not make changes as requested by submitter.	Reject	Amend Rule 10.3.2.4.b.i and iii as shown below

FS2391.88	Geoff Scurr Contracting Limited	I oppose the submission	Oppose OS958.72. Disallow submission.	Reject	Amend Rule 10.3.2.4.b.i and iii as shown below
FS2416.13	Alan Brown, Carrowmore Properties Limited, Robyn and Stephan Smith and Rick and Jill Clarke ("Pigeon Flat Road Group")	I oppose the submission	Oppose OS958.72. Disallow submission and retain exception for construction as well as maintenance of tracks as proposed in the 2GP.	Reject	Amend Rule 10.3.2.4.b.i and iii as shown below
FS2439.32	Oceana Gold (New Zealand) Limited	I oppose the submission	Oppose OS958.72. Disallow submission.	Reject	Amend Rule 10.3.2.4.b.i and iii as shown below
FS2449.189	Federated Farmers of New Zealand	I oppose the submission	Oppose OS958.72. Disallow submission.	Reject	Amend Rule 10.3.2.4.b.i and iii as shown below
OS355.13	Robert George & Sharron Margaret Morris	I seek to have the above provision amended	Amend Rule 10.3.2.4 (indigenous vegetation clearance - protected species) to provide exemptions for removal of regrowth indigenous vegetation	Reject	Do not amend Rule 10.3.2.4 as requested
OS951.70 OS1054.70	Timothy George Morris Timothy Morris (on behalf of RG and SM Morris Family Trust)	I seek to have the above provision amended	Amend Rule 10.3.2.4 to include exemptions for removal of regrowth indigenous vegetation within areas used for farming or forestry	Reject	Do not amend Rule 10.3.2.4 as requested
FS2449.186, FS2449.187	Federated Farmers of New Zealand	I support the submission	Support OS951.70, OS1054.70. Allow submissions.	Reject	Do not amend Rule 10.3.2.4 as requested
FS2391.17	Geoff Scurr Contracting Limited	I support the submission	Support OS1054.70. Allow submission.	Reject	Do not amend Rule 10.3.2.4 as requested
Background					

Rule 10.3.2.4 Protected species (indigenous vegetation clearance) is as follows:

- a. In the rural, rural residential and recreation zones, indigenous vegetation clearance must not occur where the following are present:
 - i. one or more of the threatened plant species listed in Appendix 10A; or
 - ii. one or more mature examples (greater than 15 years old) of the important native tree species listed in Appendix 10A;
- b. This standard does not apply to indigenous vegetation clearance that is:
 - i. for the erection, maintenance or alteration of fences (including gates);
 - ii. for the maintenance (but not extension) of existing network utilities activities (including irrigation infrastructure), tracks, drains, roads, or fire breaks;
 - iii. for the construction or maintenance of tracks up to 2m in width; or
 - iv. provided for as part of a conservation management strategy, conservation management plan, reserve management plan or covenant established under the Conservation Act 1987 or any other Act specified in the First Schedule of the Conservation Act 1987."

Submissions in support

KiwiRail Holdings Limited (OS322.90) support Rule 10.3.2.4 as the submitter supports that the maintenance of network utilities is exempt from compliance with the requirement for the setback of vegetation clearance from protected areas. Powernet Limited (FS2264.11) supports this submission as these exemptions will support the efficient and safe operation of network utilities and are consistent with Policies 3 and 5 of the NPSET 2008.

Transpower New Zealand Limited (OS806.48) supports Rule 10.3.2.4.b.ii, the provision to exempt existing network utilities activities from the vegetation clearance standard, provided that their request for the definition of Network Utilities Activities to include "transmission and distribution of electricity" is provided for. As stated above, I note that this has been recommended in an amended definition of Network Utilities.

Oceana Gold (New Zealand) Limited (OS1088.48) is neutral in relation to this rule, provided the new Macraes Gold Project Overlay Zone (MGPOZ) is established. Otherwise, an exception for the MGP needs to be included in 10.3.2.4(b) because the ongoing development and operation of the mine will inevitably involve clearance of vegetation and the 2GP needs to make provision for this.

Forest and Bird NZ (OS958.73) support Rule 10.3.2.4.b.iv, the exception that applies to indigenous vegetation clearance that is provided for as part of a conservation management strategy, conservation management plan, reserve management plan or covenant established under the Conservation Act 1987 or any other Act specified in the First Schedule of the Conservation Act 1987. Federated Farmers of New Zealand (FS2449.190) oppose this submission because they believe it is important that landowners have the ability to erect and maintain fences and construct and maintain tracks in areas of indigenous vegetation.

I note the submitters' support. In the case of Oceana Gold, I note that the proposed new Macraes Gold Project Overlay Zone was discussed in the Cross-Plan Mining Activity section 42A report, with the planner's recommendation that this be the subject of a future plan change to align with provisions under the Waitaki District Plan. Despite the recommendation that a new overlay zone is not created at this point, I do not

recommend that Rule 10.3.2.4 should be amended to create a specific exemption for the Macraes Gold Project. I consider it appropriate that any extension or change to this activity should consider the effects on the plant or tree species covered under Rule 10.3.2.4.

Requests to add "threatened wildlife species" to Rule 10.3.2.4 and add a new appendix and definition

STOP (OS900.155) and Forest and Bird (OS958.56) seek to amend Rule 10.3.2.4 by adding a new paragraph (a)(iii): "one or more threatened wildlife species listed in Appendix 10?" and to add a new appendix listing the acutely and chronically threatened wildlife as per the NZ Threat Classification list. The submitters generally support the rule except they believe that it also needs to include acutely and chronically threatened wildlife as per the National Priority Statement. STOP also seeks amendments to the exemptions in Rule 10.3.2.4.b – this part of the submission is considered with other submissions on Rule 10.3.2.4.b below.

The STOP submission is opposed by Geoff Scurr Contracting Limited (FS2391.43), although this opposition relates to the amendment to the exemption in the rule for fences (considered below). Both the STOP and Forest and Bird submissions are opposed by Oceana Gold (New Zealand) Limited (FS2439.30, FS2439.31) and Federated Farmers (FS2449.184, FS2449.185). Oceana Gold Limited states that the ongoing operation of the Macraes Gold Project will potentially involve clearance of indigenous vegetation where "threatened wildlife species" are present, and if the proposed MGPOZ is not established an exception for the Macraes Gold Project should be made within the rule. Federated Farmers believes the proposed amendments unnecessarily restrictive and inconsistent with the sustainable management principles of the RMA.

STOP (OS900.5) and Forest and Bird (OS958.6) seek to add a definition of threatened wildlife, relating to their submission requesting amendments to Rule 10.3.2.4 and a proposed new appendix. The submitters state that "Instead of having a schedule of threatened wildlife, which is difficult to update it may be feasible to have a definition referencing the NZ Threat Classification lists. If this is not possible to refer to a document outside of the Plan then the lists of threatened wildlife, including birds, bats and reptiles should be added as a schedule."

Federated Farmers (FS2449.253, FS2449.260) opposes both submissions stating they have not been adequately justified or shown to be appropriate. Department of Conservation (FS2379.9) supports Forest and Bird (OS958.6) as the submitter believes the addition of the definition to be appropriate.

Otago Regional Council (OS908.34) seeks that the 2GP refer to the New Zealand Threat Classification System in policies and rules because the protected indigenous species listed in Appendix 10A are taken from the classification system. The submitter is concerned that the appendix may in future not be consistent with the system, which is updated every 5 years.

Recommendations – Amendments 1 and 2

As a matter of national importance, section 6(c) of the RMA requires the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna. I agree with STOP and Forest and Bird that, in only addressing threatened plant species and not threatened fauna, Rule 10.3.2.4 appears to address only the first clause of section 6c, outside of those areas already scheduled as ASCVs. In developing this response to these submissions, I have drawn on the advice of Dr Mandy Tocher, an ecologist and planner currently working for the DCC.

In terms of the objective and policy linked to this performance standard, Objective 10.2.1 refers more broadly to both areas of indigenous vegetation and the habitats of indigenous fauna, while Policy 10.2.1.4 refers to the biodiversity value of an area of indigenous vegetation. I consider it appropriate that the rule for indigenous vegetation clearance that could affect threatened species should apply to fauna as well as plant species. I, therefore, recommend that threatened indigenous fauna are included in Rule 10.3.2.4, including the creation of a new appendix as suggested by the submitters. I acknowledge that Rule 10.3.2.4 applies only to indigenous vegetation clearance, so will not capture any exotic habitat utilised by threatened indigenous species.

In relation to the submitters' request to include an appendix listing acutely and chronically threatened wildlife as per the "National Priority Statement", I note there is no National Priority Statement pertaining to threatened wildlife. I assume the submitters are referring to either of two non-statutory documents; the proposed National Policy Statement for Indigenous Biodiversity (*pNPS Biodiversity*, 2011) or the joint statement of intent from the Minister of Conservation and Minister for the Environment, which details national priorities for protecting rare and threatened biodiversity on private land (*Protecting our Places*, 2004).

Forest and Bird and STOP suggest that any definition of threatened wildlife should include "birds, bats and reptiles ranked as Nationally Critical, Nationally Endangered, Nationally Vulnerable or Declining in the New Zealand Threat Classification available on the Department of Conservation's website". The NZ threatened species classification system (NZTCS)⁴ attempts to consistently apply a set of criteria to multiple fauna and flora taxa, to provide a national-level assessment of vulnerability to extinction. Under the scheme 'Nationally critical' species are the most vulnerable and 'Not threatened' the least; 23 fauna and flora taxonomic groups are included in the scheme (e.g. bats, birds, stick insects, marine mammals, NZ fleas, to name a few).

"Acutely and chronically threatened" is a term used in earlier iterations of the NZTCS (2002) and is also used in *Protecting our Places* where National Priority 4 of this document is "*To protect habitats of acutely and chronically threatened indigenous species.*" I note the *pNPS Biodiversity* uses a wider term "*threatened and at risk species*", which includes all classes under "at risk" as follows: At Risk-Declining; At Risk-Recovering; At Risk-Relict and At Risk-Naturally uncommon; as well as the threatened classes Nationally Critical, Nationally Endangered and Nationally Vulnerable (i.e. 7 classifications).

The pNPS approach differs (and promotes a larger list of classifications) from that requested from submitters (four classifications). Advice was sought from Rod Hitchmough from the Department of Conservation, who manages and administers the NZTCS for the correct translation of "Acutely and chronically threatened" referred to by the submitters, and contained within *Protecting our Places* and used in the notified version of Policy 2.2.3.1c. Mr Hitchmough was of the opinion that "Acutely and chronically threatened" should be limited to the four classifications referred to by the submitters rather than the wider list contained within the *pNPS Biodiversity*. This advice fits well with the submissions and as such, I recommend these submission points are accepted and that species classed as Nationally Critical, Nationally Endangered, Nationally Vulnerable and At Risk-Declining are included in a new appendix for threatened wildlife. The following diagram depicts the NZTS categories.

NZTS categories for native species

⁴ <http://www.doc.govt.nz/nature/conservation-status/>

Extinct

Threatened - **Nationally Critical**
Nationally Vulnerable
Nationally Endangered

At Risk - **Declining**
Recovering
Relict
Naturally uncommon

Not Threatened

Both submitters, through their submissions on a definition of threatened wildlife, wish to limit the schedule of threatened wildlife to include only birds, bats and reptiles. The submitters provide no reasons for the restriction and as noted above, the NZTCS includes 23 taxonomic groups that could, in theory be included in such a schedule. Indigenous birds and reptiles are all conspicuous elements of the DCC's indigenous fauna, many of which could be noticed by lay-persons or at least their presence noted if not through a formal identification. Also, both of these groups have good quality distributional data over the DCC making data on where they occur, and where they may occur, accessible to the public. I, therefore, agree with submitters and recommend the submission points are accepted and that protected and locally important reptiles and birds should be included in a new appendix, as shown below. While it could be argued that other groups such as invertebrates should be included, species in these groups are generally not as conspicuous as birds and reptiles, harder to identify and rely on very specialist knowledge. I also note that they have not been requested for inclusion by any submitters.

Indigenous bats are cryptic animals that are hard to detect without specialist knowledge and equipment. According to Dr Colin O'Donnell, DOC bat expert, the distribution of indigenous bats (short tail and long tail bats) is reasonably well-known nationally and locally, with a study completed in 1995 (by Andie Barry, University of Otago) that showed they are not currently known within the DCC area. I acknowledge that the lack of bat records over the DCC area does not mean they are extinct, but I am of the view that determining the presence or definite absence of bats in relation to Rule 10.3.2.4 could impose overly onerous constraints on vegetation clearance that cannot be justified by the current knowledge-base that indicates the likely absence of a population of bats over the DCC area. I, therefore, recommend that bats are not included in a new appendix of protected and locally important indigenous fauna.

One other species, however, may more appropriately be included in such an appendix. New Zealand sea lion, *Phocarctos hookeri*, is classified as 'Nationally Critical' and in my view warrants inclusion. This species is a conspicuous member of DCC fauna and at times can be found in vegetation well above MHWS. I, therefore, recommend that New Zealand sea lion is also included in the new appendix of protected and locally important fauna.

With regards to the submitters' suggestions that the 2GP definition of threatened wildlife or the policies and rules could refer to the DOC-led New Zealand threatened species classification system (NZTCS) instead of including a schedule of threatened wildlife, a performance standard must

always refer to the version of an external document that was available at the time the standard became operative so will not legally include any subsequent updates to that document. In the case of the NZTCS, classifications are reviewed for any given group every 3-4 years, at which point a new set of classifications are published online for each group. Reference to the NZTCS, as requested, would result in the potential for the threat classifications for many species to be out of date over the duration of a given Plan, or for species to be absent from schedules that have been allocated a higher threat ranking (become more threatened) over the course of the Plan. The same problem exists for other plan schedules and appendices and, therefore, the DCC intends to undertake annual plan changes to the 2GP to include any required updates. This process would include updating of any threatened flora and fauna schedules to match current threat classifications and to exclude species that are no longer appropriate.

I do not think a definition of threatened wildlife is required, if my recommendation to create a new appendix of “protected and locally important indigenous fauna” is accepted. I do, however, agree with submitters that the contents of a new appendix should include fauna species classified by the NZTCS as Nationally Critical, Nationally Endangered, Nationally Vulnerable and At Risk-Declining, as per the DOC NZTCS manual, 2008 as discussed above. In making this recommendation, I also recommend the submissions points relating to a new definition (OS900.5, OS958.6) are accepted in part.

I note that both the operative Plan and notified 2GP threatened plant species lists include “locally uncommon” and “at risk-naturally uncommon” plant species, which is broader in scope than the “acutely and chronically threatened” grouping requested for the new wildlife appendix. While “at risk-naturally uncommon” is a category from the NZTCS, “locally uncommon” is not part of the NZTCS but provides for inclusion of species that are naturally uncommon at a local level. While it may be considered consistent to include “locally uncommon” and “at risk-naturally uncommon” fauna species in the new appendix, it appears that the submissions may not give scope for this.

I have recommended below an amendment to Rule 10.3.2.4 and a new appendix for threatened wildlife. The composition of this appendix has not been determined in time for release of this report, but will be compiled and a draft appendix made available at least five working days prior to the start of the Natural Environment hearing.

Request to amend Rule 10.3.2.4.a Protected Species (indigenous vegetation clearance) to clarify that it is intended to capture a plant community and not isolated examples

Federated Farmers of New Zealand (OS919.40) seeks to amend Rule 10.3.2.4 to clarify that the intention in relation to indigenous vegetation is to capture a plant community rather than isolated examples of the species. The submitter supports the proposed rule, if considered in addition to reasonable limits on indigenous vegetation clearance (i.e. an increase in the minimum standards proposed under Rule 10.3.2.2, as outlined Federated Farmers' submission on that rule), and specific protection of areas under other approaches. If it is the case that the definition of "Indigenous Vegetation" applies here they believe it would be useful from a plan user's perspective to include this definition within the rule.

Forest and Bird NZ (FS2482.31) opposes this submission, because they believe the amendments sought are not consistent with the purpose of Part II RMA or the provisions of this plan, or the NCPS.

Recommendation

I do not recommend this submission is accepted, as I do not consider it is the intent of Rule 10.3.2.4 to exempt isolated examples of the species. With respect to the important native tree species in Appendix 10A, the rule specifies in 10.3.2.4.a.ii that it applies to one or more mature examples. With respect to threatened plant species, the rule specifies in 10.3.2.4.a.i that it applies to one or more of the threatened plant species listed in Appendix A10A, without specifying whether the rule applies to an individual specimen or an entire community of the species. However, the rule applies to indigenous species that are considered threatened according to the New Zealand Threat Classification System, ranging from species considered locally uncommon through to species that are considered nationally endangered. Because of this, I consider that the rule does not need to specify a lower limit on the number of specimens. I note, however, that the rule applies to indigenous vegetation clearance, the definition of which stems from the definition for vegetation, which refers to the destruction or extensive failure of “an area of vegetation”.

Request to remove Rule 10.3.2.4.a.ii (indigenous vegetation clearance of 15 year old trees)

Michael Ovens (OS740.22) seeks to remove Rule 10.3.2.4.a.ii (indigenous vegetation clearance of 15 year old trees). The submitter believes that the combination of the Rural Residential 2 rules and requirements of this provision as it stands make doing anything on this property very difficult to do and that it's all too limiting and may not be the best method for achieving the outcomes.

Recommendation

I do not consider that Rule 10.3.2.4.a.ii should be removed. The rule provides protection for mature examples of indigenous trees that are considered important for their biodiversity values, for example, as a provider of habitat, providing shelter for other native species or as a seed source. I consider the rule contributes to the fulfilment of DCC's functions in relation to biodiversity and do not recommend that it is removed.

Requests to amend Rule 10.3.2.4.b Exemptions

Similar to their submission on Rule 10.3.2.4 (addressed in section 5.8.7.3 above) Forest and Bird NZ (OS958.72) and STOP (OS900.155) seek to amend Rule 10.3.2.4.b.i to clarify that this exception does not include the earthworks involved in the erection, maintenance or alteration of fences, as the erection of fences can involve bulldozing or scrapping tracks which can degrade wetlands and adjacent water bodies.

Geoff Scurr Contracting Limited (FS2391.43) opposes the STOP submission because he believes the erection of fences usually does require earthworks. John Scott (FS2140.43), Clifton Trust (FS2202.21), Ben Graham (FS2279.43), Mathew O'Connell (FS2300.43) and Geoff Scurr Contracting Limited (FS2391.124) oppose the Forest and Bird submission as the amendment is unnecessarily restrictive and adversely impacts on farming activities. Federated Farmers of New Zealand (FS2449.188, FS2449.184) opposes both submissions as it is important that landowners have the ability to erect and maintain fences and construct and maintain tracks in areas of indigenous vegetation.

Forest and Bird NZ (OS958.71) and STOP (OS900.155) seek to amend Rule 10.3.2.4.b.iii so that the exception applies only to the maintenance of tracks up to 2m in width and not their construction, as construction of tracks can destroy populations of some threatened species. John Scott (FS2140.13), Clifton Trust (FS2202.9), Ben Graham (FS2279.13), Mathew O'Connell (FS2300.13), Geoff Scurr Contracting Limited (FS2391.88) and Pigeon Flat Road Group (FS2416.13) oppose the Forest and Bird submission as they believe that this is unnecessarily restrictive on farming

activities. Oceana Gold (New Zealand) Limited (FS2439.32, FS2439.30) opposes both submissions because the submitter seeks to retain the ability to construct tracks up to 2m width. Federated Farmers of New Zealand (FS2449.184, FS2449.189) both submissions because the submitter believes it is important that landowners have the ability to erect and maintain fences and construct and maintain tracks in areas of indigenous vegetation.

Robert George & Sharron Margaret Morris (OS355.13) seeks to amend Rule 10.3.2.4 to provide exemptions for removal of regrowth indigenous vegetation reasons, as excessive regrowth contributes to reduction of effective farming and forestry areas.

Timothy George Morris (OS951.70) and Timothy Morris (on behalf of RG and SM Morris Family Trust) (OS1054.70) also seek to amend Rule 10.3.2.4 to include exemptions for removal of regrowth indigenous vegetation. Their reasons are that regrowth of indigenous vegetation (e.g. Kanuka) can be rapid and have significance adverse effect on farming and forestry activities. The regrowth in such circumstances may be considered as reverse sensitivity and thus is at odds with other aspects of the 2GDP. The regrowth can be accelerated by fertiliser application. Control of regrowth indigenous vegetation is necessary as part of long term maintenance of rural land for productive rural activities and long term maintenance of rural land for productive rural activities is encouraged elsewhere within the 2GDP.

Federated Farmers of New Zealand (FS2449.186 and FS2449.187) supports Timothy George Morris and RG and SM Morris Family Trust as provision needs to be made for landowners to clear regenerating indigenous vegetation on previously cleared farm or forestry land. Geoff Scurr Contracting Limited (FS2391.17) supports RG and SM Morris Family Trust as the requested amendment is appropriate.

Recommendations – Amendment 3

In relation to the Forest and Bird and STOP submissions to seek clarification that Rule 10.3.2.4.b.i does not exempt earthworks, I do not recommend any amendment for the same reason as set out in section 5.8.7.3 above.

In relation to the Forest and Bird and STOP submissions to amend Rule 10.3.2.4.b.iii so that it only applies to maintenance and not construction of tracks up to 2m in width, I consider that the submitter raises a valid concern. This rule is designed to protect threatened species or important native trees, I consider it appropriate that the construction of tracks avoid adverse effects on such species. Rather than not providing for track construction altogether, I am recommending an amendment so that any construction is located so that it avoids or does not damage specimens listed in Appendix 10A. I consider this amendment should also apply to Rule 10.3.2.4.b.i in regard to the erection of fences, and have included this as a recommended amendment.

The Morris submissions to amend Rule 10.3.2.4 to provide exemptions for removal of regrowth indigenous vegetation were considered in the evidence of Kelvin Lloyd (paragraphs 70-78). Dr Lloyd states in paragraph 77, in relation to Rule 10.3.2.4.a, "In my opinion these restrictions are justified, as clearance in these instances could generate significant adverse effects on locally threatened or important species." Dr Lloyd does not favour the additional exemptions for regrowth vegetation as sought by the submitters. On the basis of the evidence of Dr Lloyd in relation to the potential effects of indigenous vegetation clearance on areas containing threatened or important indigenous species, I do not recommend that the submissions to amend Rule 10.3.2.4 to include exemptions for removal of regrowth indigenous vegetation are accepted.

Recommended amendment:

Amendments 1 and 3

Amend Rule 10.3.2.4.b as follows:

"a. In the rural, rural residential and recreation zones, indigenous vegetation clearance must not occur where the following are present:

- i. one or more of the threatened plant species listed in Appendix 10A.1 *{cl.16}*; ~~or~~
- ii. one or more mature examples (greater than 15 years old) of the important native tree species listed in Appendix 10A.3 *{cl.16}*; or
- iii. one or more threatened indigenous fauna species listed in Appendix 10A2. *{NatEnv900.155}*

b. This standard does not apply to indigenous vegetation clearance that is:

- iv. for the erection, maintenance or alteration of fences (including gates), provided any fence posts are located outside of the dripline of mature native trees listed in Appendix 10A and the erection of new fences does not damage specimens of the threatened species; *{NatEnv958.72}*
- v. for the maintenance (but not extension) of existing network utilities activities (including irrigation infrastructure), tracks, drains, roads, or fire breaks;
- vi. for the construction or maintenance of tracks up to 2m in width, provided the track construction does not damage any specimens of the threatened species or mature native trees listed in Appendix 10A *{NatEnv958.72}* ; or...."

Amendment 2

Add new appendix:

"Appendix 10A.2 Threatened fauna species list" and consequentially renumber the "Important native tree list" as Appendix 10A.3. The new appendix is to contain Nationally Critical, Nationally Endangered, Nationally Vulnerable and At Risk-Declining bird and reptile species as per the NZTCS (2008), along with New Zealand sea lion, *Phocarctos hookeri*, and to be compiled and made available at least five working days prior to the start of the Natural Environment hearing. *{NatEnv900.155}*

5.8.7.5 Rules 10.4.3.4-10.4.3.5 Vegetation clearance (protected areas, protected species) assessment rules

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
OS900.161	Save The Otago	I seek to have the	Amend Rule 10.4.3.4 by adding the	Reject	Do not amend Rule

OS958.82	Peninsula (STOP) Inc Soc Forest and Bird NZ	above provision amended	following relevant objectives and policies: <u>Objective 2.2.3 and policies 2.2.3.1, 2.2.3.2, 2.2.3.3, 2.2.3.4 and policy 10.2.1.1, 10.2.1.2 and 10.2.1.3</u> (as amended by this submission)		10.4.3.4 as requested
FS2449.210, FS2449.215	Federated Farmers of New Zealand	I oppose the submission	Oppose OS900.161 and OS958.82. Disallow submissions.	Accept	Do not amend Rule 10.4.3.4 as requested
OS900.162 OS958.83	Save The Otago Peninsula (STOP) Inc Soc Forest and Bird NZ	I oppose the provision	Remove Rule 10.4.3.5 (assessment of contravention of indigenous vegetation clearance - protected species)	Reject	Do not remove Rule 10.4.3.5
FS2449.211, FS2449.216	Federated Farmers of New Zealand	I oppose the submission	Oppose OS900.162 and OS958.83. Disallow submissions.	Accept	Do not remove Rule 10.4.3.5
FS2140.14	John Scott	I oppose the submission	Oppose OS958.83. Disallow submission and do not make changes as requested by submitter.	Reject	Do not remove Rule 10.4.3.5
FS2279.14	Ben Graham	I oppose the submission	Oppose OS958.83. Disallow submission and do not make changes as requested by submitter.	Reject	Do not remove Rule 10.4.3.5
FS2300.14	Mathew O'Connell	I oppose the submission	Oppose OS958.83. Disallow submission and do not make changes as requested by submitter.	Reject	Do not remove Rule 10.4.3.5
FS2391.89	Geoff Scurr Contracting Limited	I oppose the submission	Oppose OS958.83. Disallow submission.	Reject	Do not remove Rule 10.4.3.5
FS2416.14	Alan Brown, Carrowmore Properties Limited, Robyn and Stephan Smith and Rick and Jill Clarke ("Pigeon Flat Road Group")	I oppose the submission	Oppose OS958.83. Disallow submission and retain Rule 10.4.3.5 as proposed in the 2GP.	Reject	Do not remove Rule 10.4.3.5
Background					

Rules 10.4.3.4 (assessment of contravention of vegetation clearance (protected areas)) and 10.3.4.5 (assessment of contravention of vegetation clearance (protected species) (indigenous vegetation clearance)) are as follows:

4.	Vegetation clearance (Protected areas)	a. Effects on biodiversity and the natural character values of riparian margins and the coast	<p><i>Relevant objectives and policies:</i></p> <ul style="list-style-type: none"> i. Objective 10.2.1, Objective 10.2.2. ii. Indigenous vegetation clearance maintains or enhances the biodiversity values of the area of indigenous vegetation (Policy 10.2.1.4). iii. Vegetation clearance is set back an adequate distance from the coast and water bodies to minimise risk of erosion and protect, or enable the enhancement of, biodiversity and natural character values (Policy 10.2.2.3). <p><i>General assessment guidance:</i></p> <ul style="list-style-type: none"> iv. In any coastal environment mapped area, the assessment will consider the natural science values outlined in Appendix A3.
5.	Vegetation clearance (protected species) (indigenous vegetation clearance)	a. Effects on biodiversity	<p><i>Relevant objectives and policies:</i></p> <ul style="list-style-type: none"> i. Objective 10.2.1. ii. Indigenous vegetation clearance maintains or enhances the biodiversity values of the area of indigenous vegetation (Policy 10.2.1.4). <p><i>Potential circumstances or mitigation measures that may support a consent application include:</i></p> <ul style="list-style-type: none"> iii. The clearance is part of conservation activity and is being undertaken to enhance the health of the protected species and improve its chances of reproduction. iv. The clearance is of a non-local indigenous species that has extended beyond its natural range, and is being undertaken to enhance the health of the protected species and improve its chances of reproduction.

Requests to add relevant objectives and policies to Rule 10.4.3.4

STOP (OS900.161) and Forest and Bird NZ (OS958.82) seek to amend Rule 10.4.3.4 by adding the following relevant objectives and policies: Objective 2.2.3 and policies 2.2.3.1, 2.2.3.2, 2.2.3.3, 2.2.3.4 and policies 10.2.1.1, 10.2.1.2 and 10.2.1.3 (as amended by their submissions).

Federated Farmers of New Zealand (FS2449.210, FS2449.215) opposes these submissions as “the amendments proposed go significantly further than appropriate or required for performance standards in this area”.

Recommendation

I do not recommend acceptance of this submission to add strategic objectives and policies into the assessment rules for the same reasons as given in section 5.8.5.3 above.

Requests to remove Rule 10.4.3.5

STOP (OS900.162) and Forest and Bird (OS958.83) seek to remove Rule 10.4.3.5 as vegetation clearance in areas with threatened species should be non-complying. The submitters also state that “the exemptions are adequate to provide for existing uses, but not their expansion.”

Federated Farmers of New Zealand (FS2449.211, FS2449.216) opposes these submissions as “the amendments proposed go significantly further than appropriate or required for performance standards in this area.”

John Scott (FS2140.14), Ben Graham (FS2279.14), Mathew O'Connell (FS2300.14), Geoff Scurr Contracting Limited (FS2391.89) and Pigeon Flat Road Group (FS2416.14) oppose the Forest and Bid submission, as they consider that the restricted discretionary status is appropriate and can adequately define and restrict the matters to fall within the Council's discretion.

Recommendation

I do not recommend that vegetation clearance in areas containing a protected species should be a non-complying activity. I consider that a restricted discretionary status is more appropriate as a non-complying status would indicate that any indigenous vegetation could only be cleared in exceptional circumstances.

A restricted discretionary status will allow for consideration of whether clearance of vegetation can be achieved without affecting that part of the area of indigenous vegetation containing the protected species. I note that one of the potential circumstances listed that may support an application is “The clearance is of a non-local indigenous species that has extended beyond its natural range, and is being undertaken to enhance the health of the protected species and improve its chances of reproduction.” I note also that Policy 10.2.1.4 requires that indigenous vegetation clearance maintains or enhances the biodiversity values of the area of indigenous vegetation. In my view, these provisions provide

sufficient protection for biodiversity values from the potential effects of indigenous vegetation clearance.

I note as well the recommended amendment to Rule 10.4.3.5.a to include general assessment guidance that considers whether vegetation or habitats that meet the criteria of Policy 2.2.3.1 are affected by any application for vegetation clearance, dealt with in section 5.13.2 of this report.

Recommended amendment:

None

5.8.7.6 Appendix 10A. Protected Indigenous Species

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
OS949.27	Department of Conservation	I seek to have the above provision amended	Amend Appendix 10A to make corrections to nomenclature, threat classification and spelling as provided in submission.	Accept	Amend Appendix 10A as shown in the minor and inconsequential amendments table.

Background

Appendix 10A.1 lists threatened plant species and their threat classifications.

Request for minor amendments

Department of Conservation (OS949.27) seeks to amend Appendix 10A to make a number of minor corrections listed on page 14 of their submission.

Recommendation

I recommend that these corrections are accepted and have included them in the Minor and Inconsequential Amendments table in section 6.0 of this report.

Recommended amendment:

None, but refer to Section 6.0 Minor and Inconsequential Amendments.

5.8.7.7 Appendix 10B. Pest Plant Species

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
OS588.5	Otago Peninsula Community Board	I seek to have the above provision amended	Amend Appendix 10B to include Aluminium Plant and allow flexibility to add pest species as required (inferred not stated)	Accept in part	Amend Appendix 10B by adding synonym <i>Lamium galeobdolon</i> 'Variegatum' and common name Aluminium plant to listed plant <i>Galeobdolon luteum</i> – artillery plant.
OS949.28	Department of Conservation	I seek to have the above provision amended	Amend Appendix 10B to correct spelling of <i>Eragrostis curvula</i> and capitalisation of <i>Leycesteria formosa</i>	Accept	Amend Appendix 10B as shown in the minor and inconsequential amendments table.

Background

Appendix 10B sets out a list of plant pest species which are listed to ensure their clearance is exempt from vegetation clearance rules.

Submissions

Otago Peninsula Community Board (OS588.5) seeks to amend Appendix 10B so that there is flexibility to add plants as required to reflect changing conditions. The submitter also requests that Aluminium Plant (*Lamium galeobdolon* 'Variegatum') be added to the Appendix.

Department of Conservation (OS949.28) seeks to make two minor corrections as listed.

Recommendations

The pest plant species listed in Appendix 10B were identified in consultation with the Department of Conservation and the DCC Parks and Recreation Group specific to a local context. While I agree that it is important to be able to add species to the list should new plants be identified as being problematic in the Dunedin context, I consider that it would be necessary to add any new species as part of a plan change if this was an issue in the lifetime of the 2GP. In exceptional circumstances, the Biosecurity Act also provides emergency powers to manage the spread of plants with potential to cause significant environmental or economic loss.

Aluminium plant (*Lamium galeobdolon* 'Variegatum') has a legal classification in New Zealand as an Unwanted Organism under the Biosecurity Act and it is appropriate that it is listed in the 2GP. Appendix 10B currently lists 'Artillery plant', which is another common name used for Aluminium plant, under the scientific name *Galeobdolon luteum*. According to Landcare Research's NZflora database *G. luteum* is the basionym

(original scientific name) of *L. galeobdolon*. While the use of either name is valid, I consider that it may reduce confusion to use both names with the name *L. galeobdolon* appearing first, consistent with the name used by a number of different organisations, including Biosecurity NZ, and Landcare Research. I also consider that Aluminium plant, which is a widely used term, should be included in the Appendix as a common name alongside Artillery plant so that it is made clear to plan users that it is the same plant.

I recommend that corrections supplied in the submission of Department of Conservation (OS949.28) are accepted and have included them in the Minor and Inconsequential Amendments table in section 6.0 of this report.

Recommended amendment:

Amend Appendix 10B. Pest Plant Species as follows:

The table below sets out the pest plant species identified in the District Plan:

Species	Common name
...	
...	
<i>Lamium galeobdolon</i> 'Variegatum'; <i>Galeobdolon luteum</i>	<u>Aluminium plant</u> , Artillery plant {NatEnv588.5}
...	

5.8.8 Rule 10.8 Special Information Requirements - vegetation clearance

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
OS900.163	Save The Otago Peninsula (STOP) Inc Soc	I seek to have the above provision amended	Amend Rule 10.8 to provide information requirements for activities that involve vegetation clearance	Accept in part	Amend Rule 10.8 and rules 10.4.3.2-10.4.3.5, 10.5.2.3, 10.5.2.4, 10.5.2.7 as

					shown below
OS958.95	Forest and Bird NZ	I seek to have the above provision amended	<p>Amend Rule 10.8 (Special Information Requirements) by adding a new provision: For vegetation clearance activities within all zones the following information is to be provided by an experienced qualified ecologist:</p> <p>A description of the indigenous vegetation present, including a species list</p> <ul style="list-style-type: none"> • A description of the indigenous wildlife present and known to use the site. • An ecological assessment of the site using criteria in Schedule xxx • A description of the proposed activities and an assessment of the impact of the proposed activities on the values of the site. • An assessment of the proposed activities in relation to the Plan Provisions. • A description of how any adverse effects will be avoided and how biodiversity will be maintained and enhanced. 	Accept in part	Amend Rule 10.8 and rules 10.4.3.2-10.4.3.5, 10.5.2.3, 10.5.2.4, 10.5.2.7 as shown below
FS2140.15	John Scott	I oppose the submission	Oppose OS958.95. Disallow submission and do not make changes as requested by submitter.	Reject	Amend Rule 10.8 and rules 10.4.3.2-10.4.3.5, 10.5.2.3, 10.5.2.4, 10.5.2.7 as shown below
FS2279.15	Ben Graham	I oppose the submission	Oppose OS958.95. Disallow submission and do not make changes as requested by	Reject	Amend Rule 10.8 and rules 10.4.3.2-

			submitter.		10.4.3.5, 10.5.2.3, 10.5.2.4, 10.5.2.7 as shown below
FS2300.15	Mathew O'Connell	I oppose the submission	Oppose OS958.95. Disallow submission and do not make changes as requested by submitter.	Reject	Amend Rule 10.8 and rules 10.4.3.2-10.4.3.5, 10.5.2.3, 10.5.2.4, 10.5.2.7 as shown below
FS2391.90	Geoff Scurr Contracting Limited	I oppose the submission	Oppose OS958.95. Disallow submission.	Reject	Amend Rule 10.8 and rules 10.4.3.2-10.4.3.5, 10.5.2.3, 10.5.2.4, 10.5.2.7 as shown below
FS2416.15	Alan Brown, Carrowmore Properties Limited, Robyn and Stephan Smith and Rick and Jill Clarke ("Pigeon Flat Road Group")	I oppose the submission	Oppose OS958.95. Disallow submission and do not make changes as requested by submitter.	Reject	Amend Rule 10.8 and rules 10.4.3.2-10.4.3.5, 10.5.2.3, 10.5.2.4, 10.5.2.7 as shown below
FS2439.35	Oceana Gold (New Zealand) Limited	I support the submission	Support OS958.95 (part). Allow submission and amend by reconsidering the use of the term "avoided" and adding the words " <u>or mitigated</u> " after "maintained and enhanced".	Accept in part	Amend Rule 10.8 and rules 10.4.3.2-10.4.3.5, 10.5.2.3, 10.5.2.4, 10.5.2.7 as shown below
FS2449.248	Federated Farmers of New Zealand	I oppose the submission	Oppose OS958.95. Disallow submission.	Reject	Amend Rule 10.8 and rules 10.4.3.2-10.4.3.5, 10.5.2.3, 10.5.2.4, 10.5.2.7 as shown below
Background					
Rule 10.8.1 sets out special information requirements for landscape building platforms which may be established as part of resource consent					

applications for subdivision within landscape or natural coastal character overlays zones in the rural or rural residential zones.

Request to amend Rule 10.8 to provide additional information requirements for vegetation clearance activities

STOP (OS900.163) and Forest and Bird (OS958.95) seek that Rule 10.8 be amended to include special information requirements for activities that involve vegetation clearance. Forest and Bird's submission includes a requested wording for these information requirements, as shown in the table above.

The submitters' reasons are as follows:

- Both STOP and Forest and Bird have encountered a number of situations where applications have failed to adequately assess the need for vegetation clearance, and as a consequence illegal clearance has occurred. STOP has had to put a lot of time into providing the information on which an informed decision can be made.
- Forest and Bird note that the Waitaki Council issued a Certificate of Compliance that was found by the Court to be illegal (Forest and Bird v Waitaki District Council CIV 2011- 476000350).
- To avoid these situations, and to ensure that the Plans objectives and policies can be met, both STOP and Forest and Bird consider that there is a need to prescribe information requirements for activities that involve vegetation clearance.

Forest and Bird's submission is supported in part by Oceana Gold (New Zealand) Ltd (FS2439.35). Oceana Gold is not opposed to the inclusion of vegetation clearance information in principle, but believes that the use of the term "avoided" in the wording of the provision requested by Forest and Bird should be reconsidered, and that the words "or mitigated" should be added after "maintained and enhanced".

Forest and Bird's submission is opposed by the following further submitters:

- John Scott (FS2140.15), Ben Graham (FS2279.15), Mathew O'Connell (FS2300.15), Geoff Scurr Contracting Limited (FS2391.90) and Alan Brown, Carrowmore Properties Limited, Robyn and Stephan Smith and Rick and Jill Clarke ("Pigeon Flat Road Group") (FS2416.15), all of whom consider that the requirement for input from an experienced, qualified ecologist is not appropriate in all circumstances and is unnecessarily costly to the landowner.
- Federated Farmers (FS2449.248), who consider that it is not reasonable to expect private landowners, carrying out otherwise legitimate activities under the 2GP, to both pay for and arrange ecological assessments from qualified private ecologists for all vegetation clearance activities, without being able to adequately show why this is necessary, particularly when proposed for 'all zones'. In Federated Farmers' view, this is outside the requirements of the RMA, and inappropriate, unworkable and unreasonable.

Recommendation

I do not consider that it should be a mandatory requirement for any application for vegetation clearance to supply an ecological assessment by a qualified ecologist, noting that some applications may be relatively minor contraventions of Rule 10.3.2 (or the activity status rules for

indigenous vegetation clearance in natural coastal character overlays and ASCVs). I do, however, consider that Rule 10.8 should reference that this may be requested. I also recommend that supplying an ecological assessment should be included in the assessment rules as a potential circumstance that may support any consent application for vegetation clearance. I also consider that some guidance as to what such an assessment should include will be helpful to plan users, and have drafted an amended version of the list of information provided by Forest and Bird.

I recommend that Rule 10.8 and assessment rules 10.4.3.2-10.4.3.5, 10.5.2.3, 10.5.2.4 and 10.5.2.7 are amended as shown below.

Recommended amendment:

Amend Rule 10.8 by inserting a new 10.8.2 as follows:

"10.8.2 Vegetation Clearance

1. Council may request a report by an ecologist or similarly qualified person for applications where resource consent is required for vegetation clearance. Where requested the report should include:
 - a. a description of the indigenous vegetation present, including a species list;
 - b. a description of the indigenous wildlife present and known to use the site;
 - c. an ecological assessment of the site using the criteria in Policy 2.2.3.1;
 - d. a description of the proposed activities and an assessment of their impact on the biodiversity values of the site; and
 - e. a description of any mitigation or offsetting techniques to be utilised to maintain and enhance the biodiversity values of the site or compensate for any adverse effects that cannot be avoided." {NatEnv958.95}

Amend Rules 10.4.3.2-10.4.3.5, 10.5.2.3, 10.5.2.4, 10.5.2.7 to add the following as a "Potential circumstances that may support a consent application":

"For indigenous vegetation clearance, an ecological assessment is supplied with the application (see Rule 10.8.1 Special Information Requirements)" {NatEnv958.95}

5.8.9 New Suggested Provisions – Vegetation clearance

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
OS580.1	David and Sandra Goodchild	I seek to have the above provision	Require landowners in residential zones to remove sycamores and other pest plant	Reject	Do not add new provisions as

OS869.1	Leslie & Maureen Green	amended	species listed in Appendix 10B		requested
OS919.31	Federated Farmers of New Zealand	I seek to have the above provision amended	Add a new rule to specifically provide for the clearance of pest plants in the rural area as a permitted activity.	Reject	Do not add new rule as requested
FS2140.40	John Scott	I support the submission	Support OS919.31. Allow submission and make changes requested by submitter.	Reject	Do not add new rule as requested
FS2200.5	Dianne Reid	I support the submission	Support OS919.31. Allow submission and add a new rule to specifically provide for the clearance of pest plants in the rural area as a permitted activity.	Reject	Do not add new rule as requested
FS2279.40	Ben Graham	I support the submission	Support OS919.31. Allow submission and make changes requested by submitter.	Reject	Do not add new rule as requested
FS2300.40	Mathew O'Connell	I support the submission	Support OS919.31. Allow submission and make changes requested by submitter.	Reject	Do not add new rule as requested
FS2416.44	Alan Brown, Carrowmore Properties Limited, Robyn and Stephan Smith and Rick and Jill Clarke ("Pigeon Flat Road Group")	I support the submission	Support OS919.31. Allow submission.	Reject	Do not add new rule as requested
<p>Discussion:</p> <p><u>Request to require removal of pest species in residential zones</u></p> <p>David and Sandra Goodchild (OS580.1) and Leslie and Maureen Green (OS869.1) seek that new provisions are added to the 2GP to require landowners in residential zones to remove sycamores and other pest plant species listed in Appendix 10B. David and Sandra Goodchild indicate that a nearby sycamore tree spreads its seeds over their own and their neighbour's property. They note there is currently no provision to have this weed eradicated from private property.</p> <p>Recommendation</p>					

There is no restriction in the 2GP to landowners clearing sycamore or other pest plant species listed in Appendix 10B from their residential properties. However, there is also nothing in the 2GP that makes this a mandatory requirement.

I do not recommend that this submission is accepted, as I do not consider that requiring mandatory control of pest plant or animal species is a function of the 2GP. The management of pest species is undertaken under the Biosecurity Act 1993, with the Otago Regional Council being the lead agency through the preparation of a regional pest management strategy. Any regulatory requirement to control pest species in Dunedin is provided by the Pest Management Strategy for Otago 2009. I consider this the appropriate instrument for requiring the control of pest species and suggest that, if the submitters consider species need to be added, that they contact the ORC to raise their concerns.

Request to provide for removal of pest plants as a permitted activity in rural areas

Federated Farmers (OS919.31) seeks that a new rule be added to the Plan to specifically provide for the clearance of pest plants in the rural area as a permitted activity. Federated Farmers indicates that a number of farmers have contacted them, concerned that pest plants would be captured under the proposed vegetation clearance rules. While this does not appear to be the case (excluding rules relating to stability in hazard overlay zones), Federated Farmers consider that it would be useful from a plan user's perspective to develop a new rule which specifically provides for the clearance of pest plants as a permitted activity in the rural area.

This submission is supported by John Scott (FS2140.40), Dianne Reid (FS2200.5), Ben Graham (FS2279.40), Mathew O'Connell (FS2300.40) and Alan Brown, Carrowmore Properties Limited, Robyn and Stephan Smith and Rick and Jill Clarke ("Pigeon Flat Road Group") (FS2416.44), who consider that the new rule requested by Federated Farmers would appropriately support standard farming activities.

Recommendation

The clearance of pest plant species (listed in Appendix 10B) in the rural zone is largely exempt from the vegetation clearance rules. This is shown in rules 10.3.2.1.b and 10.3.2.3.c.ii which cover vegetation clearance not limited to indigenous species. I note that I have also recommended an amendment to the exemptions to Rule 10.3.2.2 above to include this exemption, although it is my understanding that the pest plant species list does not include any indigenous species.

With regard to vegetation clearance in the hazard (land instability) overlay zones, I note that amendments to Rule 11.3.2 were recommended in the Natural Hazards Section 42A report to exempt the removal of pest plant species provided that the area is replanted within 3 months with plants that contribute to stabilisation (refer pp 148-152).

I consider that these rules provide sufficient clarity that the clearance of pest plant species is a permitted activity in rural zones and, therefore, do not recommend that a new rule is added as requested.

Recommended amendment:

None.

5.9 Tree Species Provisions

5.9.1 Policy 10.2.1.6

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
OS949.7	Department of Conservation	I support the provision	Retain Policy 10.2.1.6	Accept in part	Amend Policy 10.2.1.6 as shown below.
OS900.144 OS958.24	Save The Otago Peninsula (STOP) Inc Soc Forest and Bird NZ	I seek to have the above provision amended	Amend Policy 10.2.1.6 as follows: Require forestry and tree planting to avoid the use of wilding tree species, unless the risk of wilding tree spread into areas of indigenous vegetation can be avoided or, if avoidance is not possible, is insignificant. <u>Avoid exotic tree planting into areas of indigenous vegetation.</u>	Accept in part	Add new Policy 10.2.3.12 and new Policy 10.2.5.18 as shown below. Second part of request addressed in Section 5.12.1
FS2391.119	Geoff Scurr Contracting Limited	I oppose the submission	Oppose OS900.144. Disallow submission.	Reject	Add new Policy 10.2.3.12 and new Policy 10.2.5.18 as shown below.
FS2449.90	Federated Farmers of New Zealand	I oppose the submission	Oppose OS900.144. Disallow submission.	Reject	Add new Policy 10.2.3.12 and new Policy 10.2.5.18 as shown below.
FS2379.3	Department of Conservation	I support the submission	Support OS958.24. Allow submission and amend Policy 10.2.1.6 as requested by submitter.	Accept in part	Add new Policy 10.2.3.12 and new Policy 10.2.5.18 as shown below.
FS2449.91	Federated Farmers of New Zealand	I oppose the submission	Oppose OS958.24. Disallow submission.	Reject	Add new Policy 10.2.3.12 and new Policy 10.2.5.18 as shown below.

OS919.25	Federated Farmers of New Zealand	I seek to have the above provision amended	Amend Policy 10.2.1.6 as follows: 'Require forestry and tree planting to avoid the use of wilding tree species, unless the risk of wilding tree spread into areas of indigenous vegetation can be avoided or <u>appropriately managed</u> , if avoidance is not possible, is insignificant. '	Accept in part	Amend Policy 10.2.1.6 as shown below.
FS2267.16	Harboursides and Peninsula Preservation Coalition	I oppose the submission	Oppose OS919.25. Disallow submission and instead allow amendments to Policy 10.2.1.6 as proposed by submission 900.144.	Reject	Amend Policy 10.2.1.6 as shown below.
FS2482.22	Forest and Bird NZ	I oppose the submission	Oppose OS919.25. Disallow submission.	Reject	Amend Policy 10.2.1.6 as shown below.

Background

Policy 10.2.1.6 states: "Require forestry and tree planting to avoid the use of wilding tree species, unless the risk of wilding tree spread into areas of indigenous vegetation can be avoided or, if avoidance is not possible, is insignificant."

This policy is implemented via Rule 10.3.4 Tree Species, which lists those species with a tendency to wilding which must not be used during forestry or tree planting activities. Activities that breach Rule 10.3.4 are assessed against Rule 10.4.3.11, which provides for the assessment of the risk of tree species becoming established beyond the original location of planting and in either ecologically sensitive or important areas or landscape or natural coastal character overlay zones. See the "Rule 10.3.4" and "Rule 10.4.3.11" sections of this report, immediately below, for discussions of the background to 2GP tree species rules, and of submissions on those rules.

The significance of the potential adverse effects of wilding spread is recognised at a national level in the New Zealand Wilding Conifer Management Strategy 2015-2030, which notes that wilding conifers:

- are spreading at around 5% annually and infesting tens of thousands of hectares every year;
- can be managed, but failure to respond to their spread can lead to the costs of control escalating exponentially;
- can cause the loss of native ecosystems and species extinctions, impact on landscapes, reduce water yields, and increase the risk of wild fires;
- can limit future economic land uses and increase the cost and complexity of pasture development and commercial forestry.

The draft National Environmental Statement for Plantation Forestry (NES-PF) also recognises this issue; consultation material notes that wilding spread is a key adverse effect from afforestation (i.e. the establishment of forest) that needs to be managed by the standard.

Submissions in support

DOC (OS949.7) seek that Policy 10.2.1.6 be retained, because wilding trees can have negative impacts on indigenous biodiversity, natural character, and water quality and quantity. DOC consider it appropriate that the planting of new areas of trees with wilding potential be subject to a resource consent application, where the suitability of the site and the potential for adverse effects of wilding tree spread can be assessed.

Protection of additional areas from the risk of wilding tree spread

STOP (OS900.144) and Forest and Bird NZ (OS958.24) seek that Policy 10.2.1.6 be amended as follows:

Require forestry and tree planting to avoid the use of wilding tree species, unless the risk of wilding tree spread ~~into areas of indigenous vegetation~~ can be avoided or, if avoidance is not possible, is insignificant. Avoid exotic tree planting into areas of indigenous vegetation.

DOC (FS2379.3) supports the amendments to the policy proposed by Forest and Bird NZ. Geoff Scurr Contracting Limited (FS2391.119) opposes STOP's submission due to their concern about the implications of the term "avoid" in the context of the plan; the submitter believes that a definition of "avoid" may be required. Federated Farmers (FS2449.90, FS2449.91) opposes both STOP and Forest and Bird's submissions because they consider that the proposed changes alter the intent of the policy and unnecessarily complicate it.

In the first part of their submission point (the requested deletion of "into areas of indigenous vegetation"), STOP and Forest and Bird seek that Policy 10.2.1.6 be amended to manage wilding tree spread into any area, not only into areas of indigenous vegetation. They note that wilding trees can become a source of further wildings which may then spread into areas of indigenous vegetation or outstanding landscapes.

Recommendations – Amendment 1

I agree in part with this element of STOP and Forest and Bird's request. As proposed, the policies in the 2GP relating to this issue focus solely on the biodiversity effects of wilding tree spread. I agree with the submitters that this is not the only potential effect; as recognised in the NZ Wilding Conifer Management Strategy (2015-2030), wilding trees can have other adverse effects, including:

- Reduction in available grazing land
- Limits on future land-use options
- Visual effects on landscapes
- Effects on surface water flows and aquifer recharge in water sensitive catchments
- Wild fires.

As noted in the Background section above, Rule 10.4.3.11 (i.e. the assessment rule applying to forestry and tree planting activities that do not comply with the tree species performance standard) directs the assessment of the risk of tree species spreading into landscape or natural coastal character overlay zones. However, the 2GP provisions as notified do not include policies related to this potential effect. I consider that this omission is an anomaly that needs to be resolved. Rule 10.4.3.11 should refer to relevant policies against which consent applications can be assessed.

I recommend that new Policies 10.2.3.12 and 10.2.5.18 be added to the plan and that consequential amendments be made to Rule 10.4.3.11, as set out below. The proposed wording of the new policies is similar to the wording of Policy 10.2.1.6 as notified, but with a change to the

degree of strictness of the policy, as explained under the heading “Amendment to the degree of strictness of Policy 10.2.1.6”, below.

However, I do not agree with STOP and Forest and Bird that Policy 10.2.1.6 should be amended to control wilding tree spread into any area (i.e. not just into areas of indigenous vegetation or landscape or natural coastal character overlay zones, but into any land outside the original location of planting). Although I acknowledge the submitters’ point that any spread of wildings outside the original area of planting may themselves generate wildings that could eventually spread into areas of indigenous vegetation or outstanding landscapes, I consider that the wording of Policy 10.2.1.6 and Rule 10.4.3.11 including my recommended amendments, together with the new Policies 10.2.3.12 and 10.2.5.18 that I recommend be added to the plan, provide sufficient control of wilding tree spread. I note that the general assessment guidance set out in Rule 10.4.3.11 includes the following (with numbering as per my recommended amendments below):

##v. The Council will consider the risk of the tree species spreading beyond the original location of planting due to:

- 1. the downwind land use, including the intensity of the stocking rate and the palatability of the tree species to the animals grazing; and*
- 2. the location of the tree planting in relation to prevailing wind directions, slope, altitude and exposure; and/or*
- 3. the use of a wilding management plan that will ensure wilding tree spread will be monitored and eradicated.*

This assessment rule applies regardless of whether a forestry or tree planting activity is upwind of, or otherwise close to, an area of indigenous vegetation or a landscape or natural coastal character overlay zone. I consider that this rule addresses the submitters’ concerns about wilding spread. To clarify that Rule 10.4.3.11.v applies in all cases, I consider that the rule should be amended as shown below, to add the header “Potential circumstances that may support a consent application include” above assessment rules that relate to whether or not there are ecologically sensitive or important areas, or landscape or natural coastal character overlay zones, downwind of the proposed planting location.

Amendment to the degree of strictness of Policy 10.2.1.6

Federated Farmers (OS919.25) seek that Policy 10.2.1.6 be amended as follows:

'Require forestry and tree planting to avoid the use of wilding tree species, unless the risk of wilding tree spread into areas of indigenous vegetation can be avoided or appropriately managed, ~~if avoidance is not possible, is insignificant.~~'

While Federated Farmers support the intent to manage risks associated with wilding trees, given the difficulty of establishing whether the risks are likely to be insignificant, they consider the policy should focus on ensuring that risks from planting are appropriately managed.

HPPC (FS2267.16) opposes Federated Farmers’ submission because the submitter believes “avoidance” must be the standard as seed spread afar by birds cannot be “appropriately managed”. Forest and Bird (FS2482.22) also opposes this submission, as they believe the amendments sought are not consistent with the purpose of Part II RMA or the provisions of this plan, or the NCPS.

Recommendations – Amendment 2

I agree with Federated Farmers that the wording “can be avoided or, if avoidance is not possible, is insignificant” is excessively strict in relation to the risk of wilding tree *spread*. However, I consider that it would be appropriate to retain this wording, but instead to apply it to wilding tree *establishment* – i.e.:

"Require forestry and tree planting to avoid the use of wilding tree species, unless the risk of wilding tree ~~spread into~~ establishment in areas of indigenous vegetation can be avoided or, if avoidance is not possible, is insignificant."

This wording would focus the rule on controlling the risk of the establishment of wilding trees, rather than controlling the risk of them spreading at all. I consider that it is the establishment of wilding species, rather than the spread of seeds or seedlings, that has the potential to result in adverse effects. It would also recognise the fact that Rule 10.4.3.11 provides for the Council to consider mitigation measures to prevent the establishment of wilding trees, in particular the use of a wilding management plan (which is likely to include the removal of wilding seedlings), as well as other mitigating factors including any downwind land use that would limit wilding spread, and the location of tree planting in relation to prevailing wind directions, slope, altitude and exposure.

The approach taken in Rule 10.4.3.11 is supported by the Wilding Spread Risk Calculator, which forms part of the draft National Environmental Standard for Plantation Forestry (NES-PF). The calculator is a means of assessing the risk of wilding spread, taking into account the spreading vigour of tree species, their palatability to grazing stock, the topography of the site and exposure to wind, and the downwind landuse and vegetation cover. Given that the NES-PF will over-ride 2GP rules when it is finalised, for consistency of management it is important that plan provisions align with the approach taken in the draft NES. With regard to wilding trees, draft NES rules are focused on the mitigation of adverse effects; they provide for afforestation to occur in cases where the wilding spread risk calculator score is low.

Recommended amendment:

Amendment 1

Add new Policy 10.2.3.12 as follows:

Require forestry and tree planting to avoid the use of wilding tree species, unless the risk of wilding tree establishment in areas of outstanding natural coastal character (ONCC), high natural coastal character (HNCC), and natural coastal character (NCC) will be avoided or, if avoidance is not possible, is insignificant. {NatEnv900.144}

Add new Policy 10.2.5.18 as follows:

Require forestry and tree planting to avoid the use of wilding tree species, unless the risk of wilding tree establishment in Outstanding Natural Features (ONFs), Outstanding Natural Landscapes (ONLs) and Significant Natural Landscapes (SNLs) will be avoided or, if avoidance is not possible, is insignificant. {NatEnv900.144}

In consequence to the amendments to policies shown above, amend Rule 10.4.3.11 as follows: {OS900.144 and OS958.24}

11.	Tree Species	<ul style="list-style-type: none"> a. Effects on biodiversity b. Effects on natural character of the coast 	<p><i>Relevant objectives and policies:</i></p> <ul style="list-style-type: none"> i. Objectives 10.2.1, 10.2.3 and 10.2.5 ii. The risk of wilding tree spread into <u>establishment in</u> areas of indigenous vegetation is
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		<p><u>c. Effects on landscape values</u></p>	<p>avoided or, if avoidance is not possible, is insignificant (Policy 10.2.1.6).</p> <p>iii. <u>The risk of wilding tree establishment in areas of outstanding natural coastal character (ONCC), high natural coastal character (HNCC), and natural coastal character (NCC) will be avoided or, if avoidance is not possible, is insignificant (Policy 10.2.3.12).</u></p> <p>iv. <u>The risk of wilding tree establishment in Outstanding Natural Features (ONFs), Outstanding Natural Landscapes (ONLs) and Significant Natural Landscapes (SNLs) will be avoided or, if avoidance is not possible, is insignificant (Policy 10.2.5.18).</u></p> <p><i>General assessment guidance:</i></p> <p>iv. The Council will consider the risk of the tree species spreading beyond the original location of planting due to:</p> <ol style="list-style-type: none"> 1. the downwind land use, including the intensity of the stocking rate and the palatability of the tree species to the animals grazing; and 2. the location of the tree planting in relation to prevailing wind directions, slope, altitude and exposure; and/or 3. the use of a wilding management plan that will ensure wilding tree spread will be monitored and eradicated. <p><i>Potential circumstances that may support a consent application include:</i></p> <p>vi. There are no ecologically sensitive or important areas downwind that could be vulnerable to wilding tree spread, including identified Scheduled Areas of Significant Conservation Value (Scheduled ASCV).</p> <p>vii. There are no landscape or natural coastal character overlay zones downwind that could be vulnerable to wilding tree spread.</p>
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Amendment 2

Amend Policy 10.2.1.6 as follows, and make consequential changes to assessment rules:

"Require forestry and tree planting to avoid the use of wilding tree species, unless the risk of wilding tree ~~spread into~~ establishment in {NatEnv919.25} areas of indigenous vegetation can be avoided or, if avoidance is not possible, is insignificant."

5.9.2 Rule 10.3.4 Tree Species performance standard

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
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OS949.20	Department of Conservation	I support the provision	Retain Rule 10.3.4 (tree species)	Accept in part	Amend Rule 10.3.4 as shown below.
OS355.2	Robert George & Sharron Margaret Morris	I oppose the provision	Remove Rule 10.3.4 (tree species)	Accept in part	Amend Rule 10.3.4 as shown below.
OS951.51	Timothy George Morris				
OS1054.51	Timothy Morris (on behalf of RG and SM Morris Family Trust)				
OS1081.1	Lindsay Dempster, Nic Dempster, Simon Pointer, James Dempster, Sarah Dempster	I seek to have the above provision amended	Amend Rule 10.3.4 (tree species) to exclude Douglas fir	Reject	Do not amend Rule 10.3.4 as requested.
OS900.132	Save The Otago Peninsula (STOP) Inc Soc	I seek to have the above provision amended	Amend Rule 10.3.4 (tree species) to add the following species: Bishops Pine (Pinus muricata); Ponderosa Pine (Pinus Ponderosa); Maritime Pine (Pinus pinaster); Sycamore; Hawthorn; Boxthorn; Buddleja daviddi; Grey willow (Salix cinerea); Crack willow (Salix fragilis), Rowan tree (Sorbus aucuparia); and Cotoneaster simonsii.	Accept in part	Amend Rule 10.3.4 as shown below.
OS958.76	Forest and Bird NZ				
FS2379.5	Department of Conservation	I support the submission	Support OS900.132. Allow submission and amend Rule 10.3.4 as requested by submitter.	Accept in part	Amend Rule 10.3.4 as shown below.
FS2449.192	Federated Farmers of New Zealand	I oppose the submission	Oppose OS900.132. Disallow submission.	Accept in part	Amend Rule 10.3.4 as shown below.
FS2444.51	Waste Management (NZ) Limited	I oppose the submission	Oppose OS958.76. Disallow submission	Accept in part	Amend Rule 10.3.4 as shown below.
FS2449.193	Federated Farmers	I oppose the	Oppose OS958.76. Disallow submission.	Accept in part	Amend Rule 10.3.4 as

of New Zealand

submission

shown below.

Background

Rule 10.3.4 Tree Species is as follows:

Forestry and tree planting must not include any of the following species:

- Lodgepole/contorta pine (*Pinus contorta*)
- Scots pine (*Pinus sylvestris*)
- Douglas fir (*Pseudotsuga menziesii*)
- Corsican pine (*Pinus nigra*)
- Mountain pine (*Pinus mugo*)
- Dwarf Mountain pine (*Pinus uncinata*); or
- Larch (*Larix decidua*).

Under draft National Environmental Statement for Plantation Forestry (NES-PF) rules, afforestation would generally be a permitted activity, provided that (among other conditions) the risk of wilding spread was managed. The management tool proposed in the draft NES is a “wilding spread risk calculator”. This calculator allocates five different scores to proposed plantings, which are added together to obtain the total score.

The five scoring categories are:

- Species – growth (i.e. spreading vigour): 0 to 5
- Species – palatability (e.g. to livestock): 1 to 4
- Siting of new planting (i.e. influence of wind exposure and gradient of land on wilding spread): 0 to 4
- Downwind land use – grazing (i.e. the type and number of livestock grazing the land downwind of the planting site): 0 to 4
- Downwind vegetation cover (i.e. the extent to which existing cover may control wilding establishment): 0 to 4.

Under the draft NES-PF, afforestation would be permitted only where a proposed planting had a wilding spread risk calculator total score of 11 or less. The calculator’s scale of risk for different species of tree is as follows (from 0 – very low risk of spreading to 5 – highest risk of spreading):

Redwoods, Leyland cypresses, cedars and spruces	0
Radiata pine (<i>P. radiata</i>) and ponderosa pine (<i>P. ponderosa</i>), and Lawsons cypress (<i>C. lawsoniana</i>)	1
Muricata pine (<i>P. muricata</i>), maritime pine (<i>P. pinaster</i>) and larches (<i>Larix spp</i>)	2
Corsican pine (<i>P. nigra</i>) and mountain/dwarf mountain pine (<i>P. uncinata/mugo</i>)	3
Douglas-fir (<i>Ps. menziesii</i>), and Scots pine (<i>P. sylvestris</i>)	4
Lodgepole/contorta pine (<i>P. contorta</i>)	5

The seven tree species listed in Rule 10.3.4 were included in the rule as notified primarily because they are listed in the calculator as having a medium to high level of spreading rigour; six of the species have a spreading rigour score of 3, 4 or 5. In addition, the Larch (*larix decidua*) was included in Rule 10.3.4 as notified, for the following reasons:

- Wilding spread from Larch that is planted as part of a forestry activity or shelter belt is already managed via a similar rule in the operative plan (which also applies to Scots pine and Douglas fir).

- A practice analysis of other District Plans (see details below) indicated that wilding spread from Larch is often managed by other territorial authorities
- Pre-notification consultation with forestry companies did not raise concerns with a continuation of the current approach to managing wilding spread from Larch.

A practice analysis was undertaken to look at the approach taken to the management of wilding spread in five other District Plans in the South Island (Mackenzie, Central Otago, Queenstown Lakes, Waitaki and Selwyn). This indicated the following:

- The planting of lodgepole (*Pinus contorta*), Scots pine (*Pinus sylvestris*) and Douglas fir (*Pseudotsuga menziesii*) is subject to controls (with varying activity statuses) in all of these plans
- The planting of Corsican pine (*Pinus nigra*) is subject to controls in all except Central Otago's plan.
- The planting of Mountain pine (*Pinus mugo*) and Dwarf Mountain pine (*Pinus uncinata*) is subject to controls in the Selwyn and Waitaki plans.
- The planting of Larch (*Larix decidua*) is subject to controls in the Queenstown Lakes, Waitaki and Central Otago plans.
- Various pine species not proposed for control in Rule 10.3.4 are subject to controls in one or more of these plans, as follows: Bishops pine (*Pinus muricata*) in Mackenzie and Central Otago; Ponderosa pine (*Pinus ponderosa*), Maritime pine (*Pinus pinaster*) and Swiss pine (*Pinus cembra*) in Central Otago; and Radiata pine (*Pinus radiata*) in Queenstown Lakes.
- Waitaki's plan also controls all alders, all willows, and the Sycamore (*Acer pseudoplatanus*), none of which are included in Rule 10.3.4 as notified.

The full list of species included in Rule 10.3.4 was consulted on with organisations involved in forestry, including City Forest, Wenita Forest Products, the NZ Farm Forestry Association and PF Olsen, who did not raise concerns with the content of the rule, from the point of view of its potential impacts on commercial forestry operations. Douglas fir was considered an acceptable plantation species where it is appropriately managed, e.g. surrounded by grazing, not located at edge of plantations. It was noted that Douglas fir is replacing radiata as a high-altitude plantation species.

Submission in support

The Department of Conservation (OS949.20) seeks that Rule 10.3.4 be retained. DOC consider that the rule provides clarity and restrictions on the types of trees which may not be planted as part of forestry or tree planting activities, to avoid wilding tree species spreading.

Submissions seeking removal of all or part of Rule 10.3.4

Robert George & Sharron Margaret Morris (OS355.2) seek that Rule 10.3.4 be deleted, as they believe that the rule is too restrictive and no provision is made for future changes, demand or progress.

Timothy George Morris (OS951.51) and Timothy Morris (on behalf of RG and SM Morris Family Trust) (OS1054.51) also seek that Rule 10.3.4 be deleted, because, in the submitters' view, it does not make any provision for the outcome of future research or changes in demand and is overly restrictive.

Lindsay Dempster, Nic Dempster, Simon Pointer, James Dempster and Sarah Dempster (OS1081.1) seek that Rule 10.3.4 be amended to exclude Douglas fir. The submitters believe that some species are more suitable to a particular site than others, for example due to their ability to withstand wind and snow. The submitters note that Douglas Fir has proved to be a viable species for forestry establishment. If this species is established in an area that has pastureland surrounds, and livestock are able to graze, this can mitigate wilding seedling establishment.

Recommendation

Dr Kelvin Lloyd of Wildlands Consultants Ltd has provided advice on whether the species included in Rule 10.3.4 as notified should be retained in the rule, taking into account the ecology and potential invasiveness of each species in Dunedin's environment.

Dr Lloyd's advice is that Contorta pine, Scots pine, Douglas fir, Corsican pine and Larch should be retained in the rule, but that the inclusion of Mountain pine and Dwarf mountain pine is unnecessary. This advice can be read in full on pages 2 to 5 of Dr Lloyd's evidence, and considers:

- the current distribution of the species in Dunedin City
- potential spreading rigour within the various habitats present in Dunedin, and
- the potential adverse effects on biodiversity values that may result from wilding spread of the species.

Based on Dr Lloyd's advice, I recommend that Rule 10.3.4 be amended to remove Mountain pine and Dwarf mountain pine.

In addition, I note that Contorta pine is treated as an "unwanted organism" and controlled under the Biosecurity Act. The controls put in place by the Biosecurity Act are comprehensive, as follows:

- Under section 52, no person may communicate, release or otherwise spread any unwanted organism (except: as part of a pest management plan; in an emergency, as provided for in section 150 of the Act; for a scientific purpose authorised by the Minister for Primary Industries; or if an exception is made by a chief technical officer appointed under the Act)
- Under section 53, owners of unwanted organisms must not cause or permit the sale, propagation, breeding, or multiplication of that organism, except where an exception is made by a chief technical officer appointed under the Act.

Therefore, I consider that it would be unnecessary and inefficient to control the planting of Contorta pine via Rule 10.3.4 as well, and I recommend that this species be removed from the rule. However, I recommend that a note be added to this section of the plan, as shown below, to advise plan users of the controls on this species (and others) under the Biosecurity Act.

I do not agree with the Morris submissions that the rule is overly restrictive with respect to the remaining species. Forestry or tree planting activities seeking to include these species would be able to proceed, having obtained resource consent for a restricted discretionary activity, provided it could be shown that the risk of wilding establishment was appropriately managed. Rule 10.4.3.11 sets out factors that will be considered in assessing risk, including the use of a wilding management plan, downwind land use (such as livestock grazing) that would limit wilding spread, and the location of tree planting in relation to prevailing wind directions, slope, altitude and exposure.

Overall, in accordance with the approach proposed in the draft NES-PF, I consider that it is appropriate to include rules in the plan that manage the potential effects of wilding trees on areas of indigenous vegetation and on landscape and natural coastal character values.

Submissions seeking controls on additional tree species

STOP (OS900.132) and Forest and Bird NZ (OS958.76) seek that Rule 10.3.4 be amended to include the following 11 additional species:

- Muricata or Bishops pine (*Pinus muricata*)
- Ponderosa pine (*Pinus ponderosa*)
- Maritime pine (*Pinus pinaster*)
- Sycamore
- Hawthorn
- Boxthorn
- Buddleja davidii
- Grey willow (*Salix cinerea*)
- Crack willow (*Salix fragilis*)
- Rowan (*Sorbus aucuparia*); and
- Cotoneaster simonsii

The submitters state that:

- Buddleja davidii (Summer Lilac), which is found in scrub and forest margins, cliffs and bluffs and on river beds, colonises alluvial sites and is very invasive of forest margins and revegetation areas. It is also invasive of waste spaces, river beds and plantation forests.
- Grey willow (*Salix cinerea*) and Crack willow (*Salix fragilis*) are also invasive and spread.
- Rowan (*Sorbus aucuparia*) is spread by birds and is a weed in the high country.

DOC (FS2379.5) supports the additional wilding tree species requested in STOP's submission. Federated Farmers (FS2449.192 and FS2449.193) oppose both STOP and Forest and Bird's submissions, because some of the listed trees are useful shade and shelter trees on-farm and Federated Farmers do not believe that they need to be restricted in the way proposed by the submitters. Waste Management (NZ) Limited (FS2444.51) opposes Forest and Bird's submission, on the basis that this submitter does not support additional rules that relate to vegetation that is not indigenous.

In a related submission, which mainly concerns assessment Rule 10.4.3.11 and is, therefore, also discussed in that section of this report, immediately below, STOP (OS900.77) and Forest and Bird NZ (OS958.85) seek that 2GP provisions on tree species also apply to *Pinus radiata*, and to "other plantations" (species not specified), because of their propensity for wilding. This submission is opposed by Federated Farmers (FS2449.204 and FS2449.218), who consider that the amendments proposed go significantly further than is appropriate or required for performance standards in this area, and by Geoff Scurr Contracting Limited (FS2391.68), who prefers the original wording of tree species provisions.

Recommendations

In relation to *Pinus radiata* and *Pinus ponderosa*, the wilding spread risk calculator gives a spreading rigour score of 1 (on a scale of 0 to 5) to both of these species. In addition, both species have a palatability score of 1 (i.e. they are the most palatable of the species listed in the

calculator). Taking this into account, I do not agree that these species should be added to Rule 10.3.4. As noted in the Background section, above, the draft NES-PF would permit afforestation that had a total wilding spread risk score of 11 or less. Given these species' low spreading rigour and palatability scores, there are many circumstances in which these species would not accumulate a total risk score of 12 or more. As a result, I do not consider that it is justifiable to require resource consent, as a restricted discretionary activity, for all forestry and tree planting activities that include these species.

In relation to the other species that submitters request be included in Rule 10.3.4, Kelvin Lloyd has provided the following advice, which takes into account the ecology and potential invasiveness of each species in Dunedin's environment.

Dr Lloyd's advice (which can be read in full on pages 6 to 9 of his evidence) is as follows:

- Bishop pine – It is “probably not necessary” to include this species in the rule, due to its low spread risk.
- Maritime pine – This species is uncommon in Dunedin, but is associated with significant wilding tree spread in a number of different habitats in the North Island. Therefore, its inclusion in the rule “can be justified as a precautionary approach”.
- Sycamore – “The significant invasive potential and adverse effects” of this species “easily justify its inclusion” in the rule.
- Hawthorn – The “invasive ability and wide habitat range” of this species “easily justifies” its inclusion in the rule.
- Boxthorn – “The ecological significance of the coastal habitats” that this species invades justifies its inclusion in the rule.
- Buddleja – This species is not a very common plant in the city, and is typically found on gravel riverbeds, which are also uncommon. Given that it does not tolerate shade and, therefore, does not invade indigenous forest, “this species probably does not need to be included” in the rule.
- Rowan – This is a widely grown amenity tree, with fleshy fruits that can be widely dispersed by birds, is reasonably shade-tolerant, and can readily invade kanuka-dominant forest. “The invasive potential of rowan justifies it being included” in the rule.
- Grey willow – This species has significant invasive potential in indigenous wetlands throughout much of the country. It is an “unwanted organism”, which is already controlled under sections 52 and 53 of the Biosecurity Act 1993. However, to “avoid doubt... and to ensure that local landholders and stakeholders are aware of the serious threat that it poses, it would be warranted to include” this Grey willow in the rule.
- Crack willow – This species has significant invasive potential in riparian and wetland habitats, but as with grey willow, is an “unwanted organism” and its use is controlled under sections 52 and 53 of the Biosecurity Act. However, for the same reasons as Grey willow, “it would be warranted” to include Crack willow in the rule.
- Cotoneaster – This species is an amenity shrub that has a scattered distribution in the city. It has fleshy fruits that are dispersed by birds, but is seldom abundant at sites, and does not appear to significantly affect indigenous vegetation and habitats. Again, it is an unwanted organism and thus its use is controlled by Sections 52 and 53 of the Biosecurity Act 1993. However, for the same reasons as Grey willow, “it would be warranted” to include Cotoneaster in the rule.

In summary, Dr Lloyd recommends that it is not necessary to include Bishop pine and Buddleja in Rule 10.3.4, but that the other nine species listed above should be added to the rule.

As Dr Lloyd's evidence indicates, Grey willow, Crack willow and Cotoneaster are all treated as “unwanted organisms” and controlled under the Biosecurity Act. Therefore, as with Contorta pine, discussed above, I consider that it would be duplicative to also control these species via Rule

10.3.4. However, I accept Dr Lloyd's advice that the 2GP should raise awareness of the serious threat that these species pose. Therefore, I recommend that, as for Contorta pine, a note should be added to the plan to advise plan users of the controls that the Biodiversity Act places on these species.

With regard to the economic implications of including additional species in the rule, I do not consider that the inclusion of Sycamore, Hawthorn, Boxthorn or Rowan in Rule 10.3.4 would result in unduly onerous effects on landowners. These are not forestry species, but landowners may seek to use them as part of a "tree planting" site development activity, for the purposes of shelter, screening, stability or erosion control, or on-site timber use. However, there are many other species available to plant for these purposes, which are not subject to control in the District Plan or under other legislation.

With respect to Maritime pine, this species could potentially be used for either forestry or tree planting. However, Dr Lloyd notes in his evidence that the species is uncommon in Dunedin. Therefore, again, I do not consider that it would result in unduly onerous effects on landowners to include Maritime pine in Rule 10.3.4.

Based on the above assessment, I recommend that the following species be added to Rule 10.3.4, in response to submissions:

- Maritime pine (*Pinus pinaster*)
- Sycamore (*Acer pseudoplatanus*)
- Hawthorn (*Crataegus monogyna*)
- Boxthorn (*Lycium ferocissimum*), and
- Rowan (*Sorbus aucuparia*).

Recommended amendment:

Amend Rule 10.3.4 as follows:

Forestry and tree planting must not include any of the following species:

- ~~1. Lodgepole/contorta pine (*Pinus contorta*) {*NatEnv 355.2*}~~
2. Scots pine (*Pinus sylvestris*)
3. Douglas fir (*Pseudotsuga menziesii*)
4. Corsican pine (*Pinus nigra*)
- ~~5. Mountain pine (*Pinus mugo*) {*NatEnv 355.2*}~~
- ~~6. Dwarf Mountain pine (*Pinus uncinata*); or {*NatEnv 355.2*}~~
7. Larch (*Larix decidua*)
8. Maritime pine (*Pinus pinaster*)
9. Sycamore (*Acer pseudoplatanus*)
10. Hawthorn (*Crataegus mongyna*)
11. Boxthorn (*Lycium ferocissimum*)
12. Rowan (*Sorbus aucuparia*) {*NatEnv 900.132*}

Add the following note to plan users to Rule 10.3.4:

Note 10.3D – Other requirements outside the District Plan

1. A range of species including, for example, Lodgepole/contorta pine (*Pinus contorta*), Grey willow (*Salix cinerea*), Crack willow (*Salix fragilis*) and *Cotoneaster simonsii*, are classified as “unwanted organisms” under the Biosecurity Act 1993. As a result, these species are subject to strict controls under sections 52 and 53 of that Act. Under section 52, no person may communicate, release or otherwise spread any unwanted organism (except: as part of a pest management plan; in an emergency, as provided for in section 150 of the Act; for a scientific purpose authorised by the Minister for Primary Industries; or if an exception is made by a chief technical officer appointed under the Act). Under section 53, owners of unwanted organisms must not cause or permit the sale, propagation, breeding, or multiplication of that organism, except where an exception is made by a chief technical officer appointed under the Act.

5.9.3 Rule 10.4.3.11 Tree species assessment rule

Sub pt #	Submitter Name	Support/Oppose/ Seek Amend	Summary Of Submission	Accept/Reject/ Accept in part	Staff Recommendation
OS900.77	Save The Otago Peninsula (STOP) Inc Soc	I seek to have the above provision amended	Amend Rule 10.4.3.11 (assessment of contravention of tree species) to ensure tree species listed in 10.3.4 (including amendments sought by the submitter), except Douglas Fir, are prohibited.	Reject	Do not amend Rule 10.4.3.11 as requested.
OS958.85	Forest and Bird NZ		Amend provisions so that Rule 10.4.3.11 also applies to <i>Pinus radiata</i> and other plantations. Amend Rule 10.4.3.11 to add Objective 2.2.3 and Policies 2.2.3.1, 2.2.3.2, 2.2.3.3 and a new policy sought by the submitter that there be no tree planting in areas of indigenous vegetation. Amend Rule 10.4.3.11 to remove para (iii)(1): 1. the downwind land use, including the intensity of the stocking rate and the palatability of the tree species to the animals grazing;		Addition of <i>Pinus Radiata</i> addressed in Section 5.9.2
FS2391.68	Geoff Scurr Contracting Limited	I oppose the submission	Oppose OS900.77. Disallow submission.	Accept	Do not amend Rule 10.4.3.11 as

					requested.
FS2449.204	Federated Farmers of New Zealand	I oppose the submission	Oppose OS900.77. Disallow submission.	Accept	Do not amend Rule 10.4.3.11 as requested.
FS2449.218	Federated Farmers of New Zealand	I oppose the submission	Oppose OS958.85. Disallow submission.	Accept	Do not amend Rule 10.4.3.11 as requested.

Background

Rule 10.4.3.11 (assessment of performance standard contraventions – tree species) is as follows:

11.	Tree Species	a. Effects on biodiversity	<p><i>Relevant objectives and policies:</i></p> <ul style="list-style-type: none"> i. Objective 10.2.1 ii. The risk of wilding tree spread into areas of indigenous vegetation is avoided or, if avoidance is not possible, is insignificant (Policy 10.2.1.6). <p><i>General assessment guidance:</i></p> <ul style="list-style-type: none"> iii. The Council will consider the risk of the tree species spreading beyond the original location of planting due to: <ul style="list-style-type: none"> 1. the downwind land use, including the intensity of the stocking rate and the palatability of the tree species to the animals grazing; and 2. the location of the tree planting in relation to prevailing wind directions, slope, altitude and exposure; and/or 3. the use of a wilding management plan that will ensure wilding tree spread will be monitored and eradicated. iv. There are no ecologically sensitive or important areas downwind that could be vulnerable to wilding tree spread, including identified Scheduled Areas of Significant Conservation Value (Scheduled ASCV). v. There are no landscape or natural coastal character overlay zones downwind that could be vulnerable to wilding tree spread.
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This assessment rule applies to forestry and tree planting activities that breach Rule 10.3.4 (Tree Species performance standard), by including one or more of the species listed in that rule.

Submissions

STOP (OS900.77) and Forest and Bird NZ (OS958.85) seek the following amendments to rules relating to wilding tree species:

1. Make forestry and tree planting activities that include any of the species listed in Rule 10.3.4 (including the species that the submitters request to be added to this rule in their submissions OS900.132 and OS958.76), with the exception of Douglas Fir, prohibited activities

rather than restricted discretionary as notified. The submitters note that the proposed Queenstown Lakes District Plan prohibits the planting of wilding tree species, including *Pinus radiata* and Douglas Fir. In the submitters' view, wilding trees have significant adverse effects on biodiversity values, water quantity and landscape values, and are notoriously difficult and expensive to control. Therefore, they believe those with a propensity to spread should be prohibited. For Douglas Fir, the submitters request that "a less stringent provision" applies.

2. Amend Rule 10.4.3.11 to include Objective 2.2.3 and Policies 2.2.3.1, 2.2.3.2, 2.2.3.3 and a new policy sought by the submitter, requiring that no tree planting be established in areas of indigenous vegetation (see submissions OS900.144 and OS958.24, discussed in section 5.12.1 of this report), in the objectives and policies to be considered during the processing of consent applications. The submitters state that forestry plantations should not be established in areas of indigenous vegetation, and need to be carefully considered where they can impact on water quantity and water harvesting.
3. Amend Rule 10.4.3.11 so that "the downwind land use, including the intensity of the stocking rate and the palatability of the tree species to the animals grazing" is not considered as a factor that may reduce the risk of tree species spreading. In the submitters' view, downwind land use is not a useful assessment matter as land use can change over time. The submitters note that stock can keep wildings in check, but usually do not kill them.

Federated Farmers (FS2449.204 and FS2449.218) consider that the amendments proposed go significantly further than is appropriate or required for performance standards in this area. Geoff Scurr Contracting Limited (FS2391.68) prefers the original wording of Rule 10.4.3.11.

Recommendations

My responses to the different elements of STOP and Forest and Bird's submission points on Rule 10.4.3.11 are as follows:

1. I do not agree that forestry and tree planting activities that include the species referred to in STOP and Forest and Bird's submissions (i.e. the species listed in Rule 10.3.4, plus the species that the submitters seek to be added to Rule 10.3.4) should be prohibited activities. In my view, the potential adverse effects of the spread of wilding trees of these species, namely effects on biodiversity, landscape and natural coastal character values, may be mitigated by factors including: downwind land uses that limit wilding spread; the location of the tree planting in relation to prevailing wind directions, slope, altitude and exposure; and the use of a wilding management plan. Therefore, I consider that prohibited activity status would be unjustified and overly onerous. It would also be out of keeping with the approach advocated in the draft NES for Plantation Forestry.
2. I do not consider that it would be appropriate to add reference to Objective 2.2.3 and Policies 2.2.3.1, 2.2.3.2, 2.2.3.3 to Rule 10.4.3.11, because these are strategic direction provisions that set out the methods to be used in the 2GP to retain, enhance and restore Dunedin's indigenous biodiversity. I consider that Objective 10.2.1 and Policies 10.2.1.6, 10.2.3.12 and 10.2.5.18 are the appropriate provisions to reference in this rule. In relation to the new policy sought by the submitter, requiring that no tree planting be established in areas of indigenous vegetation, see section 5.12.1 of this report, in which I recommend that this request be rejected.
3. In my view, downwind land use is a relevant matter to be considered when assessing the wilding spread risk of a forestry or tree planting activity. As discussed in section 5.9.2 of this report, this is a key factor set out in the draft NES-PF wilding spread risk calculator. In

addition, research has shown that the retirement of land from grazing, together with fluctuating rabbit numbers, has been a contributing factor to the proliferation of wildings in the Mackenzie Basin.⁵ Decision makers will be able to consider the likelihood of future changes to downwind land use during the consent process.

Recommended amendment:

None in response to the submissions discussed in this section. However, see consequential amendments to Rule 10.4.3.11 recommended in response to submissions on related Policy 10.2.1.6, in section 5.9.1 of this report.

⁵ McNamara, R. 1998: Inventory and Threat Assessment of Wilding Trees to Department of Conservation Managed Lands Within and Surrounding the Mackenzie Basin. Unpublished Report, Department of Conservation, Twizel. 43p + appendices. Referenced in Harding, M. 2001: South Island wilding conifer strategy, available at <http://www.doc.govt.nz/about-us/science-publications/conservation-publications/threats-and-impacts/weeds/south-island-wilding-conifer-strategy/>

5.10 New suggested performance standard – forestry

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
OS447.74	Harboursides and Peninsula Preservation Coalition	I seek to have the above provision amended	Amend Rule 16.3.3.7 (forestry not in a GR1TZ) by adding a new performance standard (iii) as follows: For land types b,c,d only 10% may be a plantation planting pattern. 90% must be random patterns with 20% of the area within that pattern unplanted.	Accept in part	Amend assessment rules as shown below.
OS900.108	Save The Otago Peninsula (STOP) Inc Soc				
FS2449.311	Federated Farmers of New Zealand	I oppose the submission	Oppose OS447.74. Disallow submission.	Accept in part	Amend assessment rules as shown below.
FS2449.310	Federated Farmers of New Zealand	I oppose the submission	Oppose OS900.108. Disallow submission.	Accept in part	Amend assessment rules as shown below.

Background

Under Rule 16.3.3.7, forestry (outside the General Residential 1 Transition Overlay Zone) is a restricted discretionary activity in ONL, SNL and NCC overlay zones, and a non-complying activity in ONF, ONCC and HNCC overlay zones and in scheduled ASCVs.

With regard to the restricted discretionary activities, in ONLs and SNLs the Council's discretion extends to effects on landscape values and in NCCs discretion extends to effects on the natural character of the coast. See assessment Rules 16.10.5.2 and 16.10.5.4, which cross-reference to Rules 10.5.2.4 (for NCCs), 10.5.2.15 (for ONLs) and Rule 10.5.2.4~~6~~17 (for SNLs).

With regard to the non-complying activities, while the Council may consider any relevant matter, assessment Rules 16.12.3.6 and 16.12.3.7 – which cross reference to Rule 10.7.2.4 (for ONCCs and HNCCs) and Rule 10.7.2.5 (for ONFs) – indicate that, as a priority, the Council will consider: effects on the natural character of the coast in ONCCs and HNCCs; effects on landscape values in ONFs; and effects on biodiversity in ASCVs.

Submissions

HPPC (OS447.74) and STOP (OS900.108) seek a new performance standard for forestry where it is provided for that would require it to be planted in random patterns within landscape and coastal character overlays zones and scheduled ASCVs. The submitters seek provisions that:

allow only 10% of forestry to be in a normal plantation pattern; require 90% to be in random patterns; and require 20% of the area within the random pattern to be unplanted. This outcome is sought in order to assist in maintaining a natural appearance in rural areas that have landscape protections.

HPPC's and STOP's submissions are opposed by Federated Farmers (FS2449.310 & 311), who consider that the outcome sought goes considerably beyond the sustainable management principles and intent of the RMA, its associated case law and the intent of the 2GP.

Recommendations – Amendments 1-3

Under 2GP rules as notified, the Council has scope to consider effects on the natural character of the coast in NCC, ONCC and HNCC overlay zones, and effects on landscape values in ONL, SNL and ONF overlay zones, when forestry is proposed in any of these areas. Therefore, the decision maker is able to assess on a case by case basis, during the consent process, whether a particular pattern of planting would be desirable (and should be imposed via condition of consent) in order to reduce adverse effects on these values. In NCC, SNL and ONLs in which forestry has been identified as a potential threat to landscape or natural coastal character values (in the High Country ONL, the Maungatua SNL and the Kuri Bush NCC, this assessment will be guided by the "Key design elements" sections in Appendix A3. Landscape Values. For example, at A3.2.1.4, the "Key design elements" for forestry blocks in the High Country ONL include the following:

- e. Forestry blocks should be carefully located so that when trees have matured they visually sympathise with and emphasise underlying ridges and gullies. Forestry blocks should be established to avoid unnatural lines or rectangular patterns. Rather than forestry establishment following the straight edges of property boundaries, landowners should be encouraged to pay attention to the landforms and vegetation patterns that exist.*
- f. Large blocks of single aged monocultures is discouraged. Smaller compartments of different aged trees should be established that can be harvested over a staggered timeframe, thereby reducing the environmental effects occurring at this stage of the forest growing cycle.*

I consider that the approach in the 2GP as notified is more efficient and effective than the proposed imposition of a specific performance standard on plantation patterning, which would apply in every case regardless of whether compliance with that standard was necessary or appropriate to address adverse effects.

However, I note that Appendix A3.4 Design Guidelines contains general principles to be followed for the establishment of forestry blocks. These guidelines are not referenced in the assessment rules that apply to forestry in NCCs, SNLs and ONLs. I believe that, if these guidelines were referenced in the relevant assessment rules, it would aid in the assessment of consents, and provide better guidance to plan users, thereby – as sought by submitters – assisting the maintenance of a natural appearance in areas that have landscape protections. Therefore, I recommend that Rules 10.5.2.4, 10.5.2.15 and 10.5.2.16~~17~~ be amended as shown below.

Recommended amendment:

Amendment 1

*Amend Rule 10.5.2.4 by adding the following and, in consequence, renumbering other clauses:
"...General assessment guidance:*

iv. For forestry, in assessing effects on natural character values, the Council will consider the extent to which the activity follows the design guidelines in Appendix A3.4.2..." {NatEnv447.74}

Amendment 2

Amend Rule 10.5.2.15 by adding the following and, in consequence, renumbering other clauses:

"...General assessment guidance:

iv. For forestry, in assessing effects on landscape values, the Council will consider the extent to which the activity follows the design guidelines in Appendix A3.4.2..." {NatEnv447.74}

Amendment 3

Amend Rule 10.5.2.16~~17~~ (NB this rule has been renumbered by an amendment recommended in the Network Utilities Section 42A report) by adding the following and, in consequence, renumbering other clauses:

"...General assessment guidance:

iv. For forestry, in assessing effects on landscape values, the Council will consider the extent to which the activity follows the design guidelines in Appendix A3.4.2..." {NatEnv447.74}

5.11 Management of buildings and structures in landscape and natural coastal character overlay zones

General background to provisions

Objectives 10.2.3 and 10.2.5 are that landscape and natural coastal character overlay zones "are protected from inappropriate use and development and their values, as identified in [Appendix A3 or A5 as appropriate], are maintained or enhanced."

The values set out in Appendices A3 and A5 include natural science values, cultural/historic values, and aesthetic and amenity values. The appendices also identify activities that threaten these values. For all ONLs, principle threats to values include that "Buildings and structures can become visually dominant from public viewpoints if they are inappropriately sited, or if the design, scale and finish of structures conflict with established ... values". Similarly, for all SNLs, "Inappropriate siting, design, scale, density and finish of structures such that they become visually dominant from public viewpoints", and for all ONCCs, HNCCs and NCCs "buildings, structures or earthworks that detract from the natural character", are identified as threats to values. The plan does not specifically list threats to ONFs, but I consider that it is clear from the descriptions of the values of these features that, in most cases, they would be threatened by new built development of any kind.

Therefore, appropriate management of buildings and structures in these areas is necessary to achieve Objectives 10.2.3 and 10.2.5.

As identified in Appendices A3 and A5, buildings and structures threaten landscape and coastal character values if they are:

1. Prominently located
2. Large (in terms of floor area and height), or part of a large cluster or sprawl of buildings or structures
3. Poorly designed (i.e. the design is unsympathetic to the location) – for example, where overly reflective roofs or walls make a building stand out from its surroundings.

The 2GP uses a number of different methods to try to ensure that buildings and structures in overlay zones do not have these qualities.

In the most sensitive and most spatially limited of these overlays, i.e. ONFs, ONCCs and HNCCs, all new buildings and structures, and additions and alterations to existing buildings and structures, are non-complying. This reflects the fact that these areas are generally highly natural, with little in the way of existing development, and are often located in prominent positions such as on hilltops and the periphery of the coast. Therefore, any new built elements have the potential to be prominently located and unsympathetic to their surroundings.

In the more extensive overlays – i.e. SNLs, ONLs and NCCs – buildings and structures activities are provided for, but are subject to the following controls:

- Activity status rules require consent, as a restricted discretionary activity, for any new building or structure greater than 60m², and for any addition or alteration that results in a building or structure that is greater than 60m².
- In addition, the following performance standards apply to all buildings, structures, additions and alterations in these areas:
 - reflectivity: the light reflectance value of exteriors must not exceed 30%
 - height: the maximum permitted height is 5m
 - building separation: a maximum of two permitted buildings (i.e. buildings <60m²) may be built within 30m of one or more buildings >60m² on the same site in any five year period; all other permitted buildings must be located at least 200m from any other building on the same site
 - setback from identified ridgelines: minimum 20m (although note that the Rural Zones Section 42A report recommends that this standard be removed from the plan, due to problems with the mapping of ridgelines)
- Contraventions of any of these performance standards result in a consent requirement for a restricted discretionary activity.

These rules were developed in consultation with the Council's landscape architect Barry Knox. Their overall aim is to enable buildings and structures that are unlikely to threaten protected values, but to require consent in all other circumstances, in order to allow for a case by case assessment of effects, and to give the Council the opportunity to impose conditions (e.g. relating to design, location or scale) or decline consents as necessary to maintain or enhance protected values. As a result, in order to be permitted, a building or structure needs to be:

- small (60m² or less in area, and 5m or less in height)
- finished in muted colours (i.e. with low reflectivity)
- either co-located with an existing larger structure (subject to limits on the maximum total size of the building cluster), or located far enough from existing structures that it is not perceived as part of the same cluster, and
- not located on or close to an identified ridgeline (although this will only apply if this standard is retained in the plan, or reintroduced at a later date once mapping issues have been resolved).

In comparison, the rules applying within most Landscape Management Areas in the operative District Plan (specifically, in the Peninsula Coast Outstanding Landscape Area, and in all Coastal Landscape Preservation Areas and Landscape Conservation Areas) are as follows:

- The erection of buildings and structures is a restricted discretionary activity, except that a building/structure that is located within 50m of an existing building (where the floor area of the existing building is at least 50% greater than the floor area of the proposed building/structure) is permitted.
- Additions to existing buildings are permitted, provided that the addition does not increase the floor area of the existing building by more than 100% - otherwise the activity status is restricted discretionary.

The most significant differences between the operative and proposed activity status rules on buildings and structures in landscape overlay zones are as follows:

- In the 2GP, the rules on buildings and structures are more restrictive in the most sensitive and highly valued landscape and natural coastal character overlay zones – i.e. ONFs, ONCCs and HNCCs. In the operative plan, there is not a direct relationship between the degree of restrictiveness of rules and the values of the LMA.
- The nature of the threshold at which a new building/structure requires consent in a landscape overlay zone has changed. In the operative plan, the threshold is proximity to, and size in relation to, existing buildings; in 2GP, the thresholds are the area, height and reflectivity of the new building/structure, as well as its separation distances from other buildings.
- Whereas under the operative district plan any new building that is not within 50m of an existing larger building requires consent, under 2GP rules small buildings are permitted elsewhere on a property, provided they are located at least 200m from existing buildings.
- In the 2GP, the rules on new buildings and structures apply in all landscape and natural coastal character overlay zones, whereas in the operative plan these rules apply in most LMAs, but not in the High Country and Strath Taieri Hills Outstanding Landscape Areas (which are two of the most highly valued areas), where there are no rules that control buildings and structures.
- The rules on additions and alterations are more restrictive in the proposed plan. In the operative plan, additions of up to 100% of the existing floor area of a building or structure are permitted in all LMAs, with no restriction on total floor area. In the 2GP, additions and alterations that result in a building or structure that is greater than 60m² are at least restricted discretionary in all overlay zones.

5.11.1 Activity status of buildings and structures in landscape and natural coastal character overlays

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
Rules 16.3.4.3 and 17.3.4.3: Activity status of new buildings >60m² within landscape building platforms					
OS447.80	Harboursides and Peninsula Preservation Coalition	I seek to have the above provision amended	Amend Rule 16.3.4.3 by changing the activity status in column (b) from 'controlled' to 'restricted discretionary' and make the consequential change of removing Rules 10.3A, 16.8.3.2 and 16.8.3.3. If	Accept in part	Amend Rule 10.8.1 Landscape Building Platforms as shown in section 5.11.5 of this report.

OS900.115	Save The Otago Peninsula (STOP) Inc Soc		10.3A remains, delete the word 'rule' from throughout the section.		
FS2202.13	Clifton Trust	I oppose the submission	Oppose OS447.80. Disallow submission and do not make changes as requested by submitter.	Accept in part	Amend Rule 10.8.1 Landscape Building Platforms as shown in section 5.11.5 of this report.
FS2449.318	Federated Farmers of New Zealand	I oppose the submission	Oppose OS447.80. Disallow submission.	Accept in part	Amend Rule 10.8.1 Landscape Building Platforms as shown in section 5.11.5 of this report.
FS2140.33	John Scott	I oppose the submission	Oppose OS900.115. Disallow submission and do not make changes as requested by submitter.	Accept in part	Amend Rule 10.8.1 Landscape Building Platforms as shown in section 5.11.5 of this report.
FS2202.23	Clifton Trust	I oppose the submission	Oppose OS900.115. Disallow submission and do not make changes as requested by submitter.	Accept in part	Amend Rule 10.8.1 Landscape Building Platforms as shown in section 5.11.5 of this report.
FS2279.33	Ben Graham	I oppose the submission	Oppose OS900.115. Disallow submission and do not make changes as requested by submitter.	Accept in part	Amend Rule 10.8.1 Landscape Building Platforms as shown in section 5.11.5 of this report.
FS2300.33	Mathew O'Connell	I oppose the submission	Oppose OS900.115. Disallow submission and do not make changes as requested by submitter.	Accept in part	Amend Rule 10.8.1 Landscape Building Platforms as shown in section 5.11.5 of this report.
FS2416.33	Alan Brown,	I oppose the	Oppose OS900.115. Disallow submission	Accept in part	Amend Rule 10.8.1

	Carrowmore Properties Limited, Robyn and Stephan Smith and Rick and Jill Clarke ("Pigeon Flat Road Group")	submission	and do not make changes as requested by submitter.		Landscape Building Platforms as shown in section 5.11.5 of this report.
FS2449.317	Federated Farmers of New Zealand	I oppose the submission	Oppose OS900.115. Disallow submission.	Accept in part	Amend Rule 10.8.1 Landscape Building Platforms as shown in section 5.11.5 of this report.
OS997.97	Construction Industry and Developers Association	I seek to have the above provision amended	Amend Rule 17.3.4 so that activity status for the following activities in Outstanding Natural Feature and High Natural Coastal Character overlay zones changes from non-complying to discretionary: <ul style="list-style-type: none"> New buildings greater than 60m2 on a landscape building platform 	Reject	Do not amend Rule 17.3.4 as requested.
FS2267.139	Harboursides and Peninsula Preservation Coalition	I oppose the submission	Oppose OS997.97. Disallow submission.	Accept	Do not amend Rule 17.3.4 as requested.
FS2449.368	Federated Farmers of New Zealand	I support the submission	Support OS997.97. Allow submission.	Reject	Do not amend Rule 17.3.4 as requested.
Rules 16.3.4.4 and 17.3.4.4: Activity status of new buildings and structures ≤60m2, or additions/alterations that result in buildings or structures ≤60m2					
OS289.8	Chris Walker	I seek to have the above provision amended	Amend Rule 17.3.4.4 (activity status - buildings or structures less than or equal to 60m2) by removing ' or structures '	Reject	Do not amend Rule 17.3.4.4 as requested.
OS997.98	Construction Industry and Developers Association	I seek to have the above provision amended	Amend Rule 17.3.4 so that activity status for the following activities in Outstanding Natural Feature and High Natural Coastal Character overlay zones changes from non-complying to discretionary:	Reject	Do not amend Rule 17.3.4.4 as requested.

			<ul style="list-style-type: none"> New buildings or structures less than or equal to 60m² or additions and alterations that result in a building or structure that is less than or equal to 60m² 		
FS2267.140	Harboursides and Peninsula Preservation Coalition	I oppose the submission	Oppose OS997.98. Disallow submission.	Accept	Do not amend Rule 17.3.4.4 as requested.
FS2449.369	Federated Farmers of New Zealand	I support the submission	Support OS997.98 Allow submission.	Reject	Do not amend Rule 17.3.4.4 as requested.
Rules 16.3.4.5 and 17.3.4.5: Activity status of new buildings/structures >60m² or additions and alterations that result in a building or structure >60m²					
OS73.3	David Holdsworth	I seek to have the above provision amended	Amend Rule 16.3.4.5.b so that new buildings greater than 60m ² are permitted in a Significant Natural Landscape Overlay Zone (inferred not stated)	Reject	Do not amend Rule 16.3.4.5 as requested.
OS1067.2	Shane Johnson and Sharee Watts	I oppose the provision	Amend Rule 16.3.4.5 so that it is a permitted activity to build a new dwelling in a Significant Natural Landscape Overlay Zone	Reject	Do not amend Rule 16.3.4.5 as requested.
OS505.1	Christopher Kilpatrick	I oppose the provision	Amend Rule 16.3.4.5 so that new buildings or structures greater than 60m ² are permitted in landscape or natural coastal character overlay zones (inferred not stated)	Reject	Do not amend Rule 16.3.4.5 as requested.
OS664.2	Bruce Wayne Taylor	I oppose the provision	Remove Rule 16.3.4.5.b so that buildings or structures greater than 60m ² are permitted in landscape overlay zones	Reject	Do not amend Rule 16.3.4.5 as requested.
OS464.4	Christopher Dean Valentine	I seek to have the above provision	Amend Rule 16.3.4.5 so that additions and alterations to buildings and structures	Accept in part	Amend Rules 16.3.4.4, 16.3.4.5,

		amended	existing prior to 2015 and with a floor area greater than 60m ² is permitted in the Outstanding Natural Landscape Overlay Zone		17.3.4.4 and 17.3.4.5 as shown below.
OS361.23 OS364.12 OS1084.17	Ben Graham Mathew O'Connell John Scott	I seek to have the above provision amended	Amend Rule 16.3.4.5.b to change the activity status of farm buildings that do not meet the size threshold in Outstanding Natural Landscape, Significant Natural Landscape, or Natural Coastal Character overlay zones from restricted discretionary to controlled (note also submission on changing the size threshold).	Reject	Do not amend Rule 16.3.4.5 as requested.
FS2449.324	Federated Farmers of New Zealand	I support the submission	Support OS361.23. Allow submission.	Reject	Do not amend Rule 16.3.4.5 as requested.
FS2449.325	Federated Farmers of New Zealand	I support the submission	Support OS364.12. Allow submission.	Reject	Do not amend Rule 16.3.4.5 as requested.
OS96.3	Nigel Harwood	I oppose the provision	Remove Rule 17.3.4.5(c) so that resource consent is not required for new buildings or structures greater than 60m ² .	Reject	Do not amend Rule 17.3.4.5 as requested.
OS997.99	Construction Industry and Developers Association	I seek to have the above provision amended	Amend Rule 17.3.4 so that activity status for the following activities in Outstanding Natural Feature and High Natural Coastal Character overlay zones changes from non-complying to discretionary: <ul style="list-style-type: none"> New buildings or structures greater than 60m² or additional and alterations that result in a building or structure that is greater than 60m². 	Reject	Do not amend Rule 17.3.4 as requested.
FS2267.141	Harboursides and Peninsula Preservation	I oppose the submission	Oppose OS997.99. Disallow submission.	Accept	Do not amend Rule 17.3.4 as requested.

	Coalition				
FS2449.370	Federated Farmers of New Zealand	I support the submission	Support OS997.99. Allow submission.	Reject	Do not amend Rule 16.3.4.5 as requested.
Rules 16.3.4.3, 16.3.4.4 and 16.3.4.5: Requests to change the scale thresholds within these rules that determine the activity status of buildings/structures in overlay zones					
OS361.19 OS364.10 OS1084.16	Ben Graham Mathew O'Connell John Scott	I seek to have the above provision amended	Amend Rule 16.3.4.3 (new building greater than 60m ² on a landscape building platform), Rule 16.3.4.4 (new buildings and structures or additions and alterations less than 60m ²), and Rule 16.3.4.5 (new buildings and structures or additions and alterations greater than 60m ²), by changing building size threshold from 60m ² to 350m ² . Make any consequential amendments, including to Rule 16.4.3.2 (notification).	Accept in part	Amend Rules 16.3.4.4, 16.3.4.5, 17.3.4.4 and 17.3.4.5 as shown below.
FS2449.314	Federated Farmers of New Zealand	I support the submission	Support OS361.19. Allow submission.	Accept in part	Amend Rules 16.3.4.4, 16.3.4.5, 17.3.4.4 and 17.3.4.5 as shown below.
FS2449.315	Federated Farmers of New Zealand	I support the submission	Support OS364.10. Allow submission.	Accept in part	Amend Rules 16.3.4.4, 16.3.4.5, 17.3.4.4 and 17.3.4.5 as shown below.
FS2449.316	Federated Farmers of New Zealand	I support the submission	Support OS1084.16. Allow submission.	Accept in part	Amend Rules 16.3.4.4, 16.3.4.5, 17.3.4.4 and 17.3.4.5 as shown below.
OS720.9	Clifton Trust	I seek to have the above provision amended	Amend Rules 16.3.4.3, 16.3.4.4 and 16.3.4.5 (New buildings or structure) by deleting the words '60m ² ' and replacing with '300m ² '	Accept in part	Amend Rules 16.3.4.4, 16.3.4.5, 17.3.4.4 and 17.3.4.5 as shown below.

OS592.21	Dianne Reid	I oppose the provision	Amend Rule 16.3.4 (activity status - development activities) by changing the threshold for permitted buildings or structures in overlay zones and scheduled Areas of Significant Conservation Value from 60m2 to 300m2 in Rules 16.3.4.3-16.3.4.5; by making contravention of this threshold of 300m2 a controlled activity; and make consequential changes to assessment rules	Accept in part	Amend Rules 16.3.4.4, 16.3.4.5, 17.3.4.4 and 17.3.4.5 as shown below.
OS717.20	Robyn and Stephan Smith, Rick and Jill Clarke, Alan Brown, Carrowmore Properties Ltd (on behalf of the "Pigeon Flat Road Group")				
FS2473.19	David Hiom and Kerry Hiom	I oppose the submission	Oppose OS592.21. Disallow submission.	Accept in part	Amend Rules 16.3.4.4, 16.3.4.5, 17.3.4.4 and 17.3.4.5 as shown below.
Rules 16.3.4.7 and 17.3.4.7: Activity status of 'all other buildings and structures activities' in overlay zones					
OS360.137	Dunedin City Council	I seek to have the above provision amended	Change activity status of Rules 16.3.4.7.b-d (all other buildings and structures activities) from 'Restricted Discretionary' to 'Permitted' (indicated in activity status tables with an '-') and make the consequential change of removing 'All other buildings and structures activities' from Rules 16.10.5.1-5 and from Rules 10.5.2.4 and 10.5.2.15-16.	Accept	Amend Rule 16.3.4.7 as shown below.
FS2449.326	Federated Farmers of New Zealand	I support the submission	Support OS360.137. Allow submission.	Accept	Amend Rule 16.3.4.7 as shown below.
OS360.138	Dunedin City Council	I seek to have the above provision amended	Change activity status of Rules 17.3.4.7.b-c (All other building and structures activities) from 'Restricted Discretionary' to 'Permitted' (indicated in activity status tables with an '-') and make the consequential change of removing 'All other buildings and structures activities' from Rules 17.10.5.1-4 and from Rules 10.5.2.4 and 10.5.2.16.	Accept	Amend Rule 17.3.4.7 as shown below.
FS2267.96	Harboursides and	I support the	Support OS360.138 (in part). Allow	Accept in Part	Amend Rule 17.3.4.7

	Peninsula Preservation Coalition	submission	submission for demolition, removal, repair but retain restricted discretionary status for all possible other activities.		as shown below.
OS958.104	Forest and Bird NZ	I support the provision	Retain Rule 16.3.4.7.c (activity status - all other buildings and structures) in Outstanding Natural Feature, Outstanding Natural Coastal Character and High Natural Coastal Character overlay zones	Reject	Amend Rule 16.3.4.7 as shown below.
Submission relating to more than one of the above topics					
OS997.8	Construction Industry and Developers Association	I seek to have the above provision amended	Amend Rule 16.3.4 (activity status - development activities) to change the following activities in Outstanding Natural Feature, Outstanding Natural Coastal Character and High Natural Coastal Character overlay zones from non-complying to discretionary: new building greater than 60m ² on a landscape building platform; new building or structure less than or equal to 60m ² or additional and alterations that result in a building or structure less than or equal to 60m ² ; new building or structure greater than 60m ² or additional and alterations that result in a building or structure that is greater than 60m ² .	Reject	Do not amend Rule 16.3.4 as requested.
<p><u>Background</u> Under Rules 16.3.4.3-5, 17.3.4.3-5, 16.3.4.7 and 17.3.4.7, the following activity statuses apply to buildings and structures in the rural and rural residential zones:</p> <ul style="list-style-type: none"> • New buildings >60m² on a landscape building platform are controlled activities in ONLs, SNLs and NCCs, and non-complying activities in ONFs, ONCCs and HNCCs. • New buildings or structures ≤60m², or additions and alterations that result in a building or structure that is ≤60m² are permitted activities in ONLs, SNLs and NCCs, and non-complying activities in ONFs, ONCCs and HNCCs. • New buildings or structures >60m², or additions and alterations that result in a building or structure that is >60m² are restricted discretionary activities in ONLs, SNLs and NCCs, and non-complying activities in ONFs, ONCCs and HNCCs. • All other buildings and structures activities (which consist of demolition, removal for relocation, and repairs and maintenance) are 					

restricted discretionary activities in all landscape and coastal character overlay zones.

These rules implement the following policies (incorporating amendments recommended elsewhere in this report):

- Policy 10.2.3.2, which states that buildings and structures are to be avoided in ONCCs and HNCCs “unless there are no material effects on the natural character values, as identified in Appendix A5”.
- Policy 10.2.3.4, which states that buildings and structures are only to be allowed in NCCs “where adverse effects on the natural character values identified in Appendix A5 ~~can~~ will {cl. 16} be avoided or, if avoidance is not possible, ~~be no more than minor~~ adequately mitigated”. {NatEnv 908.14}
- Policy 10.2.5.2, which states that buildings and structures are to be avoided in ONFs “unless there are no material effects on the landscape values of the ONF, as identified in Appendix A3”.
- Policy 10.2.5.6, which states that buildings and structures are only to be allowed in ONLs “where any adverse effects on the landscape values of the ONL, as identified in Appendix A3, ~~would be insignificant~~ will be avoided or, if avoidance is not possible, no more than minor; or where there are no practicable alternative locations, adequately mitigated. {NatEnv874.15}
- Policy 10.2.5.7, which states that buildings and structures are only to be allowed in SNLs “where any adverse effects on the landscape values of the SNL, as identified in Appendix A3, will be avoided or, if avoidance is not possible, ~~be no more than minor~~ adequately mitigated” {NatEnv458.12}

Requests to amend the activity status of new buildings >60m² within landscape building platforms in SNL, ONL and NCC overlay zones

HPPC (OS447.80) and STOP (OS900.115) seek that Rule 16.3.4.3 be amended so that buildings over 60m² within landscape building platforms in the SNL, ONL and NCC overlay zones become a restricted discretionary rather than a controlled activity. HPPC consider that designation of 'landscape building platforms' is not a sufficient or acceptable reason to assign a controlled activity status. In HPPC's view, the 'qualified persons' doing the platform assessment would surely identify the best platform; however, that does in no way confirm that it would meet various criteria or would be acceptable. HPPC are concerned that a hearing committee could be required to grant consent for an unacceptable building platform recommended by a consent applicant's hired person.

HPPC's submission is opposed by the following further submitters:

- Clifton Trust (FS2202.13), who consider that where a landscape building platform has been identified, it is appropriate that a building is constructed upon it. In the Clifton Trust's view, it is inappropriate for the Council to be able to decline a consent within a landscape building platform that it has already authorised.
- Federated Farmers (FS2449.318), who consider that insufficient justification has been provided for increasing the activity status in the way proposed, and that to do so would be unnecessary and inappropriate.

STOP's submission is opposed by the following further submitters:

- John Scott (FS2140.33); Ben Graham (FS2279.33); Mathew O'Connell (FS2300.33); and Alan Brown, Carrowmore Properties Limited, Robyn and Stephan Smith and Rick and Jill Clarke ("Pigeon Flat Road Group") (FS2416.33). These submitters consider that the

requested changes to activity status are unnecessary and onerous.

- Clifton Trust (FS2202.23) and Federated Farmers (FS2449.317), for the reasons set out above in relation to HPPC's submission.

Recommendations

I do not recommend that the activity status of new buildings >60m² within landscape building platforms in SNL, ONL and NCC overlay zones be amended from controlled to restricted discretionary as sought by HPPC and STOP.

I consider that, provided an appropriate assessment of the effects arising from the location of the building platform has been carried out at the subdivision consent stage, controlled activity status – with matters of control limited to the size, design and appearance of buildings – is sufficient to manage the potential effects arising from the establishment of a building of over 60m² within that platform.

Although, as the submitters point out, the assessment work carried out to identify the landscape building platform will be undertaken by professionals employed by the landowner or developer, the proposed landscape building platform would also (during the subdivision consent process) be assessed by the Council's landscape architect and other relevant professionals engaged by the Council, as appropriate – for example, the Council may seek advice from an ecologist regarding potential effects on biodiversity, in the case of an NCC overlay zone with significant biodiversity values.

However, I acknowledge the wider issue raised by the submitters that it is important to ensure appropriate management of the effects of buildings within landscape building platforms on the full range of values of landscape and natural coastal character overlays. I recommend, in section 5.11.5 of this report, amendments to Rule 10.8.1 to ensure that the process followed when identifying appropriate building platforms includes a full assessment of all protected values of those areas.

Requests to amend the activity status of various buildings and structures activities in ONF, ONCC and HNCC overlay zones

The Construction Industry and Developers Association (CIDA) (OS997.8, OS997.97, OS997.98 and OS997.99) seek that Rules 16.3.4 and 17.3.4 be amended so that the following activities become discretionary rather than non-complying in ONF, HNCC and ONCC overlay zones in the rural and rural residential zones:

- new buildings >60m² within landscape building platforms
- new buildings and structures ≤60m², and additions/alterations that result in buildings or structures ≤60m²
- new buildings or structures greater than 60m², and additions and alterations that result in a building or structure that is greater than 60m².

CIDA requests these changes based on the view that the 2GP as notified does not provide flexibility for activities and development to take place in a financially viable way.

CIDA's submissions in relation to the rural residential zones (OS997.97, OS997.98 and OS997.99) are supported by Federated Farmers (FS2449.368, FS2449.369 and FS2449.370) on the basis that the outcomes sought is more appropriate and workable for the zones specified, and more effects-based. The same submissions are opposed by HPPC (FS2267.139, FS2267.140 and FS2267.141), who consider that non-

complying activity status is necessary to allow for full scrutiny of potential effects.

Chris Walker (OS289.8) seeks that Rule 17.3.4.4 be amended so that it applies only to 'buildings $\leq 60\text{m}^2$ ' and not to 'structures $\leq 60\text{m}^2$ '. This change would mean that in ONF and HNCC overlay zones in the rural residential zones, structures $\leq 60\text{m}^2$ would be managed via Rule 17.3.4.7, and would be restricted discretionary activities (rather than non-complying activities in the rules as notified). Mr Walker considers that this change would clarify what would fall into the catch-all category 'all other buildings and structures', and would promote the purpose of sustainable management.

Recommendations

I do not recommend that the statuses of these activities are amended as sought by CIDA. I consider that the notified non-complying activity status is appropriate for each of the activities in question in ONFs, ONCCs and HNCCs. The landscape and natural coastal character values set out in Appendices A3 and A5 of the plan, which were identified in the light of expert input, indicate that these areas are particularly sensitive to potential adverse effects even from smaller buildings, structures and additions/alterations. I note that these areas generally have prominent hill-top or coastal locations and are almost completely without existing man-made structures. Therefore, I consider that non-complying activity status, with a policy framework stating that consent should not be granted unless there are "no material effects" on the protected values of these areas, is appropriate.

Mike Moore provides the following comment on the notified activity status of buildings in these areas (see pp5-6 of his evidence):

In my assessment, non-complying status for all buildings is appropriate for ONCC's HNCC's and ONF's. This recognizes that HNCC and ONCC areas are highly natural and any new built elements have the potential to adversely affect natural character values. Policy 13 (1) (a) of the New Zealand Coastal Policy Statement (NZCPS) requires the avoidance of adverse effects on natural character in areas of the coastal environment with outstanding natural character. ONF's may also be highly natural and similarly sensitive to the effects of structures. In comparison with ONL's, they are smaller in scale and the effects of new structures have the potential to significantly adversely affect their character and recognized values.

In addition, I do not recommend that the rules be amended as requested by Mr Walker, so that structures $\leq 60\text{m}^2$ are restricted discretionary in ONF and HNCC overlay zones within rural residential zones, while buildings $\leq 60\text{m}^2$ remain non-complying. Under 2GP definitions, the key differences between buildings and structures in this context are, firstly, that buildings include "a roof that is, or could be, fully or partially enclosed with walls", and, secondly, that buildings must be permanently fixed to the land, whereas structures may be moveable, but are only subject to 2GP rules on structures if they are "stored or placed undisturbed on a site for more than 12 months".

In my view, neither of these differences is sufficient to justify a distinction in the activity statuses between buildings and structures $\leq 60\text{m}^2$ in ONFs or HNCCs. I do not consider that the potential effects of a building/structure on landscape and natural coastal character values are likely to be significantly affected by whether or not it has a roof. The period of time that a building/structure is present on a site would contribute to the magnitude of its potential effects. However, I consider that it is appropriate that moveable structures $\leq 60\text{m}^2$ that are stored or placed undisturbed on a site for more than 12 months have non-complying activity status in ONFs and HNCCs, given the high values and sensitivity of these areas discussed above.

Requests to amend the activity status of new buildings/structures >60m² or additions and alterations that result in a building or structure >60m², and requests to amend the 60m² threshold

David Holdsworth (OS73.3) seeks that Rule 16.3.4.5 be amended so that new buildings >60m² are permitted in the SNL Overlay Zone. In Mr Holdsworth's view, in the case of a new building being established adjacent to an existing large building, it seems unreasonable to restrict development (in the absence of resource consent) to 60m². Mr Holdsworth considers that the existing plan is less restrictive in relation to floor area.

Shane Johnson and Sharee Watts (OS1067.2) seek that Rule 16.3.4.5 be amended so that it is a permitted activity to build a new dwelling in a Significant Natural Landscape Overlay Zone. The submitters consider that it is a basic right to build a home on your own land, and are opposed to the imposition of a tax (in the form of a resource consent requirement) on this activity. They consider that the proposal is uneconomic and would encourage smaller houses of less than 60m², which would defeat and diminish rural character, and would encourage further fragmentation of land following property sale, as houses of that size are too small for rural/lifestyle/family living.

Christopher Kilpatrick (OS505.1) seeks that Rule 16.3.4.5 be amended so that new buildings or structures greater than 60m² are permitted in landscape or natural coastal character overlay zones, because landowners may want to establish sheds or undertake alterations that exceed 60m².

Bruce Wayne Taylor (OS664.2) seeks that Rule 16.3.4.5.b be amended so that buildings or structures greater than 60m² are permitted in landscape overlay zones. Mr Taylor considers that the building of farm sheds for farming activities of any size should be allowed without the need for resource consent; he can see no benefit to anyone in the 60m² threshold and considers that the rule has been poorly thought through. In Mr Taylor's view:

- 60m² is nowhere near big enough; it is not even the size of a 2 bay 9m deep implement shed.
- One large shed located in the right place on the farm with good access would have less visual impact than lots of small ones all over the place.
- The extra costs of complying with these regulations and associated red tape will mean people will build several small sheds instead of one large one.

Christopher Dean Valentine (OS464.4) seeks that Rule 16.3.4.5 be amended so that additions and alterations to buildings and structures existing prior to 2015, and with a floor area greater than 60m², are permitted in the Outstanding Natural Landscape Overlay Zone. In Mr Valentine's view, making extensions and additions to existing buildings restricted discretionary in ONL overlay zones may result in additional small buildings being established, rather than a more sympathetic solution. Mr Valentine considers that the notified approach is too restrictive on residential activity and social wellbeing. He believes that a 60m² addition to an existing building would be likely to have less impact on the landscape than a 60m² building built close to an existing building. In addition, if larger additions were permitted, this would encourage landowners to repaint existing buildings in a colour that complies with reflectivity standards.

Ben Graham (OS361.23), Mathew O'Connell (OS364.12) and John Scott (OS1084.17) seek that Rule 16.3.4.5.b be amended to change the activity status of farm buildings that do not meet the size threshold in ONL, SNL, or NCC overlay zones from restricted discretionary to controlled. In the submitters' view, restricted discretionary activity status creates unnecessary administration and uncertainty. The submissions of Mr Graham and Mr O'Connell are supported by Federated Farmers (FS2449.324 and FS2449.325), who agree that controlled activity status will recognise that farm buildings can be appropriate, while still allowing council to impose conditions.

Similarly, Dianne Reid (OS592.21) and Robyn and Stephan Smith, Rick and Jill Clarke, Alan Brown, Carrowmore Properties Ltd (on behalf of the "Pigeon Flat Road Group") (OS717.20) seek that buildings and structures that do not meet the Rule 16.3.4.5 size threshold be made a controlled activity in all overlay zones and scheduled ASCVs. These submitters note that farm buildings are an integral part of farming activity, are entirely anticipated within the Rural Zone. Therefore, in their view, requiring a restricted discretionary consent creates unnecessary administration and uncertainty for farmers. Ms Reid's submission is opposed by David and Kerry Hiom (FS2473.19).

Nigel Harwood (OS96.3) seeks that Rule 17.3.4.5(c) be removed so that resource consent is not required for new buildings or structures greater than 60m² in SNL and NCC overlay zones. Mr Harwood notes that his section at 901 Blueskin Road, which is within a proposed SNL overlay zone, is surrounded by residential buildings on all but one side, which are all greater than 60m². He further notes that he has improved his section since the time of purchase, replacing rank grass and gorse bushes with approximately 2,200 native trees which are encouraging bird life. These efforts are improving the landscape. Mr Harwood does not want to have the uncertainty of not being able to develop the property as he wishes, and notes that DCC staff are unable to indicate how much a resource consent is likely to cost, and can only provide a very basic generalised idea as to what is required to meet the objectives in the Plan.

A number of submitters have also requested changes to the 60m² threshold contained in these activity status rules.

Ben Graham (OS361.19), Mathew O'Connell (OS364.10) and John Scott (OS1084.16) seek that Rules 16.3.4.3, 16.3.4.4 and 16.3.4.5 be amended by changing the building size threshold from 60m² to 350m². These submitters note that their properties are within rural areas and are working farms; large buildings are not unexpected in these areas, and are in fact necessary to the efficient operation of farming activities. In their view, the proposed permitted size of 60m² is wholly inadequate.

These submissions are supported by Federated Farmers (FS2449.314-6), who consider that 350m² more accurately accounts for the needs of the rural zone and the appropriate building sizes for the range of activities that are required within the zone.

Similarly, the Clifton Trust (OS720.9) seeks that Rules 16.3.4.3, 16.3.4.4 and 16.3.4.5 be amended by changing the building size threshold from 60m² to 300m², particularly in relation to the North West Peninsula SNL overlay zone, which overlays their property at 877 Highcliff Road. In the Trust's view, the proposed permitted size of 60m² is unduly restrictive for rural areas that are working farms.

Dianne Reid (OS592.21) and Robyn and Stephan Smith, Rick and Jill Clarke, Alan Brown, Carrowmore Properties Ltd (on behalf of the "Pigeon Flat Road Group") (OS717.20) also seek that Rules 16.3.4.3, 16.3.4.4 and 16.3.4.5 be amended by changing the threshold for permitted buildings or structures in overlay zones and scheduled Areas of Significant Conservation Value from 60m² to 300m² in Rules 16.3.4.3-16.3.4.5. In these submitters' view, only allowing for building size of 60m² within the rural zones is wholly inadequate, because farm buildings are

generally of a much more significant scale and are required to serve their desired purpose. The submitters consider that imposing such a restrictive standard will create significant administrative inefficiency, and that the standard should be amended to provide for larger buildings commensurate with nature of the land use in the rural zone.

Recommendations

With regard to the submissions from Christopher Kilpatrick (OS505.1), Bruce Wayne Taylor (OS664.2) Dianne Reid (OS592.21) and the Pigeon Flat Road Group (OS717.20) as they relate to activities in ONF, ONCC and HNCC overlay zones, see the discussion above under the heading "Requests to amend the activity status of various buildings and structures activities in ONF, ONCC and HNCC overlay zones".

The rest of this discussion focuses on activities in the SNL, ONL and NCC overlay zones.

Overall, for reasons discussed below, I identify two options for consideration by the Panel in relation to the maximum area threshold for permitted buildings and structures in these areas, but without making any recommendation to amend provisions. In addition, I identify two options for the Panel's consideration in relation to the rules on additions and alterations to existing buildings and structures, but again without making a recommendation to amend provisions. The discussion below is divided into three sections, reflecting the content of the submissions.

60m² area threshold for permitted buildings and structures

The reasons for restricting the size of permitted buildings are set out in the 'General background to provisions', above (section 5.11). Essentially, the scale of buildings and structures is a key determinant of whether or not they threaten the values of landscape and natural coastal character overlays, which are set out in 2GP Appendices A3 and A5. The 60m² figure in the notified rules, which acts as a threshold between permitted and restricted discretionary activities in ONLs, SNLs and NCCs, was identified, in consultation with the Council's landscape architect Barry Knox, as an indicator of the point at which the size of a building has the potential to adversely affect landscape and natural character values. An upper threshold of 60m² for permitted buildings allows for smaller farm buildings, for example 2-bay farm sheds with a depth of up to 6m and a bay width of up to 5m, to proceed without consent, provided they comply with relevant performance standards relating to height (max 5m), reflectivity, separation distances from other buildings, and minimum distance from ridgelines. Although the Rural Zones Section 42A report has recommended that these rules be removed from the plan due to problems with the mapping of ridgelines, provisions relating to ridgelines may be retained in the 2GP or could be reintroduced via a plan change once these problems have been resolved.

Submissions requesting amendments to the 60m² threshold were referred to Mike Moore, for comment on the validity of this threshold from a landscape perspective. On page 11 of his evidence, Mr Moore provides the following advice:

... I believe that 60m² is an appropriately conservative threshold in these areas which are recognized for their natural character, landscape and amenity values. I agree [with submitters] that for the most part in NCC's ONL's and SNL's, rural buildings are part of the landscape. However, whilst in many cases these can integrate well, if insensitively sited or designed they can have significant adverse effects. The threshold does not prohibit larger buildings but provides for a site and project specific assessment of their effects via the resource consent process. Assuming the constancy of the other variables impacting building impact i.e. maximum height (5m), reflectivity (30%) and potential minimum viewing distance controlled by Rural and Rural Residential zone setbacks (20m and 12m respectively), I would not recommend a maximum building size greater than 60m².

However, as pointed out by many submitters, imposing a resource consent requirement on buildings and structures over 60m², which are routinely required in association with farming or other rural activities, places restrictions on the use of productive rural land. Although consents are likely to be granted if buildings and structures can be located and designed in a way that appropriately manages effects, the consent requirement adds costs and uncertainty for landowners seeking to establish buildings and structures (such as larger farm sheds).

SNLs, ONLs and NCCs cover extensive areas of rural Dunedin; as well as having landscape and natural character values, this land is also economically important, and, in my view, 2GP rules should also take into account the need protect this aspect of the land. Objective 2.3.1 (as amended by recommendations made in other section 42A reports) includes the aim that "land, and land use activities... that are important for economic and social prosperity, including... productive rural land: 1. are able to operative efficiently and effectively". Objective 2.3.1 is implemented in part by Policy 2.3.1.2, which is as follows (again, including amendments recommended in earlier reports): "Maintain or enhance the productivity of farming and other activities that support the rural economy through: a. rules that enable productive rural activities including farming...".

As noted in 'General background to provisions' (section 5.11), the operative District Plan rule that is in place in most LMAs already imposes a consent requirement on any new building not located within 50m of an existing building that is at least 50% greater than the floor area of the new building. This rule already limits the ability of landowners to construct new buildings or structures of more than 60m² without the need for consent. To take the example of a 2-bay, 9m deep implement shed given by Mr Taylor, the total area of this would be 81m² (based on a 4.5m width for each bay); to be permitted under the operative rules, a shed of this kind would need to be located within 50m of a single building of at least 162m². That would only be possible if the landowner sought to build the shed close to an existing dwelling or large farm building. However, I acknowledge that there will be cases in which the proposed new rules introduce a consent requirement that would not apply under operative rules.

The average resource consent fee for building in a landscape area was \$1,067 in the 2014-2015 year. I understand that it is unlikely that the Council would require an applicant to engage a landscape architect to provide an assessment of effects in the case of proposed farm buildings in rural environments; this work would commonly be done in-house by the Council's landscape architect. The submitters have not described how frequently they would be likely to require new large buildings in association with farming and other rural activities, and this is a relevant factor in assessing the costs of the proposed rules and likely effects on rural productivity; for example, is the compliance cost likely to be incurred every two or three years, or more or less often than that? This may well be a difficult question to answer, given that needs may vary widely between different farms on different sites. I request that, if possible, submitters provide any available information on this matter at the hearing, in order to aid the Panel's consideration of the 60m² threshold.

In my view, the key question to consider here is:

- Is it possible to identify an approach to managing the size of buildings and structures in ONLs, SNLs and NCCs that would provide appropriate protection to identified landscape and natural coastal character values, in order to achieve Objectives 10.2.5 and 10.2.3, while reducing the restrictions imposed on rural land use (in accordance with Policy 2.3.1.2)?

The preservation of the natural character of the coastal environment and the protection of outstanding natural features and landscapes are

matters of national importance under sections 6(a) and (b) of the RMA. With respect to SNLs, although these areas do not fall within the scope of section 6, provisions relating to these areas have been drafted to have particular regard to the maintenance and enhancement of amenity values, as is required under section 7(c). However, maintaining/enhancing the productivity of rural land is a key goal of the 2GP, and also falls within the scope of RMA section 7(b), which requires the Council to have particular regard to “the efficient use and development of natural and physical resources”.

I consider that the notified 60m² permitted activity threshold for large buildings and structures in ONLs, SNLs and NCCs has been designed with the primary aim of maintaining/enhancing landscape and coastal character values, and does not give equal weight to the aim of maintaining/enhancing rural productivity (even though it does provide for smaller farm buildings to proceed without consent). While, in my view, this is appropriate in the case of ONLs and NCCs, given the status of the protected values of these areas as matters of national importance under section 6, I am not convinced that the same approach should be taken in SNLs.

I note that, in his evidence quoted above, Mr Moore acknowledges that “rural buildings are part of the landscape” and “in many cases these can integrate well”, but advises that “if insensitively sited or designed they can have significant adverse effects”. Therefore, rural buildings over 60m² will not necessarily result in significant adverse effects; in many cases they may integrate well into the landscape. However, there is a risk that they will be poorly located or designed, leading to adverse effects. These risks can be mitigated to some extent via performance standards; the reflectivity and height performance standard manages aspects of building design, while the setback from ridgeline and building separation performance standards manage location. But, beyond these measures, it is difficult to devise performance standards that manage design and location; and these standards alone are not enough to ensure appropriate design and location. A building that is less than 5m high and finished in a muted colour may still be designed in a way that does not integrate well with the landscape, and a building that is located away from ridgelines and complies with the building separation rule (i.e. is either within 30m of a >60m² building or at least 200m away from any other building) may still be in a highly visible position.

However, the question is whether the risk to landscape values in SNLs from inappropriately designed and sited buildings >60m² outweighs the costs to rural productivity from requiring consent for these buildings. It is difficult to establish how likely it is that buildings will be insensitively designed and sited in these areas in the absence of the proposed rule, because the equivalent rule in the operative plan already requires consent for >60m² buildings in LMAs in many cases (i.e. whenever they are not located within 50m of an existing building that is 50% larger) – so, evidence from existing buildings in SNLs may be misleading. Equally, it is difficult to determine the magnitude of the cost to rural productivity, in the absence of evidence regarding how frequently farming and other productive rural activities would need to establish new buildings >60m² in SNLs.

I consider that, based on Mr Moore’s recommendation to retain the 60m² limit as an “appropriately conservative threshold”, the risk of adverse effects that would be associated with permitting buildings up to the specific scales requested by submitters, would be unacceptably high. To summarise, the higher thresholds requested by submitters are:

- Shane Johnson and Sharee Watts: the size of a new dwelling (inferred)
- Ben Graham, Mathew O’Connell and John Scott: 350m²
- The Clifton Trust, Dianne Reid, and the Pigeon Flat Road Group: 300m².

However, in my view, it may be appropriate to provide for somewhat larger buildings in SNLs than in ONLs and NCCs, to allow more flexibility in

these areas, reflecting their different values.

I offer the following options for the Panel to consider:

1. Retain notified permitted activity threshold of 60m² for buildings and structures in SNLs, ONLs and NCCs.
2. Apply different rules in SNLs (RMA section 7) and ONLs and NCCs (RMA section 6), by retaining the notified 60m² threshold for ONLs and NCCs and raising the threshold to 85m² in SNLs. This would provide for buildings on the scale of the larger 2-bay farm shed cited in Mr Taylor's submission (a 2-bay, 9m deep implement shed has a total area of 81m², based on a 4.5m width for each bay).

Option 1: 60m² maximum permitted area for buildings and structures in SNLs (as notified)

Advantages	Disadvantages
Minimises risk to landscape values of SNLs, which makes it more likely that Objective 10.2.5 will be achieved. Supported by expert landscape architect evidence.	Greater compliance costs for landowners in rural areas, compared with Option 2. In some cases (where a building of between 60 and 85m ² would not have been insensitivity designed or located, even without the resource consent process), this option will result in unnecessary restrictions on productive rural land, which is not consistent with Policy 2.3.1.2.a.
	Does not differentiate between SNLs (whose landscape values are protected primarily for amenity reasons, under RMA section 7) and ONLs and NCCs (whose values are protected as matters of national importance, under RMA section 6).

Option 2: Amend maximum permitted area for buildings and structures in SNLs from 60m² to 85m²

Advantages	Disadvantages
Reduced compliance costs for landowners in rural areas, compared with Option 1, which – assuming that there is demand for buildings of between 60 and 85m ² as part of farming or other productive rural activity – would reduce restrictions on productive rural land.	Greater risk to landscape values of SNLs, with adverse effects being increased if significant numbers of buildings between 60 and 85m ² that were insensitively designed and/or located. Not supported by expert landscape architect evidence.
Recognises the difference between SNLs (whose landscape values are protected primarily for amenity reasons, under RMA section 7) and ONLs and NCCs (whose values are protected as matters of national importance, under RMA section 6).	Depending on extent of demand for buildings of between 60 and 85m ² as part of farming or other productive rural activity, the change may not make a significant difference to rural productivity. Note that submitters asked for considerably higher maximums than 85m ² .

Another option, which would address the issues raised in this discussion but is beyond the scope of 2GP hearings, would be for the Council to provide for discounted or free resource consents for farm buildings that require consent in landscape and natural coastal character overlays. If the Panel considers this to be a valid approach, they may make a recommendation to the Council that it be considered as part of the Annual

Plan/Long Term Council Community Plan process.

Additions and alterations

In relation to Mr Valentine's submission requesting that provisions on additions and alterations to existing buildings and structures be made less restrictive, I acknowledge that, in the rules as notified, there is a lack of equity in the way new small buildings and new small additions are managed.

Under notified rules, a new building/structure of up to 60m² would be permitted (provided other performance standards were met), but an addition/alteration that added 60m² of extra floor space to an existing building would not. Consent is required for additions that "result in a building or structure that is greater than 60m²". Under this wording, any addition to an existing >60m² building, no matter how small, would trigger a consent requirement. For example, a 30m² addition to an existing 120m² building would result in "a building or structure that is greater than 60m²", and would, therefore, be restricted discretionary in SNLs, ONLs and NCCs. On the other hand, a new building of 60m² established close to an existing larger building would be permitted under notified rules. This disparity does not make sense from the point of view of managing effects, since – if other relevant factors such as design are held constant – a large building closely co-located with a 60m² building, and the same large building plus 60m² extension are likely to have very similar visual and landscape effects. It could be argued that a new 60m² building in the rural environment is more likely to be a farm shed or similar building, which is an anticipated part of the rural landscape, whereas a 60m² addition is more likely to be an extension to a dwelling, which would be more likely to detract from landscape values – but this will not always be the case. A new 60m² building could equally be a sleepout or family flat, and a 60m² addition could be required to a farm building; also, the design and location of a building, not just its purpose, influences its effects on landscape values.

Mr Valentine's submission was referred to Mike Moore for comment. Mr Moore's advice (p11) is that "additions are likely to have less landscape/visual impact than similarly scaled new buildings" and "additions up to 60m² in area should be provided for".

However, resolving the issue identified by Mr Valentine requires careful consideration. Allowing additions of up to 60m² as a permitted activity (i.e. revising rules so that the same approach applies to the creation of up to 60m² of new floor space, regardless of whether it is a standalone building or an addition) would create two problems:

- Firstly, it would create a loophole in the rules, whereby a 60m² building could be established as a permitted activity, and then one or more 60m² extension added (perhaps in quick succession), to create a large building with no consent requirement. Clearly it is not efficient, and is likely to be significantly more costly, to build a large farm building or dwelling in increments in this way, but it is a possibility – and there could be a strong incentive to do this, on sites where large buildings are unlikely to be consented due to the visual prominence or other sensitivity of the site.
- Secondly, this approach would allow a building of over 60m² to be established, via additions, without the need for resource consent (e.g. if a 60m² addition was added to an existing 30m² building). Once a building over 60m² had been established, it would then become possible, under Rule 10.3.5 (incorporating amendments recommended in response to submissions in section 5.11.2.1 below), to erect three small buildings (≤60m²) within a 30m radius around that building (all without the need for resource consent).

In order to avoid both of these potential problems, I consider that it is necessary to retain stricter controls for additions/alterations than for new small buildings. However, rules on additions could be made somewhat more equitable with rules on new small buildings without resulting in either of the above outcomes if the following types of addition were provided for as permitted activities:

1. As in the notified rule, additions/alterations that result in a building or structure that is 60m² or less, **and**
2. Additions/alterations that add up to 60m² of new floor space to the original footprint of an existing building that is over 60m² in area.

This approach would mean that:

- only a single addition of up to 60m² would be permitted (because of the reference to “original footprint”), and
- it would not be possible to use this rule to add floor area to an existing building of less than 60m², taking the total floor area of the building to over 60m², and thereby allowing the establishment of additional small buildings within a 30m radius as a permitted activity.

There would, nevertheless, still be certain drawbacks to the above approach, compared with the notified rules on additions and alterations:

- It would be more complex to administer, because consents staff would need to establish what the “original footprint” of the building was, which could be timeconsuming, particularly for older buildings.
- It would mean that, in processing consents for new buildings >60m², the Council would need to take into account the fact that, once established, the building would be able to be extended 60m² by right (in addition to the fact that, under Rule 10.3.5, it would become a permitted activity to establish three further buildings of up to 60m² around it). This could have the unintended effect of making it more difficult for buildings >60m² to be granted consent.

Given the above assessment, I do not recommend any change to the rules at this stage, but offer the following alternative approaches for consideration by the Panel and discussion at the hearing:

1. Retain the notified rules on additions and alterations in ONLs, SNLs and NCCs, so that only additions/alterations that result in a building or structure that is 60m² or less are a permitted activity.
2. Amend the rules so that additions/alterations that add up to 60m² of new floor space to the original footprint of an existing building or structure that is over 60m² in area are also permitted.

To summarise, I consider that the main advantages and disadvantages of each of these options are as follows:

Option 1: only additions/alterations that result in a building or structure that is 60m² or less are a permitted activity (as notified)

Advantages	Disadvantages
Simple to administer	Seems unfair, and not effects based, to require consent for a 60m ² addition to a building, when a new 60m ² building next to the existing building would be permitted (assuming that Rule 10.3.5 can be met with respect to the total number of buildings in the cluster), and the

	two scenarios would result in very similar effects.
More straightforward to process consents for buildings >60m ² , and therefore easier for applicants to obtain those consents, because decision-makers do not have to factor in a possible future 60m ² extension.	Less enabling of additions and alterations, which could (depending on the circumstances of the development) result in unnecessary restrictions on productive rural land, and could discourage reuse of buildings.

Option 2: additions/alterations that add up to 60m² of new floor space to the original footprint of an existing building or structure that is over 60m² in area are also permitted

Advantages	Disadvantages
Would result in more equitable provisions for additions and alterations, in comparison to provisions for new small buildings.	Less straightforward to administer (because of the need to establish the "original footprint", which could result in delays and inefficiency.
More enabling of additions and alterations, which could, depending on the demand for such development as part of farming or other productive rural activity, reduce restrictions on productive rural land. Could also encourage reuse of buildings in general (for any purpose), which would be a sustainable way to manage physical resources.	Potentially more difficult for buildings >60m ² to be granted consent, because the the Council would need to take into account the fact that, once established, the building would be able to be extended 60m ² as a permitted activity. This would increase restrictions on productive rural land.

I note that Mr Valentine's submission would only provide scope to amend the rules on additions and alterations as they apply in ONLs. However, I consider that submissions that request that rules on buildings and structures in landscape overlay zones in general be made more permissive (i.e. OS361.19, OS364.10, OS1084.16, OS720.9, OS592.21 and OS717.20) would provide the scope to amend additions and alterations rules in all overlays within the rural zones. If any changes are made to these rules, then for consistency, I would recommend that the equivalent rules in the rural residential and recreation zone sections be amended in the same way, as a consequential amendment, if the Panel consider that this is within the scope of submissions.

Restricted discretionary versus controlled activity status

A number of submitters have requested that rules be amended so that buildings, structures, additions and alterations that exceed the area threshold are controlled rather than restricted discretionary activities in SNLs, ONLs and NCCs. I do not recommend that the rules be amended in this way. I consider that the restricted discretionary activity status and the relevant assessment rules that apply to buildings and structures that exceed the area threshold, as well as the "key design elements" in Appendices A3 and A5 and the design guidance provided in A3.4, indicate that larger buildings and structures are anticipated in these areas, and are likely to be granted consent if their location, size and design is sympathetic to the area. However, I consider that it is necessary that the Council retain the ability to decline consent for larger buildings and structures that would not align with protected values. As indicated in section A3.4 Design Guidelines, "because every site is different... it is important that each individual site is assessed to determine an appropriate design solution based on site character and the specific development requirements".

Rules 16.3.4.7 and 17.3.4.7: Activity status of “all other buildings and structures activities” in overlay zones and ASCVs

Dunedin City Council (OS360.137 and OS360.138) seeks that Rules 16.3.4.7.b-d (all other buildings and structures activities – rural zones) and Rules 17.3.4.7.b-c (all other building and structures activities – rural residential zones) be amended to change the activity status from restricted discretionary to permitted. This change would correct a typographical error made during the drafting of the 2GP, and would apply to the following buildings and structures activities:

- Removal for relocation
- Demolition
- Repairs and maintenance.

The DCC’s submission in relation to rural zones (OS360.137) is supported by Federated Farmers (FS2449.326), who consider that the proposed amendment is pragmatic and appropriate.

The DCC’s submission in relation to rural residential zones (OS360.138) is supported in part by HPPC (FS2267.96), who consider that demolition, removal and repair should be permitted but that restricted discretionary status should be retained for all possible other buildings and structures activities. These other activities include activities that are unknown and may be novel, such as a piece of noisy stationary equipment that straddles the line between a piece of machinery and a structure. In these cases, retained restricted discretionary status would allow for proper consideration of the new activity by the Council.

Forest and Bird NZ (OS958.104) seek that Rule 16.3.4.7.c, under which “all other buildings and structures activities” (i.e. removal for relocation, demolition, and repairs and maintenance) are restricted discretionary within ONF, ONCC and HNCC overlay zones in rural zones, be retained.

Recommendations – Accept (Amendment 1)

I recommend that the activity status of “all other buildings and structures activities” be amended from restricted discretionary to permitted in all landscape and natural coastal character overlay zones and ASCVs. I note that the activities that fall into this category, i.e. removal for relocation, demolition and repairs and maintenance, are only managed in the plan in relation to effects on the heritage values of scheduled heritage buildings and structures. Therefore, logically, these activities should not be subject to additional controls in areas that are included in overlay zones or schedules because of special values that do not relate to heritage. I do not consider that these activities alone have the potential to adversely affect landscape, natural character or biodiversity values. If they were accompanied by other development activities such as vegetation clearance or large scale earthworks, other 2GP provisions would apply.

I do not agree with HPPC that it is necessary to retain restricted discretionary status in landscape and natural coastal character overlay zones and ASCVs for other buildings and structures activities that have not been contemplated during drafting of the 2GP. I consider that the categories of buildings and structures activity that are provided for in Rules 16.3.4 and 17.3.4 are comprehensive; they cover all buildings and structures of all sizes, as well as all sizes of additions and alterations to existing buildings/structures. In addition, I note that other 2GP provisions manage other aspects of machinery and structures, such as noise and light spill. Therefore, in the example given by HPPC, I do not consider that restricted discretionary status would be necessary to manage effects on landscape, natural character or biodiversity values.

Recommended amendment:

Amendment One

Amend Rule 16.3.4.7.b-d (all other buildings and structures activities – rural zones) to change the activity status from restricted discretionary to permitted, as follows:

~~RD~~ P {NatEnv 360.137}

Amend Rule 17.3.4.7.b-c (all other building and structures activities – rural residential zones) to change the activity status from restricted discretionary to permitted, as follows:

~~RD~~ P {NatEnv 360.138}

5.11.2 Minimum Building Separation Provisions

5.11.2.1 Policy 10.2.3.8, Policy 10.2.5.12 and Rule 10.3.5

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
OS588.3	Otago Peninsula Community Board	I seek to have the above provision amended	Amend Policy 10.2.5.12 to provide for structures associated with tourism, visitor accommodation and farming (inferred not stated)	Reject	Do not amend policy as requested.
OS919.116	Federated Farmers of New Zealand	I support the provision	Retain Policy 10.2.3.8	Accept in part	Amend policy as shown below.
OS919.117	Federated Farmers of New Zealand	I support the provision	Retain Policy 10.2.5.12	Accept in part	Amend policy as shown below.
OS355.4	Robert George & Sharron Margaret Morris	I oppose the provision	Remove Rule 10.3.5 and Rule 16.6.7 (minimum building separation)	Reject	Do not remove rules.
OS447.35	Harboursides and Peninsula Preservation Coalition	I seek to have the above provision amended	Amend Rule 10.3.5.1 (minimum building separation) as follows: 'In any landscape overlay zone or in a Natural Coastal Character Overlay Zone (NCC), a maximum of two permitted buildings (e.g. buildings	Accept	Amend rule as shown below.

			less than or equal to 60m ²) may be erected within 30m of one or more buildings greater than 60m ² on the same site over any five year period; ...		
OS464.1	Christopher Dean Valentine	I seek to have the above provision amended	Amend Rule 10.3.5.1 (minimum building separation) to read: 'In any landscape overlay zone or in a Natural Coastal Character Overlay Zone (NCC), a maximum of two <u>three</u> permitted buildings (e.g. buildings less than or equal to 60m ²) may be erected within 30m <u>50m</u> of one or more buildings greater than 60m ² on the same site over any five year period; all other permitted buildings must be located at least 200m from any other building on the same site.'	Accept in part	Amend rule as shown below.
OS464.9	Christopher Dean Valentine	I seek to have the above provision amended	Amend Design Guideline A3.4.1.d to allow for the separation of residential buildings from farm buildings	Reject	Do not amend design guideline as requested.
OS900.68	Save The Otago Peninsula (STOP) Inc Soc	I seek to have the above provision amended	Amend Rule 10.3.5.1 (minimum building separation) as follows: 'In any landscape overlay zone or in a Natural Coastal Character Overlay Zone (NCC), a maximum of two permitted buildings (e.g. buildings less than or equal to 60m ²) may be erected within 30m of one or more buildings greater than 60m ² on the same site over any five year period; ...	Accept	Amend rule as shown below.
FS2391.49	Geoff Scurr Contracting Limited	I support the submission	Support OS900.68. Allow submission.	Accept	Amend rule as shown below.
OS951.63	Timothy George Morris	I oppose the provision	Remove or amend Rules 10.3.5 and 16.6.7 (minimum building separation)	Reject	Do not remove rules.
OS1052.5	Scroggs Hill Farm Limited	I seek to have the above provision	Amend Rule 10.3.5 (minimum building separation) to make an exception for stock	Reject	Do not amend rule as requested.

		amended	handling purposes		
FS2449.194	Federated Farmers of New Zealand	I support the submission	Support OS1052.5. Allow submission.	Reject	Do not amend rule as requested.
OS1054.63	Timothy Morris (on behalf of RG and SM Morris Family Trust)	I oppose the provision	Remove or amend Rules 10.3.5 and 16.6.10 (minimum building separation)	Reject	Do not remove rules.

Background

Policy 10.2.3.8 is:

“Provide for small buildings (no larger than 60m²) in the Natural Coastal Character Overlay Zone (NCC) but limit the number of these clustered together with each other or existing large buildings to a level that avoids or, if avoidance is not possible, ensures cumulative visual effects are no more than minor”.

Policy 10.2.5.12 is:

“Provide for small buildings (no larger than 60m²) in landscape overlay zones but limit the number of these clustered together with each other or existing large buildings to a level that avoids or, if avoidance is not possible, ensures cumulative visual effects are no more than minor”.

Both of these policies are implemented by Rule 10.3.5 Minimum Building Separation, which is as follows:

- “1. In any landscape overlay zone or in a Natural Coastal Character Overlay Zone (NCC), a maximum of two permitted buildings (e.g. buildings less than or equal to 60m²) may be erected within 30m of one or more buildings greater than 60m² on the same site over any five year period; all other permitted buildings must be located at least 200m from any other building on the same site
2. For the purposes of this rule, distance will be measured as the distance between the closest walls of the two buildings.”

The rationale for this requirement is to limit the cumulative effects on landscape or natural coastal character values created by multiple buildings on one site. Under the requirement, a new building must either be located within 30m of an existing larger building (so that the visual effects of the new building are mitigated via co-location), or located at least 200m away (so that the new building and existing building/group of buildings are perceived separately, rather than as a ‘sprawl’ of buildings across the landscape). The standard also limits the total number of buildings that may be established on a site. Rule 10.3.5 was developed in consultation with the Council’s landscape architect Barry Knox.

I note that, under the operative District Plan, the equivalent rule requires new buildings and structures (in most but not all LMAs) to be located within 50m of an existing building that is at least 50% larger – in terms of floor area – than the proposed building/structure. There is no provision in the operative plan for buildings to be located further than 50m away from existing buildings, without triggering a need for resource consent.

Although this matter has not been raised in submissions, I consider that the title of Rule 10.3.5 should be amended from ‘Minimum Building Separation’ to simply ‘Building Separation’ (with consequential amendments as necessary throughout the plan). This is because the standard

requires buildings *either* to be located within a maximum radius of existing large buildings, *or* to be located a minimum distance from all buildings. The title of the rule as notified focuses only on the latter half of this requirement, and as a result I consider that it could mislead plan users. In my view, this change can be made as a minor amendment under RMA Clause 16, as it does not change the effect of the rule.

Submissions in support

Federated Farmers of New Zealand (OS919.116 and OS919.117) seeks to retain Policy 10.2.3.8 and Policy 10.2.5.12, based on the view that it is important to provide for smaller buildings in NCCs, ONLs and SNLs.

Requests to remove minimum building separation provisions, or to amend the provisions to exempt certain activities

Robert George & Sharron Margaret Morris (OS355.4), Timothy George Morris (OS951.63) and Timothy Morris (on behalf of RG and SM Morris Family Trust) (OS1054.63) seek to remove Rule 10.3.5 because the submitters believe the proposed rule is overly onerous.

Otago Peninsula Community Board (OS588.3) seeks to amend Policy 10.2.5.12 as they are concerned that this policy and associated rules may have limitations on the development of eco-tourism and accommodation operations in these zones and care needs to be taken that the rules do not limit suitable and sympathetic development in these areas. In the submitter's view, similar concerns apply in relation to farming operations in these zones.

Scroggs Hill Farm Limited (OS1052.5) seeks to amend Rule 10.3.5 because the submitter considers that minimum building separation is impractical in certain situations. The submitter gives the example that sometimes buildings need to be adjoining for stock handling purposes and considers that an amendment should be made for this exception. Federated Farmers of New Zealand (FS2449.194) support the submission because the submitter considers that "it is important that the Plan allows for normal, appropriate farming practices to continue without unnecessary restriction."

Recommendation

The submissions requesting that Rule 10.3.5 be removed, or amended to allow for exceptions, were referred to Mike Moore for comment. Mr Moore's advice is as follows (p17 of his evidence):

... I support the 30m separation provision because it encourages clustering of built form and this helps to minimize adverse effects on natural character, landscape and amenity values. Separation distances that appropriately provide for visual association will vary from site to site in relation to such factors as the extent of any vegetative framework, landform, or the number, scale and degree of separation of existing buildings. However, it is my assessment that the 30m separation distance proposed is a reasonable standard on the basis that:

- it provides for a close enough association of buildings (one of which is 60m² or less) to ensure they are seen as part of a cluster.*
- it provides generously for vehicular turning between buildings.*

As discussed, I have reservations regarding the provision for permitted buildings to be located 200m or more from other buildings and believe it could potentially encourage perverse outcomes. It is quite possible that a 200m separation will be either impracticable or could

encourage building away from more sheltered and / or visually recessive areas where existing buildings are located. The [operative District Plan] has no provision for permitted buildings further than 50m from larger buildings and I believe it is a mistake for the 2GP to do so. I understand however, there is no scope in the submissions to address this.

Based on Mr Moore's advice, I recommend that Rule 10.3.5 be retained, although with certain amendments in response to other submissions, as discussed below. Although the submissions from the Morrises provide scope to remove the rule (which would mean that new buildings up to 60m² could be established anywhere within an SNL, ONL or NCC, provided they comply with height and reflectivity standards), as Mr Moore notes, there is no scope to amend the rule so that new buildings are not permitted except within 30m of existing buildings. The Morrises specify in their submissions that they seek that the rule be removed in order to make provisions *less* onerous. The scope of Scroggs Hill Farm Limited's submission is limited to a request for exemptions to the rule. Therefore, I do not consider that a change to the rule that results in more restrictive provisions is within scope.

I do not consider that the provisions as notified are overly onerous, or that exemptions should be made for certain activities (either stock handling as requested by Scroggs Hill Farm, or eco-tourism, accommodation and farming as requested by the Otago Peninsula Community Board). Where buildings in SNLs, ONLs and NCCs do not comply with Rule 10.3.5, consent is required for a restricted discretionary activity. This allows each proposal to be considered on a case by case basis, and may result in conditions being place on the size, design and location of the building to reduce visual effects. In my view, these provisions provide appropriately for both the maintenance/enhancement of areas with identified landscape and natural character values (Objectives 10.2.3 and 10.2.5), and the maintenance/enhancement of the productivity of farming and other activities that support the rural economy (Policy 2.3.1.2).

Request to amend Rule 10.3.5 to remove allowance for each 5 year period

HPPC (OS447.35) and STOP (OS900.68) seek to delete the reference to 'over any five year period'. HPPC are concerned about potential accumulation of buildings, and consider that "a collection of buildings constructed around a main rural home will contribute to the perceived 'bulk' of development", while STOP are concerned that it will allow a "gradual creep in size". Geoff Scurr Contracting Limited (FS2391.49) support the submissions because they consider that it is sensible to remove the five year period.

Recommendations – Amendment 1

These submissions were referred to Mike Moore for comment. Mr Moore's advice is as follows (pp17-18 of his evidence):

The proposed two building within a five year period provision, appears to me to be a recipe for cumulative effects and I agree with the submissions of HPPC, STOP and Geoff Scurr Contracting Ltd in this regard. The buildings that proposed Rule 10.3.5 provides for can be up to 5m high and 60m² in footprint (e.g. 10 x 6m). These are not insignificant buildings and two are provided for within a five year period. As the rule stands, another two could be added in the next five year period. Assuming a typical rural house is in the order of 250m² in footprint, this rule provides for nearly a doubling in the built area over a ten year period. Mitigation measures imposed on the original building to ensure appropriate integration with the landscape could potentially be undermined by providing for this cumulative increase in scale (for example buildings could expand beyond the confines of a planted framework established to provide screening or context). It is my recommendation that no reference be made to a five year period.

Based on Mr Moore's advice, I recommend that Rule 10.3.5 be amended as shown below, to remove the reference to a five year period. This change would increase restrictions on rural activity in SNLs, ONLs and NCCs, but, given the potential adverse effects on landscape and natural character values described by Mr Moore, I consider that it is justified. In addition, I note that this increase in restrictiveness is partially mitigated by the recommended change to allow three rather than two new buildings within 30m of an existing large building, discussed immediately below.

In consequence of the recommended removal of reference to a five year period, I also recommend that the phrase "may be erected within" be replaced with "may be located within", to emphasise that a *total* of three small buildings may be located within 30m of one or more large buildings (rather than each new owner being allowed to erect three small buildings).

Further, I recommend that:

- this rule be illustrated with a diagram (as a minor clause 16 amendment), to avoid interpretation difficulties, and
- a drafting error be corrected (also as a minor clause 16 amendment), by replacing "e.g. buildings $\leq 60\text{m}^2$ " with "i.e. buildings $\leq 60\text{m}^2$ ".

Request to amend provisions to increase the number of permitted buildings and the 30m maximum separation distance, and to decrease the 200m minimum separation distance

Christopher Dean Valentine (OS464.1) seeks that Rule 10.3.5 be amended so that up to three permitted buildings are allowed and the maximum separation distance be increased from 30m to 50m. The submitter considers that for properties that do not have space to provide a separation distance greater than 200m, restriction to two buildings "can hinder productivity and opportunities". The submitter also states that he finds the definition of distance is unclear "specifically, is the distance to be measured a perpendicular offset between the walls of both buildings, or the true length between corners on both buildings, if they are offset?" The submitter considers that an increase in separation allowed would compensate when a building exceeding 60m^2 may have historically been built within a boundary setback area.

In a related submission point, Mr Valentine (OS464.9) also seeks that Design Guideline A3.4.1.d be amended to allow for the separation of residential buildings from farm buildings even on small lots, where the 200m minimum separation distance cannot be met. This part of the design guideline reads: "Where other buildings already exist, site the new buildings or structures to visually relate to the group rather than be seen as an isolated element."

Recommendations – Amendments 2, 3 and 4

Mr Valentine's requested changes to Rule 10.3.5 was referred to Mike Moore for comment. Mr Moore's advice is as follows (p18 of his evidence):

... I do not believe that 50m (as is provided for in the [operative District Plan]) is a close enough separation distance to ensure that buildings are seen as sufficiently grouped. This is particularly the case where there is no planted setting defining the built node. I believe that 30m is preferable to 50m to ensure that adverse effects of built form are adequately mitigated by clustering.

As to the question of whether three buildings up 60m^2 in area should be provided for rather than two as currently proposed, it is my

assessment that in terms of effects on natural character, landscape and amenity values, this is appropriate. My primary reason is that this may serve to encourage building clustering and discourage the establishment of new built form elsewhere. There could clearly be demand for three buildings e.g. in relation to a house, additional accessory buildings could include a garage, implement shed and glasshouse. I consider that provision for three rather than two buildings of permitted scale (no more than 60m²) is unlikely to give rise to significantly greater effects of built form, if they are required to be within the 30m separation distance.

Based on Mr Moore's advice, I recommend that Rule 10.3.5 be amended as shown below, so that three rather than two buildings are permitted within 30m of an existing building over 60m² on the same site.

With regard to Mr Valentine's question about the way in which distance between buildings is to be measured, it is intended that distance will be measured as the true length between walls or corners on both buildings. I recommend a slight change to the rule, as shown below, to clarify this. As noted above, I also recommend that this rule be illustrated with a diagram; this diagram should show how the distance between two buildings is to be measured.

With respect to Mr Valentine's requested change to Design Guideline A3.4.1.d, I do not consider that this is necessary. I take Mr Valentine's submission to mean that he seeks that, in cases where the size of the lot make it impossible to meet the 200m separation distance, the Council should waive this requirement so that new buildings can still be established. In cases where a proposed new building in an SNL, ONL or NCC breaches Rule 10.3.5, Rule 16.9.2 "Assessment of all performance standard contraventions" would apply. This rule states that "potential circumstances that may support a consent application include... b. The need to meet other performance standards, or site specific factors including topography, make meeting the standard impracticable." Therefore, I consider that the notified assessment rules already provide for site size to be taken into account when considering applications for activities that breach Rule 10.3.5.

Recommended amendments:

Amendments 1, 2 and 3

Amend Rule 10.3.5 Minimum Building Separation as follows:

1. In any landscape overlay zone or in a Natural Coastal Character Overlay Zone (NCC), a maximum of ~~two~~ three {NatEnv464.1} permitted buildings (~~e.g. i.e.~~ {C116} buildings less than or equal to 60m²) may be ~~erected~~ located {NatEnv447.35} within 30m of one or more buildings greater than 60m² on the same site ~~over any five year period~~ {NatEnv447.35}; all other permitted buildings must be located at least 200m from any other building on the same site.
2. For the purposes of this rule, distance will be measured as the distance between the closest ~~walls~~ points {NatEnv464.1} of the two buildings.

Amendment 4

Add new Figure to Rule 10.3.5 to illustrate the rule, including illustration of how the distance between two buildings is to be measured. (To be

completed at a later date.) {C116}

Amendment 5 (under Clause 16)

Amend title of rule as follows, and make consequential amendments to reference to this performance standard as necessary throughout the plan:

Rule 10.3.5 Minimum Building Separation {C116}

5.11.3 Reflectivity Provisions

5.11.3.1 Policy 10.2.3.6

Sub pt #	Submitter Name	Support/Oppose/ Seek Amend	Summary Of Submission	Accept/Reject/ Accept in part	Staff Recommendation
OS900.164	Save The Otago Peninsula (STOP) Inc Soc	I seek to have the above provision amended	Amend Policy 10.2.3.6 as follows: Require buildings, structures, additions and alterations, and wind generators - on-site energy generation in a Natural Coastal Character Overlay Zone (NCC) to have exterior colours and materials that avoid or, if avoidance is not possible, minimise adverse visual effects caused by reflectivity.	Reject	No amendment required.
FS2391.61	Geoff Scurr Contracting Limited	I oppose the submission	Oppose OS900.164. Disallow submission and retain Policy 10.2.3.6 as proposed in the 2GP.	Accept	No amendment required.
FS2449.130	Federated Farmers of New Zealand	I oppose the submission	Oppose OS900.164. Disallow submission.	Accept	No amendment required.

Background

Policy 10.2.3.6 states: "Require buildings, structures, additions and alterations, and wind generators - on-site energy generation in a Natural Coastal Character Overlay Zone (NCC) to have exterior colours and materials that avoid or, if avoidance is not possible, minimise adverse visual effects caused by reflectivity".

I note that submissions considered at other hearings have raised concerns with the use of the term "minimise", and requested that it be replaced

with the phrase “minimise as far as practicable”. This has resulted in a recommended change to the drafting of policies throughout the plan. If other submissions provide scope to change this policy in accordance with the recommended drafting, it would be amended to: “Require buildings, structures, additions and alterations, and wind generators - on-site energy generation in a Natural Coastal Character Overlay Zone (NCC) to have exterior colours and materials that avoid or, if avoidance is not possible, minimise as far as practicable adverse visual effects caused by reflectivity”.

Submissions

STOP (OS900.164) seeks to amend Policy 10.2.3.6 as follows: “Require buildings, structures, additions and alterations, and wind generators - on-site energy generation in a Natural Coastal Character Overlay Zone (NCC) to have exterior colours and materials that avoid ~~or, if avoidance is not possible, minimise~~ adverse visual effects caused by reflectivity.”

Geoff Scurr Contracting Limited (FS2391.61) opposes this submission as they believe avoidance may not be possible in all instances. Federated Farmers of New Zealand (FS2449.130) also opposes this submission because they are concerned that as a result of the NZ King Salmon case, ‘avoid’ is taken as ‘prohibit’ and that it is inappropriate to prohibit buildings and structures that create any adverse visual effect caused by reflectivity.

Recommendations

I do not recommend that the policy be amended as requested by STOP. I agree with the further submission of Federated Farmers that removal of this clause would imply a prohibited activity status for any of the activities listed in the policy that result in any degree of adverse visual effect from reflectivity. I consider this to be impractical and overly onerous.

Recommended amendment:

None.

5.11.3.2 Policy 10.2.5.8

Sub pt #	Submitter Name	Support/Oppose/ Seek Amend	Summary Of Submission	Accept/Reject/ Accept in part	Staff Recommendation
OS900.59	Save The Otago Peninsula (STOP) Inc Soc	I seek to have the above provision amended	Amend Policy 10.2.5.8 as follows: Require new buildings and structures, additions and alterations, and wind generators - on-site energy generation in Outstanding Natural Landscape (ONL) and Significant Natural Landscape (SNL) overlay zones to have exterior colours and materials that avoid or, if avoidance is not	Accept in part	Amend Policy 10.2.5.8 as shown below.

			possible, minimise adverse visual effects caused by reflectivity .		
FS2373.51	Howard Saunders	I oppose the submission	Oppose OS900.59. Disallow submission to amend Policy 10.2.5.8.	Accept in part	Amend Policy 10.2.5.8 as shown below.
FS2391.65	Geoff Scurr Contracting Limited	I oppose the submission	Oppose OS900.59. Disallow submission and retain Policy 10.2.5.8 as proposed in the 2GP.	Accept in part	Amend Policy 10.2.5.8 as shown below.
FS2449.148	Federated Farmers of New Zealand	I oppose the submission	Oppose OS900.59. Disallow submission.	Accept in part	Amend Policy 10.2.5.8 as shown below.

Background

Policy 10.2.5.8 states "Require new buildings and structures, additions and alterations, and wind generators - on-site energy generation in Outstanding Natural Landscape (ONL) and Significant Natural Landscape (SNL) overlay zones to have exterior colours and materials that avoid or, if avoidance is not possible, minimise adverse visual effects caused by reflectivity".

As noted in relation to Policy 10.2.3.6 in the previous section, a recommended change to the drafting of policies throughout the plan, which has been made in response to submissions considered at other hearings, would replace all uses of the term "minimise" with the phrase "minimise as far as practicable". If other submissions provide scope to change this policy in accordance with the recommended drafting, it would be amended to: "Require new buildings and structures, additions and alterations, and wind generators - on-site energy generation in Outstanding Natural Landscape (ONL) and Significant Natural Landscape (SNL) overlay zones to have exterior colours and materials that avoid or, if avoidance is not possible, minimise as far as practicable adverse visual effects caused by reflectivity".

Submissions

STOP (OS900.59) seeks to amend Policy 10.2.5.8 as they believe that building, structure size and visibility need to be controlled by more than reflectivity. Howard Saunders (FS2373.51), Geoff Scurr Contracting Limited (FS2391.65) and Federated Farmers of New Zealand (FS2449.148) oppose STOP (OS900.59). Howard Saunders opposes the deletion of "new" because it is not reasonable to require existing building owners to make changes. He opposes the deletion of "caused by reflectivity" because it purposefully highlighted the legitimate concern, rather than matters of taste, as the proposed rewording addresses. Geoff Scurr Contracting believes that it is inappropriate to include existing structures and buildings. Federated Farmers considers that the proposed amendments make the Policy unnecessarily broad and the original wording is more appropriate.

Recommendations

Policy 10.2.5.8 specifically addresses the issue of reflectivity. There are other policies and associated rules that respond to the issue of building and structure size and visibility in the ONL and SNL overlay zones, including policies 10.2.5.6 and 10.5.2.7 and rules 10.5.2.15, 10.5.2.16,

16.6.6.2 and 17.6.6.2. I do not recommend broadening the scope of Policy 10.2.5.8 as requested by STOP (OS900.59).

The submitter also seeks to remove the word "new" when referring to buildings and structures in this policy. The standard practice in the 2GP is to list the activity as "buildings and structures" without a preceding "new", or "additions and alterations" following the activity type. "Buildings and structures" encompasses both new or relocated buildings and structures, and additions and alterations to existing buildings and structures. I consider the policy should be amended to be consistent with this practice as shown below.

Recommended amendment:

Amend Policy 10.2.5.8 as follows:

"Require ~~new~~ buildings and structures, ~~additions and alterations~~, and wind generators - on-site energy generation in Outstanding Natural Landscape (ONL) and Significant Natural Landscape (SNL) overlay zones to have exterior colours and materials that avoid or, if avoidance is not possible, minimise adverse visual effects caused by reflectivity." {NatEnv 900.59}

5.11.3.3 Rule 10.3.6 Reflectivity performance standard

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
OS96.1	Nigel Harwood	I oppose the provision	Remove Rule 10.3.6 (Reflectivity)	Reject	Do not remove rule as requested.
OS447.36	Harboursides and Peninsula Preservation Coalition	I seek to have the above provision amended	Amend Rule 10.3.6 (reflectivity) as follows: In any landscape or natural coastal character overlay zone, <u>ONFs and Hill Slope Rural Zone</u> , new buildings and structures (except fences), additions and alterations, and wind generators - on-site energy generation must use exterior paint or other surface finish, <u>roofing materials, and glass (if available at less than a 50% cost premium)</u> with a light reflectance value of 30% or less	Accept in part	Amend Rule 10.3.6 as shown below.
OS900.69	Save The Otago Peninsula (STOP) Inc Soc	I seek to have the above provision amended	Amend Rule 10.3.6 as follows: In any landscape <u>ONFs and Hill Slope Rural Zone</u> or natural coastal character overlay zone, new buildings and structures (except fences),	Accept in part	Amend Rule 10.3.6 as shown below.

			additions and alterations, and wind generators - on-site energy generation must use exterior paint or other surface finish, <u>roofing materials, and glass</u> with a light reflectance value of 30% or less.		
OS447.90	Harboursides and Peninsula Preservation Coalition	I seek to have the above provision amended	Amend Rule 10.3.6 by changing the title to ' <u>Reflectivity and colour</u> '	Reject	Do not amend rule as requested.
OS464.6	Christopher Dean Valentine	I seek to have the above provision amended	Amend Rule 10.3.6 (reflectivity) by changing the maximum light reflectance value from 30% to 45%, by specifying that the standard only applies to painted finishes and excludes glass and natural finishes such as timber and stone, and by exempting glasshouses, hothouses and tunnel houses used for the purpose of agriculture.	Accept in part	Amend Rule 10.3.6 as shown below.
OS951.64 OS1054.64	Timothy George Morris Timothy Morris (on behalf of RG and SM Morris Family Trust)	I seek to have the above provision amended	Amend Rule 10.3.6 and Rule 16.6.10 so that the light reflectance requirements are not unreasonable, are clear and can be assessed.	Accept in part	Amend Rule 10.3.6 as shown below.

Background

Rule 10.3.6, incorporating amendments recommended in the Network Utilities and Energy Generation Section 42A report, is as follows:
~~In any landscape or natural coastal character overlay zone, new buildings and structures (except fences), additions and alterations, and wind generators – on-site energy generation must use exterior paint or other surface finish with a light reflectance value of 30% or less. Exterior paint or other surface finish with a light reflectance value of 30% or less must be used for:~~

1. New buildings and structures (except fences), additions and alterations in any landscape or natural coastal character overlay zone
2. Wind generators - on-site energy generation in all zones. {NU 394.69 and others}

The effect of the recommended amendment is to apply the reflectivity standard to wind generators – on-site energy generation in all zones, rather than only in landscape and natural coastal character overlay zones. It does not change the standard as it applies to other activities.

The reflectivity rule was developed in consultation with the Council's landscape architect Barry Knox. Certain other District Plans in New Zealand

also use controls on reflectivity as a means to manage the visual effects and landscape effects of buildings and structures, although this is not yet a commonly used approach. Examples of plans that include this control are the Auckland Council District Plan - Hauraki Gulf Islands Section and the Queenstown Lakes District Council (QLDC) Proposed District Plan. Auckland Council commissioned a report from Hudson Associates Landscape Architects to inform the development of their provisions⁶. The report discusses different methods for managing the exteriors of buildings in a way that ensures they integrate into the landscape. These methods include:

- Setting a maximum light reflectance value (LRV)
- Specifying a minimum degree of 'greyness' (or, in other words, a maximum degree of brightness), and
- Specifying acceptable hues.

The Hudson report (p18) recommends using a combination of the first two of these methods; different maximum LRVs are recommended for colours with differing degrees of greyness (with a higher LRV permitted for the greyer – i.e. the less bright – colours). Provided LRV and greyness are controlled, hue was not considered to make a significant difference to the visual impact of a building exterior. The Hauraki Gulf Islands reflectivity provisions were drafted based on this advice; they impose a maximum 60% LRV for “greyness groups A or B” (i.e. the greyer colours) and a maximum 40% LRV for brighter colours. These provisions apply to all exterior building materials except natural timber, and materials used for windows, window frames, bargeboards, stormwater guttering, downpipes or doors.

In contrast, the QLDC reflectivity provisions are based on control of reflectivity and hue. The rules state that all exterior surfaces of buildings, except soffits, must be coloured “in the range of browns, greens and greys”, that pre-painted steel and all roofs must have a maximum LRV of 20%, and that all other surface finishes must have a maximum LRV of 30%.

The notified 2GP reflectivity rule focuses on controlling the maximum LRV of exterior paint and other surface finishes, rather than specifying either degrees of greyness or acceptable hues. Specifying either greyness or hue can become complicated, due to the need to refer to standardised colour charts, whereas maximum LRVs are widely understood, with LRVs being readily available for a wide range of products. Lower reflectance values generally apply to colours that are more muted, so requiring a relatively low LRV is a straightforward and effective way of ensuring colours that blend in to their environment. Mr Knox advised that a maximum LRV of 30% would be appropriate to manage effects.

I note that research on this subject carried out by Tim Heath (1978)⁷ supports the use of a reflectivity control in managing contrast between buildings and structures and their surroundings, as follows (p7):

It has been found by experiment and when viewing a structure in the middle/long distance, that the most important colour characteristic is weight. The weight of a colour determines its light reflectivity. The contrast between the target and background and therefore the geometric outline definition of a structure, is determined by the difference in light reflectivity between the surfaces of the structure and their surroundings.

⁶ “City of Auckland District Plan – Hauraki Gulf Islands Section Review: Colour for Buildings” (2006) by Hudson Associates Landscape Architects – available here: <http://docplayer.net/45038606-Colour-for-buildings.html>

⁷ “Colour for structures in the landscape” (1978) by Tim Heath – available here: <https://researcharchive.lincoln.ac.nz/handle/10182/1129>

Request to remove rule

Nigel Harwood (OS96.1) considers that Rule 10.3.6 as notified is unnecessarily restrictive, and request that it be removed. He considers that golden autumn grass and daffodil colours will breach this requirement despite not being structures, and is concerned that use of materials such as stainless steel edging will be prevented.

Recommendations

All submissions on this topic were referred to Mike Moore for comment. Mr Moore considers that “requiring buildings to be finished in colours that do not greatly contrast with the dominant colours of their landscape context, is a very effective mitigation method, where integration is desired” (p20). Based on this advice, I do not agree that Rule 10.3.6 should be removed.

Request to expand rule to cover roofing materials and glass, and to apply to activities in the Hill Slopes Rural Zone

HPPC (OS447.36) and STOP (OS900.69) request that Rule 10.3.6 be expanded firstly to cover roofing materials and glass as well as paint/surface finish, and secondly to include activities in the Hill Slopes Rural Zone, as well as in landscape and coastal character overlay zones. HPPC considers that the standard should only apply to glass if the requirement can be met “at less than a 50% cost premium”. The submitters believe that reflectivity is a source of high visual negative impact beyond just the landscape and coastal overlays, and consider it acceptable that consent applicants pay a reasonable amount more for materials that avoid reflectivity. HPPC (OS447.90) also requests that the title of the rule be amended from “Reflectivity” to “Reflectivity and Colour”, because this would align with the submitter’s recommended amendment to the content of Rule 10.3.6.

Recommendation – Amendment 1

With regard to the parts of building exteriors to which the standard is applied, the notified rule refers to “exterior paint or other surface finish”. In my view, and as highlighted by HPPC and STOP’s submission, it is not completely clear whether this phrase includes roofs and glazing.

Mr Moore provides the following advice, in response to these submissions, on the question of whether the rules should apply to roofs and glazing (p21):

Whilst I agree that it should apply to roofs, I am not sure that it should apply to glazing. This is because whilst I note that glass product manufacturers provide data on Outside Light Reflectance values (OLRV), given that glass is opaque, its reflectivity can vary depending on what is behind it (e.g. curtains drawn or not). Generally, windows are not particularly reflective and the main issue with glazing is glare (due to shininess / smoothness of surface texture) rather than its colour. Whilst glare can have significant localized effects these are usually temporary and of short duration. Where a resource consent is required, potential glare effects associated with glazing can be assessed and if required, mitigation or avoidance measures can be provided for.

In summary, Mr Moore (p22) recommends that glazing be excluded from the rule, on the basis that “LRV’s are not a useful measure as regards the visual effects of glazing” and “Glazing does not usually create more than temporary significant adverse reflectance effects.”

In addition, although Mr Moore advises that roofs in general should be subject to the rule, he recommends (p22) that soffits and flues should be

excluded, because they are unlikely to result in significant visual effects.

Having considered Mr Moore's advice, I believe that it would be appropriate to amend Rule 10.3.6 as shown below, in response to the submissions from HPPC and STOP, to clarify that it applies to all exterior surfaces of a building (including roofs), but with the exception of the following features:

- Glazing
- Soffits
- Flues

With regard to whether the standard should also apply in the Hill Slopes Rural Zone, Mr Moore states (p23):

Given that the Hill Slope Rural Zone has relatively high levels of visibility from built up areas of the city (including areas that are not covered by overlays) I can see merit in this suggestion. This could be seen as making the Hill Slope zone a de-facto landscape overlay to an extent, but I believe it could be justified on the basis of the higher than average visibility of this zone and because reflectivity mitigation is particularly effective and (in my opinion) not particularly onerous. I note that whilst beyond the scope of the submission, if Rule 10.3.6 is to apply to the Hill Slope Rural Zone, for consistencies sake it should also perhaps apply to the Coastal Rural Zone given coastal natural character values.

Although I have considered Mr Moore's advice on this matter, I do not recommend that the rule be amended so that it also applies to the Hill Slopes Rural Zone (and, as Mr Moore notes, submissions do not provide scope to apply the rule to the Coastal Rural Zone). I understand that, although for residential development it may not be onerous to select a less reflective colour for roofs and walls, in the case of rural development zinc/alluminium alloy coated steel (such as Zinalume) is commonly used for the roofing of farm buildings. This type of roofing is significantly cheaper than painted steel (such as ColorSteel), but has an LRV of more than 30%. Therefore, in my view, it would not be justified to apply Rule 10.3.6 to all buildings and structures in those parts of the Hill Slopes Rural Zone that are not part of a landscape or natural coastal character overlay zone – i.e. have not been identified as having significant, high or outstanding landscape or coastal character values.

However, I note that additional controls to protect amenity values in all rural and rural residential zones have been requested in submissions considered at those hearings. It may be that amendments are made to reflectivity provisions in response to these submissions, for example to apply them to large buildings throughout these zones.

I do not agree with HPPC that it is necessary to change the name of Rule 10.3.6 to "Reflectivity and Colour". The rule controls the light reflectance value of finished exteriors – i.e. their reflectivity, not their hue or degree of greyness/brightness. As discussed in the background section, whereas other plans control the hue and greyness of building exteriors, the 2GP rule focuses solely on reflectivity.

Request to amend rule to increase maximum LRV, and to exclude certain types of cladding and certain types of building

Christopher Dean Valentine (OS464.6) requests that Rule 10.3.6 be amended as follows:

- to change the maximum light reflectance value from 30% to 45%
- to specify that the standard only applies to painted finishes and excludes glass and natural finishes such as timber and stone, and

- to exempt glasshouses, hothouses and tunnel houses used for the purpose of agriculture.

Mr Valentine notes that certain cladding products have warranty requirements that would not be met by 30% reflectivity. The submitter gives the examples of cladding products supplied by James Hardie Limited and Carter Holt Harvey Limited. For a 50 year product warrant, the LRV must be at least 40%. Mr Valentine also considers that the standard as notified limits the freedom of expression of the landholder.

Recommendation

In the light of research by Heath (1978), which Mr Moore cites in his evidence, and based on his own assessment of landscape colours in various specific situations, Mr Moore states (p20) that "30% is an appropriate upper threshold." He further advises (p20): "In my assessment 45% is too permissive to provide adequately for mitigation".

Based on this evidence, I do not recommend that Mr Valentine's requested increase in the maximum LRV be accepted.

In response to Mr Valentine's concern that some building cladding product warranty requirements do not align with a 30% reflectivity limit, Mr Moore states (p20-21):

I understand that this issue may apply to some textured plaster finishes for example, and that solutions may be available by using paint technology that reflects more heat (e.g. Resene Coolcolours). Despite any product warranty issues, I do not believe that the LRV standard should be relaxed ... I note that metal claddings are predominant for rural buildings and am not aware that there are any product warranty issues in finishing this in darker tones.

Based on this evidence, I do not recommend that rules be amended to address Mr Valentine's concern about warranty requirements.

As discussed above, I recommend, based on advice from Mr Moore, that glazing should be excluded from the reflectivity rule. This addresses the aspect of Mr Valentine's submission that requests the exclusion of glass, and glass-clad buildings such as glasshouses, hothouses and tunnel houses, from the rule. I note that hothouses and tunnel houses may also be clad in clear plastic, and Mr Moore advises that clear plastic is similar to glass in terms of reflectivity and that, therefore, it would be appropriate to exclude clear plastic from the reflectivity rule. However, this should not apply to plastic with any degree of opacity or whiteness, because buildings clad in this type of plastic can be highly visible. Therefore, I recommend that clear plastic also be excluded from Rule 10.3.6.

With regard to Mr Valentine's request to exclude natural finishes such as timber and stone from the standard, I note that Mr Moore advises (p21) that:

Where LRV's are stated for various paint or material products, administration of this rule is likely to be relatively straightforward. Greater difficulty arises where naturally finished cladding for structures is proposed e.g. naturally finished timber, stone or brick. In these cases, where consent is required, it is my recommendation that the approach taken is to assess the product proposed for its ability to produce an effect similar (when weathered) to achieving a LRV of 30%. I understand that this is more or less the approach proposed in the Queenstown Lakes District Proposed District Plan.

I agree with Mr Moore that implementation of the maximum LRV rule is likely to be more difficult for naturally finished cladding, firstly because the product supplier may not be able to give a precise LRV for the cladding, and secondly because the LRV may change due to weathering (particularly in the case of wood). This would make it difficult for plan users to be able to tell whether their proposed natural finish would comply with this rule.

However, where buildings are greater than 60m², a resource consent requirement will apply anyway under the relevant activity status rule and, therefore, the Council's landscape architect will be able to provide advice on LRVs of weathered materials. In my view, problems of administration of the rule (as it applies to natural finishes) would arise mainly where the rule applies to otherwise permitted buildings (i.e. buildings that are less than 60m² and that meet other relevant performance standards). In these cases, the decision as to whether the proposed cladding complies with the reflectivity rule would be made by the planner checking the building consent application to determine whether resource consent is required. To ensure efficient and consistent administration of rules (and to ensure rules are not ultra vires), these checks should be able to be completed on the basis of information included in the building plans – there should be no need for planners to consult other experts to determine compliance with rules.

On page 22 of his evidence, Mr Moore provides specific advice on the question of whether natural finishes should be excluded from the rule, given the likely difficulty of applying the rule to buildings that would not otherwise need resource consent (i.e. buildings less than 60m²). His advice is that “naturally finished timber” should be excluded from the rule, on the basis that “This material is a likely candidate for use on permitted buildings (i.e. 60m² or less) and natural wood is unlikely to have significant adverse effects.” With respect to other types of natural finish, Mr Moore states:

I consider that stone, and brick are unlikely to be in great demand as cladding for permitted buildings (60m² or less) and that the appropriateness of these materials, naturally finished, can be assessed as required, via the resource consent process proposed for larger buildings, on a case by case basis.

On the basis of Mr Moore's advice and my assessment above regarding the administration of the rule, I recommend that naturally finished timber be excluded from Rule 10.3.6, but that other types of natural finish not be excluded. I note that the Hauraki Gulf Islands plan and the Wairarapa Combined District Plan also exclude naturally finished wood from their equivalent rules.

Request to clarify rule and make it more reasonable

Timothy George Morris (OS951.64) and Timothy Morris (on behalf of RG and SM Morris Family Trust) (OS1054.64) request that Rules 10.3.6 and 16.6.10 be amended so that they are not unreasonable, are clear and can be assessed. The submitters believe that the proposed requirements are insufficiently defined. In their view, it is not clear what the “light reflectance value of 30% or less” means. They consider that the proposals are far too complex for an average individual to interpret or understand what is actually allowed or not allowed or indeed, insofar as submission is concerned, determine if 30% is an appropriate imposition.

Recommendation

I agree with the submitters that changes to the rule are appropriate, to clarify the rule, and to make it more straightforward to assess whether or not activities comply with it. In my view, the amendments that I recommend in response to HPPC, STOP and Mr Valentine, discussed above, will help to achieve this.

In addition, to clarify the rule as it applies to surfaces whose LRV changes with weathering (e.g. stone), I recommend that the wording be amended as shown, to indicate that the 30% maximum LRV applies to exterior surface finishes in their weathered state.

In response to the submitter's concern that the meaning of "light reflectance value of 30% or less" is unclear, I understand that the suppliers of exterior paints and roofing materials (e.g. ColorSteel) can provide information about the light reflectance value of their products – with respect to naturally finished exteriors, see my discussion under Mr Valentine's submission, above.

I do not agree with Mr Morris that the rule is unreasonable, given Mr Moore's advice, cited above, that controls on reflectivity are a "very effective mitigation method" where the integration of buildings into their landscape context is desired.

Recommended amendment:

Amendments One and Two

Amend Rule 10.3.6 as follows (incorporating changes recommended in the Network Utilities Section 42A report):

Rule 10.3.6 Reflectivity

~~In any landscape or natural coastal character overlay zone, new buildings and structures (except fences), additions and alterations, and wind generators—on site energy generation must use exterior paint or other surface finish with a light reflectance value of 30% or less.~~

1. All exterior surfaces, including roofs, of new buildings and structures (except fences), and of additions and alterations, in any landscape or natural coastal character overlay zone, must have a light reflectance value (LRV) of 30% or less. {NatEnv447.36}
2. Except that Rule 10.3.6.1 does not apply to:
 - a. Natural wood finishes {NatEnv464.6}
 - b. Glass {NatEnv464.6}
 - c. Clear plastic {NatEnv464.6}
 - d. Soffits {NatEnv447.36}
 - e. Flues {NatEnv464.6}
3. All exterior surfaces of wind generators - on-site energy generation in all zones must have a light reflectance value (LRV) of 30% or less. {NU394.69}
4. For exterior surface materials whose LRV changes due to weathering (e.g. stone), the LRV will be measured based on an 'as weathered'

condition. { NatEnv951.64 }

5.11.3.4 Rules 10.4.3.8-10.4.3.9 Reflectivity assessment rules

Sub pt #	Submitter Name	Support/Oppose/ Seek Amend	Summary Of Submission	Accept/Reject/ Accept in part	Staff Recommendation
OS447.41	Harboursides and Peninsula Preservation Coalition	I seek to have the above provision amended	Amend Rule 10.4.3.8.iii by inserting after the words 'key design elements': <u>that obscure 90% of surfaces from all surrounding areas where the development is visible</u>	Accept in part	Amend rule as shown below.
FS2373.21	Howard Saunders	I oppose the submission	Oppose OS447.41. Disallow submission to amend Rule 10.4.3.8.iii.	Accept in part	Amend rule as shown below.
FS2449.196	Federated Farmers of New Zealand	I oppose the submission	Oppose OS447.41. Disallow submission.	Accept in part	Amend rule as shown below.
OS447.42	Harboursides and Peninsula Preservation Coalition	I seek to have the above provision amended	Amend Rule 10.4.3.9.iii by inserting after the words 'key design elements': <u>that obscure 90% of surfaces from all surrounding areas where the development is visible</u>	Accept in part	Amend rule as shown below.
FS2373.22	Howard Saunders	I oppose the submission	Oppose OS447.42. Disallow submission to amend Rule 10.4.3.9.iii.	Accept in part	Amend rule as shown below.
FS2449.197	Federated Farmers of New Zealand	I oppose the submission	Oppose OS447.42. Disallow submission.	Accept in part	Amend rule as shown below.
OS900.74	Save The Otago Peninsula (STOP) Inc Soc	I seek to have the above provision amended	Retain Rule 10.4.3.8.ii and amend Rule 10.4.3.8.iii as follows: The development incorporates key design elements <u>that obscure 90% of surfaces from all surrounding areas where the development is visible</u> and as set out in Appendix A5.	Accept in part	Amend rule as shown below.

FS2373.60	Howard Saunders	I oppose the submission	Oppose OS900.74. Disallow submission to amend Rule 10.4.3.8.iii.	Accept in part	Amend rule as shown below.
FS2449.201	Federated Farmers of New Zealand	I oppose the submission	Oppose OS900.74. Disallow submission.	Accept in part	Amend rule as shown below.
OS900.75	Save The Otago Peninsula (STOP) Inc Soc	I seek to have the above provision amended	Retain Rule 10.4.3.9.ii and amend Rule 10.4.3.9.iii as follows: The development incorporates key design elements <u>that obscure 90% of surfaces from all surrounding areas where the development is visible</u> and as set out in Appendix A3.	Accept in part	Amend rule as shown below.
FS2449.202	Federated Farmers of New Zealand	I oppose the submission	Oppose OS900.75. Disallow submission.	Accept in part	Amend rule as shown below.

Background

Rules 10.4.3.8 and 10.4.3.9 provide for the assessment of activities that breach Rule 10.3.6 Reflectivity in the NCC Overlay Zone, and in the ONL or SNL overlay zones respectively. These rules are as follows:

8.	Reflectivity in the NCC Overlay Zone	a. Effects on natural character of the coast	<p>Relevant objectives and policies:</p> <ul style="list-style-type: none"> i. Objective 10.2.3 ii. Exterior colours and materials avoid or, if avoidance is not possible, minimise adverse visual effects caused by reflectivity (Policy 10.2.3.6). <p>Potential circumstances that may support a consent application include:</p> <ul style="list-style-type: none"> iii. The development incorporates key design elements as set out in Appendix A5.
9.	Reflectivity in the ONL or SNL overlay zones	a. Effects on landscape values	<p>Relevant objectives and policies:</p> <ul style="list-style-type: none"> i. Objective 10.2.5 ii. Exterior colours and materials avoid or, if avoidance is not possible, minimise adverse visual effects caused by reflectivity (Policy 10.2.5.8). <p>Potential circumstances that may support a consent application include:</p> <ul style="list-style-type: none"> iii. The development incorporates key design elements as set out in Appendix A3.

Submissions

HPPC (OS447.41 and OS447.42) and STOP (OS900.74 and OS900.75) request that the rules be amended so that buildings and structures, additions and alterations, and wind generators that breach the reflectivity standard must have 90% of their surface areas obscured from all surrounding areas from which the development is visible, based on their view that consideration should only be given to design elements which directly eliminate the contravention of the standard.

Howard Saunders (FS2373.21, FS2373.22 and FS2373.60) opposes these submissions because he believes the conditions already described in the appendices are adequate and this would be too pedantic. Federated Farmers of New Zealand (FS2449.196, FS2449.197, FS2449.201 and FS2449.202) opposes these submissions, based on the view that the amendments proposed go significantly further than appropriate or required for performance standards in this topic area.

Recommendations

In my view, the proposed changes would be overly onerous, and I do not recommend that the rules be amended as requested. However, I recommend that broad “general assessment guidance” relating to visibility should be added to these rules.

Recommended amendment

Amend Rules 10.4.3.8 and 10.4.3.9 to add the following general assessment guidance after the ‘Relevant objectives and policies’ (with renumbering of subsequent rules as necessary):

General assessment guidance

iii. In assessing the adverse visual effects, Council will consider the level of visibility of the building or structure from public places.
 {NatEnv447.41 and others}

5.11.4 Maximum Height Provisions

5.11.4.1 Rules 16.6.6 and 17.6.6 Maximum height in landscape and natural coastal character overlays – performance standards

Sub pt #	Submitter Name	Support/Oppose/ Seek Amend	Summary Of Submission	Accept/Reject/ Accept in part	Staff Recommendation
OS96.4	Nigel Harwood	I oppose the provision	Amend Rule 17.6.6.2.ii so that the maximum height above ground level is 10m.	Reject	Retain Rule 17.6.6 (Maximum Height) without amendment
FS2267.97	Harboursides and Peninsula Preservation Coalition	I oppose the submission	Oppose OS96.4. Disallow submission.	Accept	Retain Rule 17.6.6 (Maximum Height) without amendment
OS361.22	Ben Graham	I seek to have the above provision amended	Amend Rule 16.6.6 (Maximum Height) to make the maximum height for buildings and structures in the High Country Outstanding Natural Landscape 10m and make any consequential changes needed.	Reject	Retain Rule 16.6.6 without amendment

FS2449.333	Federated Farmers of New Zealand	I support the submission	Support OS361.22. Allow submission.	Reject	Retain Rule 16.6.6 without amendment
OS364.11	Mathew O'Connell	I seek to have the above provision amended	Amend Rule 16.6.6 (Maximum Height) to make the maximum height for buildings and structures in the High Country Outstanding Natural Landscape 10m and make any consequential changes needed.	Reject	Retain Rule 16.6.6 without amendment
FS2449.334	Federated Farmers of New Zealand	I support the submission	Support OS364.11. Allow submission.	Reject	Retain Rule 16.6.6 without amendment
OS387.1	Hannah Macgregor-Wolken	I seek to have the above provision amended	Amend Rule 17.6.6.2.ii so that the maximum height in landscape and natural character overlay zones is the same as the operative Plan rule of 10m.	Reject	Retain Rule 17.6.6 (Maximum Height) without amendment
OS505.4	Christopher Kilpatrick	I seek to have the above provision amended	Amend Rule 16.6.6.2 so that the maximum height is 10m in landscape and natural coastal character overlay zones	Reject	Retain Rule 17.6.6 (Maximum Height) without amendment
OS684.1	Ben Grundy	I seek to have the above provision amended	Amend Rule 17.6.6.2.ii so that the maximum height in landscape and natural character overlay zones is the same as the operative Plan rule of 10m (inferred not stated).	Reject	Retain Rule 17.6.6 (Maximum Height) without amendment
OS717.23	Robyn and Stephan Smith, Rick and Jill Clarke, Alan Brown, Carrowmore Properties Ltd (on behalf of the "Pigeon Flat Road Group")	I seek to have the above provision amended	Amend Rule 16.6.6 so that the maximum height for farm buildings in landscape overlay zones is 10m	Reject	Retain Rule 16.6.6 without amendment
FS2449.336	Federated Farmers of New Zealand	I support the submission	Support OS717.23. Allow submission.	Reject	Retain Rule 16.6.6 without amendment
OS720.12	Clifton Trust	I seek to have the above provision	Amend Rule 16.6.6 so that the maximum height for buildings in the North-West	Reject	Retain Rule 16.6.6 without amendment

		amended	Peninsula Significant Natural Landscape Overlay Zone is 10m		
OS951.73	Timothy George Morris	I seek to have the above provision amended	Amend Rule 16.6.6 so that the maximum height for buildings and structures is 25m in landscape and natural coastal character overlay zones	Reject	Retain Rule 16.6.6 without amendment
FS2267.143	Harboursides and Peninsula Preservation Coalition	I oppose the submission	Oppose OS951.73. Disallow submission.	Accept	Retain Rule 16.6.6 without amendment
OS995.2	Julie Broadbent	I oppose the provision	Amend Rule 17.6.6.2.ii (maximum height restriction) in a Significant Natural Landscape Overlay Zone to 10m (inferred not stated).	Reject	Retain Rule 17.6.6 (Maximum Height) without amendment
OS1054.73	Timothy Morris (on behalf of RG and SM Morris Family Trust)	I seek to have the above provision amended	Amend Rule 16.6.6 so that the maximum height for buildings and structures is 25m in landscape and natural coastal character overlay zones	Reject	Retain Rule 16.6.6 without amendment

Background

Rules 16.6.6 and 17.6.6 Maximum Height are the height performances standards for the landscape and natural coastal character overlay zones respectively. These rules are as follows for both rural and rural residential zones:

New buildings and structures, and additions and alterations, must not exceed a maximum height above ground level as follows:

Activity	Rural/Rural Residential Zones	Landscape and Natural Coastal Character Overlay Zones
1. <i>Roadside produce stall</i>	<i>3.5m</i>	<i>3.5m</i>
2. <i>All other buildings and structures</i>	<i>10m</i>	<i>5m</i>

3. *Rooftop structures are exempt from the performance standard for height provided they do not exceed the maximum height limit for all other buildings and structures by more than one third of that limit.*
4. *Buildings or structures must not protrude through the height restriction for the Taieri Aerodrome Approach and Take-off Fans shown on the Taieri Aerodrome Flight Fan mapped area.*

Requests to increase maximum height in landscape and natural coastal character overlay zones

Nigel Harwood (OS96.4) seeks to amend the maximum height rules in the landscape and natural coastal character overlay zones to allow for buildings to be up to 10m (essentially to have no change from the default proposed maximum height in the zone). The submitter is concerned that the proposed 5 metre rule "in effect restricts buildings to a single storey". The submitter explains that several two storey buildings within the landscape zone are visible from his property at 901 Blueskin Rd and considers that "to restrict his proposed dwelling to a more rigorous regime than the existing buildings is iniquitous." HPPC (FS2267.97) opposes the submission based on the view that "building and structure height is a key determinant of overall bulk". HPPC considers that bulk should be limited in Landscape, Character and Feature overlays compared to the standard Rural Residential zone.

Ben Graham (OS361.22), Mathew O'Connell (OS364.11) and Pigeon Flat Road Group (OS717.23) seek to amend the maximum height rule so that buildings and structures in the High Country ONL may be up to 10m. Federated Farmers of New Zealand (FS2449.333, FS2449.334 and FS2449.336) support the submission because this would enable "necessary and appropriate buildings" in this ONL, "particularly those necessary to house large farm machinery required on these scale of properties".

Hannah Macgregor-Wolken (OS387.1) also requests that the maximum height rule that applies in the operative district plan (i.e. 10m) be retained. The submitter is concerned that the maximum height of 5m does not take into consideration factors such as: slope; the interaction between the maximum height limit and the maximum cut allowance (under 2GP earthworks rules) – which together limit both the height and depth of buildings; and the restrictions that the height limit will impose on the types of homes that may be built. The submitter also notes that her partner was not informed about the restrictions to be set by the 2GP at the time of purchase of his property (September 2014), and that there was no formal contact from the Council about the rule changes. She considers that landowners should have been informed of proposed changes to constraints on building prior to purchasing.

Ben Grundy (OS684.1) also seeks to amend the maximum height rule so that it is the same as the operative plan (inferred, not stated). Mr Grundy is concerned that it will be difficult to meet the proposed new rule when building on his section (800 Blueskin Road), while also complying with earthworks rules and a covenant that applies to his property.

Christopher Kilpatrick (OS505.4) seeks that the maximum height should be unchanged from the operative plan. He does not consider that he should have to get resource consent if he wants to build a 10m high shed. Similarly, Julie Broadbent (OS995.2) seeks that the maximum height remains the same as the operative Plan and wants to live on her land "with no new restrictions". Clifton Trust (OS720.12) also considers that the maximum permitted height limit should be increased to 10m, reflecting the provisions in the current Plan. The submission is in relation to the North-West Peninsula Significant Natural Landscape Overlay.

Timothy George Morris (OS951.73) and Timothy Morris (on behalf of RG and SM Morris Family Trust) (OS1054.73) seek to amend the maximum heights for buildings and structures both in Landscape and Natural Coastal Character Overlay Zones (as well as the general Rural Zones), on the grounds that they are "far too restrictive". These submissions are opposed by HPPC (FS2267.143) because the submitter considers that the height of a structure is a key element of the perceived bulk of a structure, "which can have a significant impact on rural character and amenity."

I also note here that the further submission of Howard Saunders (FS2373.2, addressed in section 5.15.6) seeks that if SNL overlay zones are not removed from the rural residential zones, that the maximum building height in SNL overlays in rural residential zones are amended to 8m, to allow for a house to be built on a sloping site.

Recommendations

I do not recommend that the height limit in landscape and natural coastal character overlay zones be increased.

The submissions set out above were referred to Mike Moore (Landscape Architect) for comment. Mr Moore notes, on p5 of his evidence, the maximum height restriction is only one element of the proposed management regime for buildings and structures in landscape and coastal character overlay zones. Other rules in place in these areas will require resource consent with non-complying activity status for any building or structure in ONCCs, HNCCs and ONFs, and will require consent with restricted discretionary status for any building or structure with an area greater than 60m² in ONLs, SNLs and NCCs. Therefore, for larger building in any of these areas, an appropriate height can be considered on a case by case basis via the consent process, taking into account site specific factors.

With respect to the 5m height limit, Mr Moore's advice is as follows (p14 of his evidence):

...it is my opinion that 5m is a reasonable maximum in that it provides a standard that is both relatively practical and protective against the impact of built form. Many of the submitters appear to disagree that it provides practically for buildings housing rural equipment or for housing on sloping sites. Whilst I am sure that in some instances there will be the need for both farm buildings and houses that are higher, I believe that because generically, greater building height equates to greater impact of built form, it is appropriate to require resource consents in these sensitive coastal and landscape overlays. This will enable siting and design to be assessed on a site and project specific basis and the relatively conservative benchmark will encourage sensitivity to natural character, landscape and amenity values. I note that it will not normally just be height standard breach that triggers the need for resource consent, but also building size in terms of area.

Mr Moore goes on to address specific points raised in submissions as follows (pp14-15):

The submission of Nigel Harwood is to do with the appropriateness of imposing a rule where the character of the area is already impacted by existing buildings higher than 5m. I have addressed the issue relating to this specific Rural Residential area in my brief of evidence on the overlay mapping.

A number of submitters have requested retention of the ODP 10m standard. In my assessment, it is appropriate to differentiate the more sensitive overlay areas from the rural and rural residential zones generally and I agree with the further submissions of HPPC that building height is a key determinant of overall building bulk and impact, and an important protection measure. I believe that 10m is too high to provide for the appropriate level of protection required.

The submissions of Hannah Macgregor-Wolken, Ben Grundy, and Howard Saunders raise the issue of the workability of a 5m height limit on sloping sites when earthworks standards are also considered. In response, I note again, that the resource consent process provides for

appropriate solutions to be provided for and it is not just height that triggers the need for consent to be sought. As a matter of principle I believe it is appropriate that the 2GP provisions discourage designs that require significant earthworks on sloping sites, and believe that if the 5m standard in concert with earthworks standards, encourages building design sensitive to site character and discourages the use of 'one size fits all designs' for flat sites, then it will be doing its job.

In my assessment it is appropriate that resource consents are required for larger buildings anyway and given this, the height standard is only a guide that can be exceeded based on a site and project specific assessment (guided by the assessment matters in the 2GP). Equally, it may be considered in some situations (in very sensitive sites) that 5m is inappropriately high. 5m provides reasonably for a single story house and a wide variety of farm sheds in most situations and restricts the impact of built form to a level that I believe offers an appropriate guide. This is based on my experience in assessing projects and proposing mitigation conditions in many landscape settings within Dunedin and elsewhere over many years.

Based on Mr Moore's advice, I consider that a maximum height of 5m should be retained for buildings and structures in the landscape overlay and natural coastal character overlay zones, to allow for appropriate management of potential effects on natural character and landscape values.

Recommended amendment:

None.

5.11.4.2 Rules 10.4.4.1 and 10.4.4.2 Maximum height in landscape and natural coastal character overlays – assessment rules

Sub pt #	Submitter Name	Support/Oppose/ Seek Amend	Summary Of Submission	Accept/Reject/ Accept in part	Staff Recommendation
OS447.43	Harboursides and Peninsula Preservation Coalition	I seek to have the above provision amended	Amend Rule 10.4.4.1 by deleting (ii) and replacing with: ii. General Assessment Guidelines. Allow contravention of this performance standard only if height exceeds the standard by under 10%.	Reject	
FS2449.198	Federated Farmers of New Zealand	I oppose the submission	Oppose OS447.43. Disallow submission.	Accept	No amendment required
OS900.78	Save The Otago Peninsula (STOP) Inc Soc	I seek to have the above provision amended	Amend Rule 10.4.4.1 by amending para (ii) as follows: ' Large buildings and large structures are only allowed where adverse effects on the natural character values identified in Appendix A5 are avoided or, if avoidance is not possible, are no more than	Reject	No amendment required.

			<u>minor (Policy 10.2.3.4)- if height exceeds the standard by less than 10%.' and by amending para (iii) as follows: 'The development incorporates key design elements that obscure 90% of surfaces from all surrounding areas where the development is visible and as set out in Appendix A5.</u>		
FS2373.61	Howard Saunders	I oppose the submission	Oppose OS900.78. Disallow submission to amend Rule 10.4.4.1.	Accept	No amendment required
FS2391.67	Geoff Scurr Contracting Limited	I oppose the submission	Oppose OS900.78. Disallow submission.	Accept	No amendment required
FS2449.205	Federated Farmers of New Zealand	I oppose the submission	Oppose OS900.78. Disallow submission.	Accept	No amendment required

Background

Rule 10.4.4 Assessment of performance standard contraventions located in the management and major facility zones reads:

10.4.4 Assessment of performance standard contraventions located in the management and major facility zones			
Activity		Matters of discretion	Guidance on the assessment of resource consents
1.	Maximum height in the NCC Overlay Zone	a. Effects on natural character of the coast	<p>Relevant objectives and policies:</p> <ul style="list-style-type: none"> i. Objective 10.2.3. ii. Large buildings and large structures are only allowed where adverse effects on the natural character values identified in Appendix A5 are avoided or, if avoidance is not possible, are no more than minor (Policy 10.2.3.4). <p><i>Potential circumstances that may support a consent application include:</i></p> <ul style="list-style-type: none"> iii. The development incorporates key design elements as set out in Appendix A5.

	the ONL or SNL overlay zones	landscape values	<ul style="list-style-type: none"> i. Objective 10.2.5 i. Adverse effects on the landscape values of the ONL, as identified in Appendix A3, are insignificant (Policy 10.2.5.6). i. Adverse effects on the landscape values of the SNL as identified in Appendix A3 are avoided or, if avoidance is not possible, no more than minor (Policy 10.2.5.7). <p><i>Potential circumstances that may support a consent application include:</i></p> <ul style="list-style-type: none"> v. The development incorporates key design elements as set out in Appendix A3 	
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Request to amend Rule 10.4.4.1 Maximum height in the NCC Overlay Zone

HPPC (OS447.43) and STOP (OS900.78) seek to amend Rule 10.4.4.1 by deleting part ii and replacing it with: "General assessment guidelines. Allow contravention of this performance standard only if height exceeds the standard by under 10%."

The submitters consider that 10% is an "acceptable compromise to make as there may be the rare case where some building element exceeds that height standard". The submission is opposed by Federated Farmers of New Zealand (FS2449.198 and FS2449.205) because the submitter considers that "the proposed amendments go significantly further than appropriate or required for performance standards in this area." The submission is also opposed by Howard Saunders FS2373.61 and Geoff Scurr Contracting Limited (FS2391.67).

Recommendations

I do not agree that the changes requested by HPPC should be made to Rule 10.4.4.1. The addition of the changes requested by the submitter to Rule 10.4.4.1 would reduce flexibility provided by the rule. Rather than restricting any contravention of the performance standard to a less than 10% exceeding of the height standard, in my view the current wording of the rule is appropriate to allow for the individual circumstances of each site and proposed activity. For any proposed development, the positive effects of an activity are considered, to outweigh the adverse effects that may arise from the contravention of the standard.

Recommended amendment:

None.

5.11.5 Landscape Building Platforms

Sub pt #	Submitter	Support/Oppose	Summary Of Submission	Accept/	Staff
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	Name	/ Seek Amend		Reject/ Accept in part	Recommendation
OS191.1	Judith Ansbacher	I seek to have the above provision amended	Amend Rule 10.3.A so that there is greater consideration of acceptable building design	Accept	Amend Rule 10.3A as shown below
OS900.70 OS958.77	Save The Otago Peninsula (STOP) Inc Soc Forest and Bird NZ	I oppose the provision	Amend Rule 10.3A: by adding 'location of buildings' to matters of control; and by including assessments of indigenous biodiversity, with references to relevant objectives and policies on indigenous biodiversity as amended by this submission.	Accept in part	Amend Rule 10.8.1 as shown below.
FS2373.57	Howard Saunders	I oppose the submission	Oppose OS900.70. Disallow submission.	Accept in part	Amend Rule 10.8.1 as shown below.
OS951.17 OS1054.17	Timothy George Morris Timothy Morris (on behalf of RG and SM Morris Family Trust)	I seek to have the above provision amended	Amend Rule 10.3A (assessment of controlled activities) to make it simpler and less onerous.	Reject	Do not amend provisions as requested.
OS447.135 OS900.101	Harboursides and Peninsula Preservation Coalition Save The Otago Peninsula (STOP) Inc Soc	I seek to have the above provision amended	Insert new Rule 16.6.15 (landscape building platforms performance standard) as follows: "The following performance standard pertains to: Development and Subdivision Activities; Landscape and Coastal Character Overlay Zones; Hill Slope Rural Zones; ONFs, if and where applicable; Property sites created by subdivisions after (insert date), 2016 or purchased after that date. 1. The maximum size of the main building platform is 1,000 sq.m. It may be surrounded or adjacent to a curtilage building platform not to exceed 4,000 sq.m; 2. Landscape building platforms are to be registered	Reject	Do not amend provisions as requested.

			<p>against the certificate of title by way of consent notice;</p> <p>3. The identification of landscape building platforms must be supported by a landscape assessment of the effects of development on the natural character values identified in Appendix A5;</p> <p>4. The landscape assessment must be conducted by a qualified landscape architect;</p> <p>5. The landscape assessment must consider, but not be limited to, the following:</p> <ul style="list-style-type: none"> a. the visual prominence of the location of the building platforms; b. the visual and amenity effects of buildings constructed to the maximum building envelope provided for by the performance standards on each identified building platform; c. the appropriateness of the location within the context of the wider coastal setting; d. the visual effect of driveways or vehicle tracks that will be required to access the building platforms; and e. whether the clustering of building platforms with other building platforms or existing buildings will minimise adverse effects on natural character values; <p>6. Development that contravenes the Landscape Building Platform performance standard is non-complying."</p> <p>Buildings and structures that contravene this rule should be non-complying, and resource consents for these activities should be publicly notified.</p> <p>Delete Rule 10.8.1 and make consequential changes to Rule 16.3.4 (activity status - development activities), Rule 16.9.6 (assessment of performance standard contraventions) and Rule 16.12.4 (assessment of non-complying development activities)</p>		
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FS2076.33	Vodafone NZ Ltd	I oppose the submission	Oppose OS447.135. Disallow submission	Accept	Do not amend provisions as requested.
FS2079.18	Chorus New Zealand Limited (Chorus)	I oppose the submission	Oppose OS447.135. Disallow submission	Accept	Do not amend provisions as requested.
FS2146.18	Spark New Zealand Trading Limited	I oppose the submission	Oppose OS447.135. Disallow submission	Accept	Do not amend provisions as requested.
FS2264.32	Powernet Limited	I oppose the submission	Oppose OS447.135. Disallow submission	Accept	Do not amend provisions as requested.
FS2373.74	Howard Saunders	I oppose the submission	Oppose OS447.135 (part). Disallow submission that buildings and structures that breach the suggested new rules should be non-complying.	Accept	Do not amend provisions as requested.
FS2375.28	Aurora Energy Limited	I oppose the submission	Oppose OS447.135. Disallow submission	Accept	Do not amend provisions as requested.
FS2202.26	Clifton Trust	I oppose the submission	Oppose OS447.135. Disallow submission and do not make changes as requested by submitter.	Accept	Do not amend provisions as requested.
FS2449.373	Federated Farmers of New Zealand	I oppose the submission	Oppose OS447.135. Disallow submission.	Accept	Do not amend provisions as requested.
FS2373.63	Howard Saunders	I oppose the submission	Oppose OS900.101 (part). Disallow submission that buildings and structures that breach the suggested new rules should be non-complying. Disallow submission to delete Rule 10.8.1.	Accept	Do not amend provisions as requested.
FS2076.36	Vodafone NZ Ltd	I oppose the submission	Oppose OS900.101. Disallow submission	Accept	Do not amend provisions as requested.
FS2079.21	Chorus New	I oppose the	Oppose OS900.101. Disallow submission	Accept	Do not amend

	Zealand Limited (Chorus)	submission			provisions as requested.
FS2146.21	Spark New Zealand Trading Limited	I oppose the submission	Oppose OS900.101. Disallow submission	Accept	Do not amend provisions as requested.
OS447.47 OS900.83	Harboursides and Peninsula Preservation Coalition Save The Otago Peninsula (STOP) Inc Soc	I seek to have the above provision amended	Add new Rule 10.4.4.9 Landscape Building Platform with matters of discretion: a. Effects on landscape values and guidance of assessment the same as for Rule 10.4.4.2 except in para (iii) replace the word 'minor' with 'insignificant'	Reject	Do not amend provisions as requested.
FS2449.252	Federated Farmers of New Zealand	I oppose the submission	Oppose OS447.47. Disallow submission.	Accept	Do not amend provisions as requested.
FS2449.257	Federated Farmers of New Zealand	I oppose the submission	Oppose OS900.83. Disallow submission.	Accept	Do not amend provisions as requested.
OS720.8	Clifton Trust	I seek to have the above provision amended	Insert a new rule under Rule 16.3.4 (activity status - development activities) that authorises the creation of landscape building platforms independent of the subdivision consent process	Reject	Do not add new rule as requested.

Background

In the 2GP as notified, there is no requirement to identify landscape building platforms during the subdivision or development of land in any zone or overlay zone. However, Rule 10.8.1 (Special Information Requirements – Landscape Building Platforms) explains that “If landscape building platforms are approved through the subdivision consent process, the construction of new buildings greater than 60m² within the landscape building platform will be subject to Rule 16.3.4.3.b (rural zones) or ~~Rule 17.3.3.3.e~~ 17.3.4.3.c {C116} (rural residential zones)”.

Under these proposed rules, where a landscape building platform has been identified at the subdivision stage, construction of a new building greater than 60m² within the platform is a *controlled* activity in SNL, ONL and NCC overlay zones – whereas if a landscape building platform has not been identified, the activity status is restricted discretionary within these overlays. Therefore, there is an incentive to identify landscape

building platforms at the time of subdivision consent, because controlled activity status guarantees that consent to build will be granted.

Rule 10.8.1 sets out several requirements for landscape building platforms, including the requirement for “a landscape assessment of the effects of the development” (10.8.1.3) to be carried out by “a landscape architect or similarly qualified person” (10.8.1.4).

Rule 10.3A provides for the assessment of new buildings greater than 60m² on a landscape building platform in the NCC, ONL or SNL overlay zones, as controlled activities. Matters of control are the size, design and appearance of buildings. The rule references Policies 10.2.3.4, 10.2.5.6 and 10.2.5.7 (i.e. that new buildings over 60m² should only be allowed where adverse effects on the natural character values of the NCC, or the landscape values of the ONL/SNL, are avoided or, if avoidance is not possible, are no more than minor). The rule also indicates that conditions that may be imposed on consents include:

- Restrictions on the size and design of buildings, including height, floor area, colour and materials.
- Requirements for landscaping and other forms of screening of buildings.

Request to amend Rule 10.3A to give greater consideration to acceptable building design

Judith Ansbacher (OS191.1) believes that Rule 10.3A should be amended so that there is more discussion about what is acceptable in buildings. The submitter states that “making ugly houses grey or brown does not help them to ‘blend in’. Similarly the pretentious monstrosities that have been built at Highcliff with sickening euphemistic titles to their gated domains are utterly incongruent with the more modest bungalows that precede them”.

Recommendations – Accept (Amendments 1 and 2)

I note the design guidelines for buildings and structures in Appendix A3.4.1 give some general principles for appropriate design solutions. These design guidelines are referenced from both the Landscape Values Appendix A3 and the Natural Coastal Character Values Appendix A5. However, I consider that it would aid plan clarity and usability to reference these design guidelines within the assessment guidance of Rule 10.3A, and have recommended amendments below to this effect.

I note that the gated communities at Highcliff that the submitter refers to are likely to be in the residential zone and, therefore, not subject to the landscape or natural coastal character overlay zones.

Request to amend Rule 10.3A to provide for a wider assessment of potential effects

STOP (OS900.70) and Forest and Bird NZ (OS958.77) believe that Rule 10.3A should be amended so that the matters of control include the location of buildings, and assessments include assessments on indigenous biodiversity, with references to objectives and policies relating to indigenous biodiversity. The submitters note that location can impact on natural character, and that the lighting of buildings can also impact on sea birds when located on the coast in the vicinity of breeding colonies.

I note that STOP (OS900.115) and HPPC (OS447.80) have made related submission points on the activity status of buildings over 60m² within landscape building platforms in the SNL, ONL and NCC overlay zones, which are discussed in section 5.11.1 of this report. STOP and HPPC seek

that Rule 16.3.4.3 be amended so that buildings over 60m² within landscape building platforms in the SNL, ONL and NCC overlay zones become a restricted discretionary rather than a controlled activity, in order to ensure that buildings in these areas are “acceptable” and “meet various criteria”. The implication of these submission points is that Rule 10.3A would be deleted altogether. STOP’s submission point OS900.70 sets out the submitter’s preference for the content of Rule 10.3A if it is not deleted.

Howard Saunders (FS2373.57) opposes STOP (OS900.70) because he believes the rule is adequate as it stands.

Recommendations – Accept in part (Amendment 3)

I do not consider that it would be appropriate to amend Rule 10.3A as requested by the submitters, because:

- the location of buildings cannot be meaningfully controlled where a landscape building platform is already identified, except to a very limited extent within the platform itself, and
- it may not be possible to control potential effects on indigenous biodiversity where a landscape building platform is already identified – although I note that vegetation clearance and earthworks rules will apply even if a landscape platform has been identified, and that an application for this component part of the development could be declined if effects could not meet the relevant policy test for that activity.

However, I acknowledge the concern raised in the submission points from STOP, Forest and Bird and HPPC, in terms of the scope of the matters to be considered in the landscape assessment, as guided by notified Rule 10.8.1. The indicative list of matters to be assessed in the landscape assessment (10.8.1.5) mainly includes visual and amenity effects, except for two references to effects on “the wider coastal setting” and “natural character values”. In my view, in order to allow for a full assessment of effects on relevant values, Rule 10.8.1 should refer back to the values stated in the appendices. The landscape values of ONFs, ONLs and SNLs listed in Appendix A3 include natural science values (such as geology, wildlife and vegetation) and cultural/historic values (including values of significance to Manawhenua), as well as amenity and aesthetic values. The natural character of the coast values listed in Appendix A5 similarly include geology, vegetation, fauna and their habitats, and Manawhenua values, as well as wildness and scenic values.

I consider that, rather than either changing the activity status of new buildings >60m² within landscape building platforms from controlled to restricted discretionary, as requested by STOP (OS900.115) and HPPC (OS447.80), or amending the content of Rule 10.3A as requested by STOP (OS900.70) and Forest and Bird NZ (OS958.77), the outcome sought (i.e. greater control over buildings within landscape platforms) should be achieved in an alternative way. I recommend that Rule 10.8.1 should be revised, as shown below, to ensure that the process followed when identifying appropriate building platforms within landscape and natural coastal character overlays includes a full assessment of all protected values of those areas, through reference back to the appendices which describe these values.

I consider that, if this change is made, controlled activity status, with matters of control limited to the size, design and appearance of buildings, is appropriate for buildings within the platform. In addition, I consider that the objectives and policies referred to in the “Guidance of the assessment of resource consents” section of Rule 10.3A.2, are appropriate since they provide scope to consider effects from the size, design and appearance on all of the natural character values of NCCs, and landscape values of ONLs/SNLs. Since these values may include indigenous biodiversity, I do not consider that it is necessary to add references to additional objectives and policies as requested by STOP (OS900.70) and Forest and Bird NZ (OS958.77).

Request to amend Rule 10.3A to make it simpler and less onerous

Timothy George Morris (OS951.17) and Timothy Morris (on behalf of RG and SM Morris Family Trust) (OS1054.17) believe the obligations of the rule are too complicated and onerous.

Recommendation

I do not consider that Rule 10.3A as notified is complicated or onerous. The rule provides for the assessment of the size, design and appearance of a new building in an identified landscape building platform in SNL, ONL and NCC overlay zones. I consider that this is necessary given that, even within building platforms that have been identified with input from a landscape architect, the size, design and appearance of a building could result in adverse effects on landscape and natural character values. I do not consider that controlled activity status is onerous as a means of managing these potential effects. In my opinion, the content of Rule 10.3A (incorporating amendments recommended elsewhere in this section) is clear and concise.

Requests for rules that require the identification of landscape building platforms

HPPC (OS447.135) and STOP (OS900.101) seek that the approach taken to landscape building platforms in the notified 2GP be amended. These submitters request the introduction of a new performance standard requiring the identification of these platforms (see wording proposed by the submitters in table above), which would sit within the rural zones section of the plan and would apply to all development and subdivision activities within landscape and coastal character overlay zones and the Hill Slopes Rural Zone. HPPC (OS447.47) and STOP (OS900.83) also seek that new assessment rules be added to the Natural Environment section of the plan to provide guidance to assess proposals for landscape building platforms.

HPPC and STOP consider that this approach would be preferable to the notified approach, as it would provide stronger protections for landscape values. In the submitters' view, the place where buildings are positioned on a site and the grouping or spread of those buildings and structures is critical to 'appropriate development' (2GP Objective 10.2.3 and 10.2.5). For these submitters, the comparative need for a landscape building platform performance standard is underscored by the fact that 2GP specifies performance standards for parameters such as building/structure height and reflectivity which are arguably sources of even less visual impact than unscreened large facades. The sharp angular geometries of buildings and structures are completely at odds with the contours of natural environment elements.

The changes requested by HPPC and STOP in relation to landscape building platforms are opposed by the following submitters:

The Clifton Trust (FS2202.26) opposes the requested changes because various activities are undertaken in the rural zones and consequently, in their view, flexibility needs to be provided for the number and size of buildings that are able to be constructed on individual properties. The Trust also considers that the new rule suggested by HPPC is uncertain, and that the term "main" building platform included in the wording of the suggested rule has not been defined.

Federated Farmers (FS2449.373, FS2449.252 and FS2449.257) consider that the requested changes go significantly beyond the sustainable

management principles and overall intent of the RMA; they are excessive, inappropriate and overly onerous. In addition, Federated Farmers do not consider that the proposed non-complying status for buildings and structures that breach the proposed standard is appropriate; this would diminish the workability of the provisions and is not appropriately effects-based.

Vodafone (FS2076.33 and FS2076.36), Chorus (FS2079.18 and FS2079.21), Spark (FS2146.18 and FS2146.21), PowerNet (FS2264.32) and Aurora (FS2375.28) are opposed to HPPC and STOP's submissions because they are opposed to rules that introduce blanket non-complying status for buildings and structures, particularly those required for network utilities, to be located in the various overlay zones. Aurora note that network utility operators have technical and locational constraints which mean that it is not always possible to locate assets outside these overlay areas. Therefore, they consider that introducing a blanket non-complying status for such activities is overly restrictive and could result in delays associated with network utilities, including regionally significant infrastructure.

Howard Saunders (FS2373.74 and FS2373.63) also opposes HPPC and STOP's proposal that assessment rules should be changed so that buildings and structures that breach their proposed new standard become non-complying; Mr Saunders considers that the wording of the assessment rules as notified is adequate. Mr Saunders also considers that special information requirements for landscape building platforms should be retained in the plan.

Recommendation

I do not recommend that the new provisions requested by STOP and HPPC should be added to the plan. The submitters seek that the plan require landscape building platforms to be identified for all new development and subdivision activities in landscape and coastal character overlay zones and in the Hill Slopes Rural Zone. I address the separate elements of these requests below.

Hill Slopes Rural Zone – Expert landscape architect input was obtained during the identification of the boundaries of the proposed landscape and coastal character overlay zones; this input focused on identifying areas of the city with significant, high or outstanding values that warranted special protection. Therefore, I do not consider that additional rules, relating to the protection of landscape values, would be justified in areas of the Hill Slopes Rural Zone that do not fall within these overlays.

Development activities – I do not see the value in introducing a requirement to identify building platforms for new development activities (i.e. buildings and structures activities, and site development activities) in overlay zones. Development activities have been allocated activity statuses in overlay zones based on their potential degree of adverse effect on landscape and coastal character values. Many such activities (e.g. small buildings, fences, small scale earthworks, vegetation clearance) are permitted in all or some of these overlays, subject to performance standards, because it has been determined during plan drafting, in the light of expert input, that they are not likely to result in adverse effects. In the case of activities that do require consent in these overlays, for example large buildings and large scale earthworks, I consider that the relevant assessment rules provide appropriately for the management of potential effects on landscape and coastal character values, without the need to introduce an additional requirement to identify a building platform.

Subdivision activities – I do not agree that all subdivision activities in overlay zones should be required to identify landscape building platforms. As noted above, if a landscape building platform is not identified at the time of subdivision, then the activity status for a new building over 60m² on a site in an overlay zone is restricted discretionary – whereas if a platform had been identified, a new large building within in would be

controlled. I consider that this (together with the potential to save time and money by engaging a landscape architect to advise on subdivision of land and identification of building platforms at the same time) provides sufficient incentive to identify landscape building platforms at the time of subdivision. In addition, if a building platform is not identified at the time of subdivision, then, in my view, the assessment rules that apply to large buildings on sites without building platforms provide appropriately for the management of potential effects on landscape and coastal character values. Finally, I note that some types of subdivision are for purposes that do not involve new buildings.

Request for rule to allow for the creation of landscape building platforms independent of the subdivision consent process

Clifton Trust (OS720.9) seeks that a new rule be inserted under Rule 16.3.4 (activity status - development activities) that authorises the creation of landscape building platforms independent of the subdivision consent process. The Trust note that the construction of a new building >60m² is a controlled activity in an SNL if it is within a landscape building platform, whereas outside a landscape building platform this would be a restricted discretionary activity. The Trust note that the only way a landscape building platform can be placed on a site is via subdivision consent, and would like an alternative means of authorising creation of such a platform to be added to the plan.

Recommendation

I do not recommend that the requested new rule is added to the plan. I consider that the creation of landscape building platforms outside a subdivision consent process would need to have at least restricted discretionary status (i.e. the activity status could not be less restrictive) in order to allow for appropriate assessment of the proposed location of the platform and its potential effects on landscape values. Given that the benefit to a landowner of having a landscape building platform on their site, in terms of reduction in consent requirements, is that an activity that would have been restricted discretionary in SNLs, ONLs and NCCs (a building of 60m² or more) becomes controlled, I do not see the value to the landowner in applying for a restricted discretionary resource consent to achieve that outcome.

Recommended amendments:

Amendment 1

Amend Rule 10.3A.2.1.a by adding the following and consequential renumbering other clauses:

"...General assessment guidance:

iii. In assessing effects on natural character values, Council will consider the extent to which the development follows the design guidelines in Appendix A3.4.1..." {NatEnv191.1}

Amendment 2

Amend Rule 10.3A.2.2.a by adding the following and consequential renumbering other clauses:

"...General assessment guidance:

iv. In assessing effects on landscape values, Council will consider the extent to which the development follows the design guidelines in Appendix A3.4.1..." {NatEnv191.1}

Amendment 3

Amend Rule 10.8.1 Landscape Building Platforms as follows:

1. For subdivision activities within a landscape or natural coastal character overlay zone in the rural or rural residential zones, landscape building platforms may be identified.
2. Landscape building platforms are to be registered against the certificate of title by way of consent notice.
3. The identification of landscape building platforms must be supported by a landscape assessment ~~of the effects of development on the natural character values identified in Appendix A5~~ covering the matters listed in Rule 10.8.1.5 below. {NatEnv900.70}
4. The landscape assessment must be conducted by a landscape architect or similarly qualified person, supported by any other expert assessment necessary to assess effects on any specific values of the landscape (for example, cultural or ecological values, if assessment of those effects is beyond the expertise of the landscape architect). {NatEnv900.70}
5. The landscape assessment must consider ~~but not be limited to the following~~ the effects of the building platform and any associated driveways or vehicle tracks on either the landscape values identified in Appendix A3, or the natural character of the coast values identified in Appendix A5, as appropriate. This will include, but not necessarily be limited to, consideration of the following factors: {NatEnv900.70}
 - a. the visual prominence of the location of the building platforms;
 - b. the ~~visual and amenity~~ {NatEnv900.70} effects of buildings constructed to the maximum building envelope provided for by the performance standards on each identified building platform;
 - c. the appropriateness of the location within the context of the wider landscape or {NatEnv900.70} coastal setting;
 - d. the ~~visual~~ effects {NatEnv900.70} of driveways or vehicle tracks that will be required to access the building platforms; and
 - e. whether the clustering of building platforms with other building platforms or existing buildings will minimise adverse effects on landscape or {NatEnv900.70} natural character values.
6. If landscape building platforms are approved through the subdivision consent process, the construction of new buildings greater than 60m² within the landscape building platform will be subject to Rule 16.3.4.3.b (rural zones) or ~~Rule 17.3.3.3-e~~ 17.3.4.3.c {CI16} (rural residential zones).

5.11.6 New suggested performance standard – size and number of permitted buildings/structures

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/ Accept in part	Staff Recommendation
OS447.133	Harboursides and Peninsula Preservation Coalition	I seek to have the above provision amended	Add new Rule 16.6.13 specifying the size and number of permitted buildings and structures for different land use activities in all landscape and coastal overlay zones	Reject	Do not add new performance standard as requested.

OS900.165	Save The Otago Peninsula (STOP) Inc Soc		(see table on p30 of HPPC submission). Buildings and structures that contravene this rule should be non-complying, and resource consents for these activities should be publicly notified. Make consequential changes to Rule 16.3.4 (activity status - development activities), Rule 16.9.6 (assessment of performance standard contraventions) and Rule 16.12.4 (assessment of non-complying development activities).		
FS2202.14	Clifton Trust	I oppose the submission	Oppose OS447.133. Disallow submission and do not make changes as requested by submitter.	Accept	Do not add new performance standard as requested.
FS2449.371, FS2449.374	Federated Farmers of New Zealand	I oppose the submission	Oppose OS447.133 and OS900.165. Disallow submissions	Accept	Do not add new performance standard as requested.
FS2076.17, FS2076.23	Vodafone NZ Ltd	I oppose the submission	Oppose OS447.133 and OS900.165. Disallow submissions	Accept	Do not add new performance standard as requested.
FS2079.2, FS2079.8	Chorus New Zealand Limited (Chorus)	I oppose the submission	Oppose OS447.133 and OS900.165. Disallow submissions	Accept	Do not add new performance standard as requested.
FS2146.2, FS2146.8	Spark New Zealand Trading Limited	I oppose the submission	Oppose OS447.133 and OS900.165. Disallow submissions	Accept	Do not add new performance standard as requested.
FS2264.25	Powernet Limited	I oppose the submission	Oppose OS447.133. Disallow submission	Accept	Do not add new performance

					standard as requested.
FS2373.19, FS2373.58	Howard Saunders	I oppose the submission	Oppose OS447.133 (part) and OS900.165 (part). Disallow submissions that buildings and structures that breach the suggested new rules should be non-complying and publicly notified.	Accept	Do not add new performance standard as requested.
FS2375.17	Aurora Energy Limited	I oppose the submission	Oppose OS447.133. Disallow submission	Accept	Do not add new performance standard as requested.
OS447.44	Harboursides and Peninsula Preservation Coalition	I seek to have the above provision amended	Remove Rule 10.4.4.2 (iii).	Reject	Do not delete Rule 10.4.4.2 (iii) as requested.
FS2373.23	Howard Saunders	I oppose the submission	Oppose OS447.44. Disallow submission to remove rule 10.4.4.2 (iii)	Accept	Do not delete Rule 10.4.4.2 (iii) as requested.
FS2449.199	Federated Farmers of New Zealand	I oppose the submission	Oppose OS447.44. Disallow submission.	Accept	Do not delete Rule 10.4.4.2 (iii) as requested.
OS447.45 OS900.81	Harboursides and Peninsula Preservation Coalition Save The Otago Peninsula (STOP) Inc Soc	I seek to have the above provision amended	Add new Rule 10.4.4.7 Building/Structure Size and Quantity in OLF, SLF or NCC Overlays with matters of discretion: a. Effects on landscape values and guidance of assessment the same as for Rule 10.4.4.2 except in para (iii) replace the word 'minor' with 'insignificant'	Reject	Do not add new assessment rule as requested.
FS2449.250	Federated Farmers of New Zealand	I oppose the submission	Oppose OS447.45. Disallow submission.	Accept	Do not add new assessment rule as requested.
FS2449.255	Federated Farmers	I oppose the	Oppose OS900.81. Disallow submission.	Accept	Do not add new

	of New Zealand	submission			assessment rule as requested.
OS447.21	Harboursides and Peninsula Preservation Coalition	I oppose the provision	Remove Policy 10.2.3.8	Reject	Do not remove policy.
FS2391.9	Geoff Scurr Contracting Limited	I oppose the submission	Oppose OS447.21. Disallow submission and retain Policy 10.2.3.8 as proposed in the 2GP.	Accept	Do not remove policy.
OS900.51	Save The Otago Peninsula (STOP) Inc Soc	I oppose the provision	Remove Policy 10.2.3.8	Reject	Do not remove policy.
OS447.26	Harboursides and Peninsula Preservation Coalition	I oppose the provision	Remove Policy 10.2.5.12	Reject	Do not remove policy.
FS2373.15	Howard Saunders	I oppose the submission	Oppose OS447.26. Disallow submission to remove Policy 10.2.5.12.	Accept	Do not remove policy.
OS900.61	Save The Otago Peninsula (STOP) Inc Soc	I oppose the provision	Remove Policy 10.2.5.12	Reject	Do not remove policy.
FS2373.52	Howard Saunders	I oppose the submission	Oppose OS900.61. Disallow submission to remove Policy 10.2.5.12.	Accept	Do not remove policy.

Submissions

HPPC and STOP seek that new provisions are added to the plan as follows:

- Performance standards to limit the size and number of buildings and structures for different land use activities that may be established within landscape and coastal overlay zones and within the Hill Slope Rural Zone (OS447.133 and OS900.165). The specific standards sought by HPPC and STOP are set out in a table on p30 of HPPC's submission, reproduced below (note that this table incorporates changes requested by HPPC in a clarification of their submission).
- Associated assessment rules to guide the assessment of applications that would breach these proposed performance standards (OS447.45 and OS900.81).
- As a consequence of the addition of the submitters' proposed performance standards on the size and number of buildings and structures and in relation to landscape building platforms (see discussion in section 5.11.5, above), amend Policies 10.2.5.6 and 10.2.5.7 to remove

reference to large buildings and structures, and therefore also remove Rule 10.4.4.2(iii), which is a reference to Policy 10.2.5.7 as it would apply to buildings and structures (OS447.44). The submissions relating to Policies 10.2.5.6 and 10.2.5.7 are shown in the tables in sections 5.4.29 and 5.4.30 above and are opposed by a number of further submitters, as shown in those tables. The submission on Rule 10.4.4.2(iii) is opposed by Howard Saunders (FS2373.23) and Federated Farmers (FS2449.199).

Building/Structure for:	Max gross floor area (m2)	Number under 200ha	Max under 200ha	Number over 200ha	Max over 200ha
Commercial produce stall	10	1 Permitted 2 Discretionary 3 Non complying	3	1 Permitted 2 Discretionary 3 Non complying	3
Farming, forestry or grazing	750	1 Permitted 2 Non complying	2	2 Permitted 3 Discretionary 4 Non complying	4
Other rural activities	500	1 Discretionary	1	1 Permitted 2 Discretionary 3 Non complying	3
Standard residential plus garages	350	1 Permitted 2 Non complying	3	1 Permitted 2 Discretionary 3 Non-complying	3
Community & leisure activities	200	Non complying	-	1 Discretionary	1
Sport & recreation or visitor accommodation	60	1 Permitted 2 Non complying	2	2 Permitted 3 Discretionary 4 Non complying	4
All building & structures less than 60m2	NA	1 Permitted 2 Discretionary 3 Non complying	3	2 Permitted 3 Discretionary 4 Non complying	4
		Max. Total 5 Permitted, 7 Discretionary		Max. Total 7 Permitted, 10 Discretionary	

HPPC and STOP request these new provisions because they consider that the predominance of rural natural features over human-made features (Objective 16.2.3.a) is especially important in landscape and coastal overlay zones. The submitters consider that the proposed performance standards would be a cornerstone of landscape protection. Under the proposed performance standards, areas considered significant, special, outstanding or highly visible on slopes would be protected from the bulk of significantly oversized buildings and structures. The submitters have recommended the size/number limits using estimates of 150-200% of the size/number of buildings that they consider to be large, not for residences/garaging, but for productive buildings and structures. This recommended standard would communicate the upper limit in what is appropriate development in the overlay zones as opposed to in the "plain" rural zone.

These submissions are opposed by Federated Farmers (FS2449.371, 374, 250 & 255), who consider that provisions sought go significantly beyond the sustainable management principles and the overall intent and provisions within the RMA. In Federated Farmers' opinion, they are excessive, inappropriate and overly onerous. In addition, Federated Farmers do not consider that the proposed non-complying status for

buildings and structures that breach the proposed standard is appropriate; this would diminish the workability of the provisions and is not appropriately effects-based.

Vodafone (FS2076.17, 23), Chorus (FS2079.2, 8), Spark (FS2146.2, 8), PowerNet (FS2264.25) and Aurora (FS2375.17) are opposed to the submissions of HPPC and STOP, because they are opposed to rules that introduce blanket non-complying status for buildings and structures, particularly those required for network utilities, to be located in the various overlay zones. Aurora notes that network utility operators have technical and locational constraints which mean that it is not always possible to locate assets outside these overlay areas. Therefore, they consider that introducing a blanket non-complying status for such activities is overly restrictive and could result in delays associated with network utilities, including regionally significant infrastructure.

Howard Saunders (FS2373.19, 58) also opposes the HPPC and STOP proposals that assessment rules should be changed so that buildings and structures that breach their proposed new standard become non-complying, and that applications for such activities should be publicly notified; Mr Saunders considers that the wording of the assessment rules as notified is adequate, and that the notification rule should not be amended.

The Clifton Trust (FS2202.14) also opposes HPPC's submission (OS447.133). In the Trust's view, where consent is required for new buildings or structures, or alterations/additions, greater than 60m², the Council will be able to impose conditions similar to the relief sought by the submitter.

As a consequence of their requests firstly to add a new performance standard on the size and number of permitted buildings/structures discussed above, and secondly to add a new performance standard on landscape building platforms discussed in section 5.11.5 above, HPPC (OS447.21 and OS447.26) and STOP (OS900.51 and OS900.61) also seek to remove Policy 10.2.3.8 and Policy 10.2.5.12, on the basis that these policies would become unnecessary if the requested new performance standards were added to the plan.

Geoff Scurr Contracting Limited (FS2391.9) opposes HPPC (OS447.21) and requests that Policy 10.2.3.8 be retained as notified. Howard Saunders (FS2373.15 and FS2373.52) opposes HPPC (OS447.26) and STOP (OS900.61) because he believes there will be legitimate reasons when small additional buildings may be needed.

Recommendations

The submissions requesting new performance standards were referred to Mike Moore for comment. Mr Moore's advice is as follows (see p25 of his evidence):

I have already considered this matter in evidence on the Rural section of the 2GP (pages 7 – 11) in the context of the rural zones. It was my assessment in that context, that the proposed rule has merit in principle but that as proposed it is too prescriptive. I suggested that should the general principle be pursued, it may be more appropriate to adopt a more general maximum gross built coverage approach based on a percentage of the area of the property. My suggestion was that a maximum built site coverage figure such as 2% would be generally appropriate for most rural properties - both in terms of providing an amenity / rural character protection bottom line, and in terms of not generally needing to be exceeded. I believe that a similar rule, providing for a maximum gross built coverage would also be appropriate in the Rural-residential zone, to ensure that an acceptable degree of openness and rural character is retained. In this instance, a figure of 700m² may be more appropriate. This provides for a large house (e.g. 350m²) and a similar area for sheds. Alternatively, a maximum could

be expressed as a percentage of the total area of a property. My suggestion in this regard is 3.5% (700m² is 3.5% of 2ha, the minimum site size for the RR zones).

As far as the overlays are concerned, the suggested rule would have relevance in terms of the underlying zoning only as the only permitted buildings are those less than or equal to 60m² in area within ONL's, SNL's and NCC's, where maximum building separation standards are met.

As noted by Mr Moore, although the submitters request that the new performance standard apply within all landscape and natural coastal character overlay zones, the requested standard would actually be more permissive in these overlays than the notified rules (which require consent in all overlays for any building or structure over 60m²), and, therefore, would not provide greater protection to "the predominance of rural natural features over human-made features" in these areas, as sought by the submitters.

Therefore, I agree with Mr Moore that the submissions are better considered in the context of the rural zone provisions and hearing, and I do not recommend that notified rules on the activity status or performance standards applying to buildings and structures within overlays are amended in response to these submissions. As a result, I also do not recommend that either Policy 10.2.3.8 or Policy 10.2.5.12 be deleted (which the submitters request as a consequential change to adding the performance standards requested in this section and section 5.11.5 above).

Recommended amendment:

None.

5.11.7 New suggested performance standard – building/structure screening

Sub pt #	Submitter Name	Support/ Oppose/ Seek Amend	Summary Of Submission	Accept/ Reject/ Accept in part	Staff Recommendation
OS447.134	Harboursides and Peninsula Preservation Coalition	I seek to have the above provision amended	Add new Rule 16.6.1.14 (building and structure screening performance standard) as follows: A building and structure screening report by a qualified landscape architect must be included in resource consent application for development in landscape and coastal overlays, in the Hill Slope Rural zone, and on Outstanding Natural features. This applies to property sites created by subdivision after	Reject	Do not add new rule as requested by submitter.
OS900.125	Save The Otago Peninsula (STOP) Inc Soc				

			<p>(insert date), 2016, or purchased after that date.</p> <p>The purpose of screening by vegetation is to make buildings and structures relatively difficult to see and to retain the dominance of the natural character of the specific portion of the site on which building and structures will be erected.</p> <ol style="list-style-type: none"> 1. The building façades and structures requiring screening and the public viewpoints shall be identified. 2. A minimum of 80% of the façade or structure shall be screened to achieve natural dominance. 3. Preference will be given to planting of species native to Otago. 4. Exempt from the screening standard are any façades of any buildings or structures, caravans, or any outdoor storage which remains in place for less than 30 days and each of these is exempt only if they are less than 1.5m wide in an ONL, ONF, ONCC, HNCC or less than 2.5m in width in SNLs and NCCs. 5. Exempt from the screening standard is any structure under 0.25m in height in an ONL, ONF, ONCC, HNCC or under .05m in height in SNLs and NCCs. 6. For this performance standard, caravans, outdoor storage and outdoor parking of more than five vehicles (excluding those of visitors to private residences or tradespeople) constitutes a 'structure' and shall be confined to one area and screened. <p>Buildings and structures that contravene this rule should be non-complying, and resource consents for these activities should be publicly notified.</p> <p>Make consequential changes to Rule 16.3.4 (activity status - development activities), Rule 16.9.6 (assessment of performance standard contraventions) and Rule 16.12.4 (assessment of non-complying development activities)</p>		
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FS2076.32	Vodafone NZ Ltd	I oppose the submission	Oppose OS447.134. Disallow submission	Accept	Do not add new rule as requested by submitter.
FS2079.17	Chorus New Zealand Limited (Chorus)	I oppose the submission	Oppose OS447.134. Disallow submission	Accept	Do not add new rule as requested by submitter.
FS2146.17	Spark New Zealand Trading Limited	I oppose the submission	Oppose OS447.134. Disallow submission	Accept	Do not add new rule as requested by submitter.
FS2264.31	Powernet Limited	I oppose the submission	Oppose OS447.134. Disallow submission	Accept	Do not add new rule as requested by submitter.
FS2373.70	Howard Saunders	I oppose the submission	Oppose OS447.134 (part). Disallow submission that buildings and structures that breach the suggested new rules should be non-complying.	Accept	Do not add new rule as requested by submitter.
FS2375.27	Aurora Energy Limited	I oppose the submission	Oppose OS447.134. Disallow submission	Accept	Do not add new rule as requested by submitter.
FS2202.25	Clifton Trust	I oppose the submission	Oppose OS447.134. Disallow submission and do not make changes as requested by submitter.	Accept	Do not add new rule as requested by submitter.
FS2449.372	Federated Farmers of New Zealand	I oppose the submission	Oppose OS447.134. Disallow submission.	Accept	Do not add new rule as requested by submitter.
FS2202.24	Clifton Trust	I oppose the submission	Oppose OS900.125. Disallow submission and do not make changes as requested by submitter.	Accept	Do not add new rule as requested by submitter.
FS2449.342	Federated Farmers of New Zealand	I oppose the submission	Oppose OS900.125. Disallow submission.	Accept	Do not add new rule as requested by submitter.
FS2076.35	Vodafone NZ Ltd	I oppose the submission	Oppose OS900.125. Disallow submission	Accept	Do not add new rule as requested by

					submitter.
FS2079.20	Chorus New Zealand Limited (Chorus)	I oppose the submission	Oppose OS900.125. Disallow submission	Accept	Do not add new rule as requested by submitter.
FS2146.20	Spark New Zealand Trading Limited	I oppose the submission	Oppose OS900.125. Disallow submission	Accept	Do not add new rule as requested by submitter.
FS2373.72	Howard Saunders	I oppose the submission	Oppose OS900.125 (part). Disallow submission that buildings and structures that breach the suggested new rules should be non-complying.	Accept	Do not add new rule as requested by submitter.
OS447.46 OS900.82	Harboursides and Peninsula Preservation Coalition Save The Otago Peninsula (STOP) Inc Soc	I seek to have the above provision amended	Add new Rule 10.4.4.8 Building/Structure Screening in OLF, SLF or NCC Overlays with matters of discretion: a. Effects on landscape values and guidance of assessment the same as for Rule 10.4.4.2 except in para (iii) replace the word 'minor' with 'insignificant'	Reject	Do not add new rule as requested by submitter.
FS2449.251	Federated Farmers of New Zealand	I oppose the submission	Oppose OS447.46. Disallow submission.	Accept	Do not add new rule as requested by submitter.
FS2449.256	Federated Farmers of New Zealand	I oppose the submission	Oppose OS900.82. Disallow submission.	Accept	Do not add new rule as requested by submitter.

Submissions

HPPC and STOP seek that new provisions be added to the plan as follows:

- A performance standard requiring screening by vegetation of buildings and structures established in landscape and coastal overlay zones and in the Hill Slope Rural Zone (OS447.134 and OS900.125). See details in the table above.
- Associated assessment rules to guide the assessment of applications that would breach this proposed performance standard (OS447.46 and OS900.82).

STOP (OS900.125) consider that the 2GP does not contain adequate mechanisms for integrating buildings and structures into the landscape because only colour, reflectivity and choice of a landscape building platform are cited. In HPPC and STOP's view, houses that have been consented and built in the last 15+ years, even in Outstanding Landscape Management Areas, stick out and do not look any different from other

houses built anywhere in Dunedin.

The submitters consider that, compared to alternatives, screening by vegetation has the advantage that vegetation can be modified over time, whereas an architectural control may leave an owner with a "compromised design not exactly to their liking". The submitters consider that vegetation screening would be a "small compromise for people who want the privilege of living in Dunedin's most outstanding places."

These submissions are opposed by:

- Federated Farmers (FS2449.372, 342, 251 & 256), who consider that the outcomes sought go significantly beyond sustainable management principles and the overall intent of the RMA. In Federated Farmers' view, they are "excessive, inappropriate and overly onerous". In addition, Federated Farmers do not consider that the proposed non-complying status for buildings and structures that breach the proposed standard is appropriate; this would diminish the workability of the provisions and is not appropriately effects-based.
- Vodafone (FS2076.32 and FS2076.35), Chorus (FS2079.17 and FS2079.20), Spark (FS2146.17 and FS2146.20), PowerNet (FS2264.31) and Aurora (FS2375.27), who are opposed to rules that introduce blanket non-complying status for buildings and structures, particularly those required for network utilities, to be located in the various overlay zones. Aurora note that network utility operators have technical and locational constraints which mean that it is not always possible to locate assets outside these overlay areas. Therefore, they consider that introducing a blanket non-complying status for such activities is overly restrictive and could result in delays associated with network utilities, including regionally significant infrastructure.
- Clifton Trust (FS2202.24 and FS2202.25), who consider that the screening performance standard is unnecessary and that screening is not necessarily the best option to avoid, remedy or mitigate adverse effects on amenity in the rural zones.
- Howard Saunders (FS2373.70 and FS2373.72), who opposes the submitters' proposal that assessment rules should be changed so that buildings and structures that breach their proposed new standard become non-complying; Mr Saunders considers that the wording of the assessment rules as notified is adequate.

Recommendations

These submissions were referred to Mike Moore for his comment. Mr Moore's advice is as follows (pp27-28):

As currently proposed in the 2GP, resource consent is required for most buildings within overlays anyway, certainly all larger scale ones. The consenting process allows for mitigation conditions to be imposed, which may include the requirement for screen planting. The effect of this proposed rule would be to make screen planting mandatory. In my assessment this is unnecessary and unhelpful for the following reasons:

- *In many situations, well sited, appropriately designed buildings, often integrated with plantings (but not necessarily screened by them) will be a positive addition to landscape values. Farm houses and buildings for example, are a part of the existing character of many of the ONL's and SNL's.*
- *Sometimes, screen planting serves only to increase the impact of structures. For example, a high but slender telecommunications structure in an open situation may be more noticeable if planting has to be established around it.*
- *Providing screening in relation to public viewpoints introduces an element of artificiality to the landscape where this would otherwise not be required or desirable.*
- *The rule, requiring screening of 80% of building facades from public viewpoints may in some situations, be very difficult to achieve without adversely affecting the on-site amenity within and around the building e.g. sun access.*

My main objection though, is that the proposed rule is unnecessary because the rule framework as proposed in the 2GP already provides the tools required to ensure that screening is provided for where required, and does not impose it where it is not. I do not believe that the new rule proposed by HPPC and STOP is necessary or helpful and I agree with the submitters who consider it overly onerous.

Based on this advice, I do not recommend that the new provisions requested by HPPC and STOP be added to the plan. Further, I acknowledge the concerns of further submitters that any breach of the proposed new rule would lead to a non-complying status. I consider that a restricted discretionary activity status that takes into account proposed landscaping measures including screening is more appropriate than imposing a new, highly prescriptive rule. In this way, applications can be assessed on a case by case basis taking into account individual site characteristics as well as the nature of the proposed development.

Recommended amendment:

None.

5.12 Rules – Activity Status in landscape and natural coastal character overlays and ASCVs

Please note that submissions on the activity status of buildings and structures in landscape and natural coastal character overlays are considered in section 5.11.1.

5.12.1 Activity status of land use, development, subdivision and network utilities activities in ASCVs

Sub pt #	Submitter Name	Support/Oppose/ Seek Amend	Summary Of Submission	Accept/Reject/ Accept in part	Staff Recommendation
OS958.101	Forest and Bird NZ	I support the provision	Retain all non-complying activities in columns (c) and (d) of Rule 16.3.3 (activity status - land use activities)	Accept	Retain the relevant elements of Rule 16.3.3 as notified.
FS2339.5	Penguin Place Limited	I oppose the submission	Oppose OS958.101 (in part). Disallow submission and make farming and grazing permitted in an Area of Significant Conservation Value.	Reject	Retain the relevant elements of Rule 16.3.3 as notified.
OS900.136	Save The Otago Peninsula (STOP) Inc Soc	I seek to have the above provision amended	Amend Rule 16.3 so that all land use, development and subdivision activities in a scheduled Area of Significant Conservation	Accept in part	Amend Rules 16.3.4.3 and 16.3.4.23 as shown

			Value other than those associated with weed and pest removal and conservation activities are non-complying, and make the consequential change of removing assessment rules 10.5.2.7, 10.5.2.9 and 10.6.2.7.		below.
FS2267.61	Harboursides and Peninsula Preservation Coalition	I support the submission	Support OS900.136. Allow submission.	Accept in part	Amend Rules 16.3.4.3 and 16.3.4.23 as shown below.
FS2391.70	Geoff Scurr Contracting Limited	I oppose the submission	Oppose OS900.136. Disallow submission.	Accept in part	Amend Rules 16.3.4.3 and 16.3.4.23 as shown below.
FS2449.306	Federated Farmers of New Zealand	I oppose the submission	Oppose OS900.136. Disallow submission.	Accept in part	Amend Rules 16.3.4.3 and 16.3.4.23 as shown below.
OS958.103	Forest and Bird NZ	I seek to have the above provision amended	Amend Rule 16.3 so that all land use activities in a scheduled Area of Significant Conservation Value other than those associated with weed and pest removal and conservation activities are non-complying, and make the consequential change of removing assessment rule 10.6.2.7.	Reject	Do not amend Rule 16.3 as requested.
FS2339.3	Penguin Place Limited	I oppose the submission	Oppose OS958.103 (in part). Disallow submission and make rural tourism – large scale permitted in ASCVs.	Accept in part	Do not amend Rule 16.3 as requested.
FS2076.37	Vodafone NZ Ltd	I oppose the submission	Oppose OS958.103. Disallow submission	Accept	Do not amend Rule 16.3 as requested.
FS2079.23	Chorus New Zealand Limited (Chorus)	I oppose the submission	Oppose OS958.103. Disallow submission	Accept	Do not amend Rule 16.3 as requested.

FS2146.23	Spark New Zealand Trading Limited	I oppose the submission	Oppose OS958.103. Disallow submission	Accept	Do not amend Rule 16.3 as requested.
FS2449.382	Federated Farmers of New Zealand	I oppose the submission	Oppose OS958.103. Disallow submission.	Accept	Do not amend Rule 16.3 as requested.
OS958.107	Forest and Bird NZ	I seek to have the above provision amended	Amend Rule 16.3 so that all development activities in a scheduled Area of Significant Conservation Value other than those associated with weed and pest removal and conservation activities are non-complying, and make the consequential change of removing assessment rule 10.5.2.7.	Accept in part	Amend Rules 16.3.4.3 and 16.3.4.23 as shown below.
FS2449.321	Federated Farmers of New Zealand	I oppose the submission	Oppose OS958.107. Disallow submission.	Accept in part	Amend Rules 16.3.4.3 and 16.3.4.23 as shown below.
OS958.92	Forest and Bird NZ	I oppose the provision	Remove Rule 10.5.2.9 (assessment of restricted discretionary subdivision in a Scheduled Area of Significant Conservation Value) and make these activities non-complying	Reject	Do not amend Rule 10.5.2.9 as requested.
FS2449.237	Federated Farmers of New Zealand	I oppose the submission	Oppose OS958.92. Disallow submission.	Accept	Do not amend Rule 10.5.2.9 as requested.
OS900.138	Save The Otago Peninsula (STOP) Inc Soc	I seek to have the above provision amended	Amend Rule 5.3.2 so that all activities in an ASCV other than those associated with weed and pest removal and conservation activities are non-complying, and make the consequential change of removing assessment rules 10.5.2.8 and 10.6.2.6.	Reject	Do not amend Rule 5.3.2 as requested.
FS2076.25	Vodafone NZ Ltd	I oppose the submission	Oppose OS900.138. Disallow submission	Accept	Do not amend Rule 5.3.2 as requested.

FS2079.10	Chorus New Zealand Limited (Chorus)	I oppose the submission	Oppose OS900.138. Disallow submission	Accept	Do not amend Rule 5.3.2 as requested.
FS2146.10	Spark New Zealand Trading Limited	I oppose the submission	Oppose OS900.138. Disallow submission	Accept	Do not amend Rule 5.3.2 as requested.
FS2160.8	Geraldine Tait	I support the submission	Support OS900.138. Allow submission	Reject	Do not amend Rule 5.3.2 as requested.
FS2391.71	Geoff Scurr Contracting Limited	I oppose the submission	Oppose OS900.138. Disallow submission.	Accept	Do not amend Rule 5.3.2 as requested.
OS958.91	Forest and Bird NZ	I oppose the provision	Remove Rule 10.5.2.8 (assessment of restricted discretionary activities in a Scheduled Area of Significant Conservation Value) and make these activities non-complying	Reject	Do not amend provisions as requested.
FS2449.236	Federated Farmers of New Zealand	I oppose the submission	Oppose OS958.91. Disallow submission.	Accept	Do not amend provisions as requested.
OS958.93	Forest and Bird NZ	I oppose the provision	Remove Rule 10.6.2.6 (assessment of discretionary activities in a Scheduled Area of Significant Conservation Value) and make these activities non-complying.	Reject	Do not amend provisions as requested.
FS2076.38	Vodafone NZ Ltd	I oppose the submission	Oppose OS958.93. Disallow submission	Accept	Do not amend provisions as requested.
FS2079.22	Chorus New Zealand Limited (Chorus)	I oppose the submission	Oppose OS958.93. Disallow submission	Accept	Do not amend provisions as requested.
FS2146.22	Spark New Zealand Trading Limited	I oppose the submission	Oppose OS958.93. Disallow submission	Accept	Do not amend provisions as requested.

FS2449.242	Federated Farmers of New Zealand	I oppose the submission	Oppose OS958.93. Disallow submission.	Accept	Do not amend provisions as requested.
OS796.6	Waste Management (NZ) Limited	I oppose the provision	Amend 16.3.3.10 (activity status - landfills not in a GR1TZ) as follows: If more than 10% of the landfill area falls within an ASCV it triggers a Non-Complying activity status, otherwise if it is less it remains as a Discretionary Activity.	Reject	Do not amend Rule 16.3.3.10 as requested.
OS949.13	Department of Conservation	I seek to have the above provision amended	Amend Rule 10.3 so that any vegetation clearance within an ASCV or any area determined to be an ASCV through a site specific ecological assessment is a non-complying activity.	Reject	Do not amend provisions as requested.
FS2439.29	Oceana Gold (New Zealand) Limited	I oppose the submission	Oppose OS949.13. Disallow submission.	Accept	Do not amend provisions as requested.

Background

The objectives and policies relevant to this topic (including amendments recommended in the Network Utilities Section 42A report, and elsewhere in this report) are:

Objective 10.2.1: Areas of indigenous vegetation and the habitats of indigenous fauna are maintained and enhanced.

Policy 10.2.1.2: Only allow land use and development activities or tree planting {*NatEnv 958.107*} in a Scheduled Area of Significant Conservation Value (ASCV) where these activities will have net positive effects on the protection and enhancement of the biodiversity values of the Scheduled ASCV including, but not limited to, those biodiversity values listed in Schedule A1.2 {*NatEnv 690.8*}.

Policy 10.2.1.9: Only allow subdivision activities where the subdivision is designed to ensure any future land use or development activities will:

1. maintain or enhance the biodiversity and conservation values associated with any Scheduled Area of Significant Conservation Value (ASCV) or an Urban Conservation Mapped Area (UCMA); and
2. avoid or, if avoidance is not possible, adequately mitigate adverse effects on other ~~important~~ {*NatEnv900.32*} areas of indigenous vegetation or the habitat of indigenous fauna.

Policy 10.2.1.10: Only allow network utilities poles and masts - small scale, on-site energy generation devices, network utility structures - large scale, community scale solar panels and wind generators, and energy resource investigation devices in a Scheduled Area of Significant Conservation Value (ASCV) {*NU 576.62 and others*} where adverse effects on the identified {*NatEnv 900.33*} biodiversity values of

the ASCV can will {cl. 16} be avoided or, where avoidance is not possible, would be insignificant no more than minor {NU 576.62 and others}, with values including, but are not limited to, those values listed in Schedule A1.2. {NatEnv900.33}

Policy 10.2.1.11: Avoid wind generators - community scale, biomass generators—stand-alone {NU 308.137 and others} and regional scale energy generation in a Scheduled Area of Significant Conservation Value (ASCV) unless there are no adverse effects on the identified {NatEnv 900.34} biodiversity values of the Scheduled ASCV including, but not limited to, those biodiversity values listed in Schedule A1.2{NatEnv900.34}.

Policy 10.2.1.12: Only allow wind generators - community scale and wind generators - regional scale where adverse effects on biodiversity values are avoided or, if avoidance is not possible, are no more than minor. {NU 743.17}

ASCVs are areas of significant indigenous vegetation and/or significant habitats of indigenous fauna which have one or more of the criteria set out in Policy 2.2.3.1.

I note that the 2GP uses three main types of rule to manage the effects of activities on indigenous vegetation:

1. Activity status rules, which makes specific activities permitted, restricted discretionary, discretionary or non-complying in ASCVs.
2. A vegetation clearance performance standard. Activities that breach this standard, and are not exempt from it, become restricted discretionary. The vegetation clearance performance standard (Rule 10.3.2) applies throughout the city, not just in ASCVs, and includes the following controls:
 - Maximum area of vegetation clearance in an urban conservation mapped area
 - Maximum area of indigenous vegetation clearance
 - Limits on vegetation clearance in close proximity to scheduled wetlands, water bodies and the mean high water springs.
 - Limits on vegetation clearance within any wetland in the rural, rural residential or recreation zones, or within the coastal environment mapped area
 - Limits on clearance of protected indigenous species.
3. Earthworks performance standards. Under rules located in the management zone sections of the plan, earthworks ancillary to network utilities activities, which change the ground level by more than 0.5m in ASCVs, are a restricted discretionary activity.

The following land use, development and network utilities activities are permitted in ASCVs:

Land use activities:

- Rural ancillary retail
- Rural tourism – small scale
- Rural research – small scale
- Working from home
- Conservation
- Community and leisure – small scale
- Stand-alone car parking

Development activities:

- New buildings greater than 60m² on a landscape building platform
- New building or structure less than or equal to 60m², or additions and alterations that result in a building or structure that is less than or equal to 60m²
- Fences
- Earthworks - small scale
- Outdoor storage
- Parking, loading and access
- All other vegetation clearance (i.e. other than indigenous vegetation clearance)
- Storage and use of hazardous substances
- Tree planting
- All other site development activities

Network utilities activities:

- Operation, repair and maintenance of existing network utilities
- Realignment, reconfiguration or relocation of existing network utilities
- Underground or internal network utilities
- Amateur radio configurations
- Irrigation races and open drains
- Stormwater detention basins
- Network utilities structures - small scale
- Standby energy generators

The rationale for enabling these activities in ASCVs is that, subject to compliance with the vegetation clearance and earthworks performance standards discussed above, they are considered unlikely to lead to adverse effects on biodiversity values in ASCVs.

The following land use, development, subdivision and network utilities activities require consent as restricted discretionary or discretionary activities in ASCVs:

- Land use activities:
 - Rural tourism - large scale
 - Rural research - large scale
 - Community and leisure - large scale
 - Sport and recreation
 - Restaurants or retail activities ancillary to sport and recreation
 - Ancillary licensed premises (this has the same activity status as the underlying activity, so would be discretionary if associated with one of the activities above)

- Development activities:
 - New building or structure greater than 60m², or additions and alterations that result in a building or structure that is greater than 60m²
 - All other buildings and structures activities
 - Earthworks – large scale
 - Indigenous vegetation clearance
- Subdivision activities:
 - General subdivision
 - Cross lease, company lease and unit title subdivision (incorporating amendments recommended in the Rural Zones Section 42A report)
- Network utilities activities:
 - Network utilities poles and masts - small scale
 - Wind generators, hydro generators, solar panels and biomass generators - on-site energy generation
 - Solar panels and hydro generators - community scale
 - Energy resource investigation devices

The rationale for providing for these activities but requiring consent is that these activities:

- May need to establish in ASCVs for operational reasons (e.g. rural tourism – large scale, or network utilities and energy generation activities), and
- Have the potential to give rise to adverse effects in ASCVs, but could be established in ASCVs with net positive effects, depending on factors such as the scale of the activity, its exact location within the ASCV, and any proposals for positive measures such as new plantings.

No development or subdivision activities are non-complying in ASCVs. However, all land use and network utilities activities that are not listed above have non-complying activity status. These include, for example:

- Land use activities such as farming, forestry, grazing, mining and landfills
- Network utilities activities such as community scale wind generators and all regional scale energy generation.

The rationale for not providing for these activities in ASCVs is that they are considered to have significant potential to damage and displace indigenous vegetation and the habitats of indigenous fauna.

Request to retain non-complying activity status for land use activities in ONF, ONCC and HNCC overlay zones and ASCVs

Forest and Bird NZ (OS958.101) supports all instances of non-complying activity status for land use activities in ONF, ONCC and HNCC overlay

zones and ASCVs in rural zones in Rule 16.3.3 as notified. Forest and Bird consider that these activity statuses meet Part II of the RMA. In relation to farming and grazing in ASCVs, this submission is opposed by Penguin Place Limited (FS2339.4).

Request to change farming, grazing and forestry from non-complying to permitted activities in ASCVs

Robert George & Sharron Margaret Morris (OS355.7) seek to amend Rule 16.3.3 so that farming, grazing and forestry are permitted in all zones. The submitters state that "farmers are capable of making their own decisions regarding best land use". Likewise, Bruce Mark Norrish (OS461.5) seeks to amend Rule 16.3 "to allow normal farming/forestry operations to be carried out safely". I have made the assumption that the submitter would like forestry and farming to be permitted activities in all overlays as well as in the general rural zone. Mr Norrish's submission is opposed by Harboursides and Peninsula Preservation Coalition (FS2267.142) and Kati Huirapa Runaka ki Puketeraki and Te Runanga o Otakou (FS2456.108).

Note that the Morris and Norrish submissions are listed below in Section 5.16.2, because they relate to activity statuses in both ASCVs and landscape/coastal character overlays.

Penguin Place also seek that farming and grazing are permitted activities (FS2339.5). However, the Panel need to consider that Penguin Place has made this request through a further submission (on Forest and Bird's submission OS958.101), and this is outside the scope of what a further submission may cover. In accordance with Form 6 of the Resource Management (Forms, Fees, and Procedure) Regulations 2003, a further submission may only express support or opposition to a request made in an original submission. Penguin Place's further submission states:

Farming undertaken on our property is an important economic income, as well as an important tool for managing grass growth, weeds and fire risk in the penguin habitat areas... Over the years the ... farming operations have helped fund the planting of some 20,000 native trees in the penguin habitat areas... Under the proposed ASCV zoning farming would become a non-complying activity ... which would directly affect our ability to flexibly manage both parts of our business [ecotourism and farming] and consequently fund and undertake habitat restoration and wildlife enhancement activities...

We would like to see ... farming and grazing be a permitted activity in an ASCV accepting that there would be conditions to ensure that habitat is maintained and enhanced. We believe that ... farming and grazing has supported the enhancement of native flora and fauna values in our situation, which shows that making farming [and] grazing ... a non-complying activity is an unnecessary and inefficient RMA tool.

Recommendations

For reasons discussed below:

- I consider that the notified non-complying status should be retained for forestry in ASCVs, and
- in the case of the activity status of farming and grazing, I offer two options for the Panel to consider.

I am not aware of any areas of land that are used for forestry (defined as "the use of land and buildings for the purpose of growing trees for commercial timber, wood pulp, wood products, or for use as a carbon sink") that meet the criteria for scheduling as an ASCV, as set out in Policy 2.2.3.1 – although I note that there are some pockets of land that are not being used for forestry, but are located within areas of forestry, that

are classified as ASCVs. Given this, and the fact that it seems to me very likely that new forestry activities in ASCVs would result in significant adverse effects on protected biodiversity values, I consider that non-complying status should be retained in this case. In my view, non-complying activity status for forestry in ASCVs is the most appropriate way to achieve Objective 10.2.1, and appropriately recognises that the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna is a matter of national importance under s6(c) of the RMA.

However, I understand that farmed/grazed landscapes can sometimes have values that make them appropriate for ASCV status. Farmed habitat can be home to populations of at risk or threatened plants and animals, for example, penguins, skinks and threatened coastal turf plants.

Penguin Place's submission, therefore, raises an important question in relation to the activity status of farming and grazing in ASCVs. Should farming and grazing be non-complying in ASCVs, to reflect the fact that new activities in ASCVs that are not currently farmed/grazed will often have significant adverse effects on protected biodiversity values (in particular, through the grazing and trampling of vegetation by livestock)? Or should these activities be provided for, to reflect the fact that they are currently taking place in some ASCVs, and may in fact be compatible with the protected values of these areas?

I note that, under Rule 16.3.4.20 in the rural zones and Rule 20.3.4.19 in the recreation zones, indigenous vegetation clearance is restricted discretionary in ASCVs. It could be argued that, since this control is in place, it is unnecessary also to restrict farming and grazing in these areas – if the main adverse effect from these activities that the plan seeks to control is the destruction of vegetation by livestock. However, I do not consider that this control on indigenous vegetation clearance on its own is sufficient to manage the potential effects of farming and grazing on ASCVs. Firstly, vegetation that is not indigenous may nevertheless provide important habitats for indigenous species. Secondly, the vegetation clearance resulting from the destruction of vegetation by livestock would be likely to be gradual and cumulative. As a result, it would be difficult to identify the point at which a consent requirement would be triggered under Rule 16.3.4.20 or Rule 20.3.4.19. In my view, it is preferable to retain a consent requirement for farming and grazing, because – although such a rule may still be overlooked and difficult to enforce – it is easier to identify the point at which farming or grazing is initiated on an ASCV than to identify the point at which vegetation clearance (as defined in the plan) occurs.

With respect to existing farming and grazing activities in ASCVs, I note that existing use rights apply to these activities provided they are not discontinued for more than 12 months and remain at the same scale and intensity.

Given the assessment above, I consider that there are two alternative approaches to the activity status of farming and grazing in ASCVs:

1. Retain the notified non-complying activity status, so that new farming and grazing activities – which pose a serious risk to biodiversity values in these areas – are not provided for in ASCVs. Existing farming and grazing activities in ASCVs are catered for via existing use rights.
2. Make farming and grazing permitted, where they are limited to grazing of existing pasture. Retain non-complying activity status for all other instances of farming and grazing.

In my view, the main advantages and disadvantages of each option are as follows:

Option 1: all farming and grazing non-complying (as notified)

Advantages	Disadvantages
Clear and simple rule	Unnecessarily restrictive for grazing of existing pasture, if grazing is compatible with ASCV values. In these cases, would result in unnecessary restrictions on productive rural land (in the case of loss of existing use rights if the activity is discontinued for a year or more), which is not consistent with Policy 2.3.1.2.a.
Implements Objective 10.2.1, and appropriately recognises that the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna is a matter of national importance under s6(c) of the RMA.	

Option 2: amend activity status rules to permit grazing of existing pasture only, with other farming and grazing non-complying

Advantages	Disadvantages
Appropriate activity statuses for both grazing of existing pasture, and all other farming and grazing. Targeted approach.	Drafting issues around use of the word “grazing”, since it is a separate activity from “farming” in the 2GP. Therefore, it is not possible to use the phrase “farming limited to grazing of existing pastures”, because this does not make sense in terms of the activity definitions in the 2GP. It is necessary to come up with a different term, which could cause confusion and undermine the effectiveness and efficiency of the rule. See suggested drafting below.
Implements Objective 10.2.1, and appropriately recognises that the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna is a matter of national importance under s6(c) of the RMA.	

Suggesting drafting to achieve Option 2:

Amend the activity status table in Section 16: Rural Zones along the following lines:

Rural activities	Activity status
	ASCV
Farming <i>limited to pastoral farming of existing pastures</i>	P

All other farming	NC
Grazing of existing pastures	P
All other grazing	NC

Given the drafting difficulties outlined above, I am not recommending a change to Option 2 at the moment, but leave the matter for the Panel to consider.

Request to amend activity statuses of mining, landfills and major facilities activities in ASCVs

HPPC and STOP seek that landfills (OS447.75 and OS900.109) and mining (OS447.76 and OS900.110) be made prohibited activities in ASCVs (note that these submission points are listed in the table in section 5.16.2, because they also relate to the activity status of landfills and mining in landscape and natural coastal character overlays). These submissions are opposed by Waste Management (NZ) Limited (FS2444.18) and Oceana Gold (New Zealand) Limited (FS2439.64 and FS2439.65) respectively. HPPC (OS447.77, OS447.78 and OS447.79) and STOP (OS900.112, OS900.113 and OS900.114) also seek that cemeteries, crematoriums and all other major facility activities be made prohibited activities in scheduled ASCVs (note that these submission points are listed in the table in section 5.12.3, because they also relate to the activity status of landfills and mining in landscape and natural coastal character overlays).

Waste Management (NZ) Limited (OS796.6) seek that Rule 16.3.3.10 be amended so that if more than 10% of the landfill area falls within an ASCV, the activity status of the landfill is non-complying, but if 10% or less fall within an ASCV, activity status is discretionary. The submitter notes that landfills are listed as being discretionary if in the rural zone but non-complying if within an ASCV. It is unclear whether if a small part of a landfill (whether a part of the refuse footprint or part of the wider operational area) fell within an ASCV whether that would render the overall application to be non-complying even if the majority of the landfill operation was outside of the ASCV and would otherwise be a discretionary activity. The submitter considers that this is a very likely scenario, given that landfills cover large areas of land, and therefore it is foreseeable that part of the operation could encounter an ASCV.

Recommendations

I consider that the notified non-complying activity status is appropriate for mining, landfills and major facilities activities in ASCVs, and provides a very high level of protection from the potential effects of these activities. The policy that applies to these activities (Policy 10.2.1.2, which is set out in the background section, above) indicates that they are only allowed if they “have net positive effects on the protection and enhancement of the biodiversity values of the Scheduled ASCV”. Prohibited activity status means that no application for resource consent may be made for the activity involved, and that consent authorities must not grant consent for it. I do not consider that such an absolute approach is necessary to achieve Objective 10.2.1.

With respect to landfills in ASCVs, I do not consider that discretionary status, in the scenario outlined by Waste Management Ltd, would be sufficient to protect the values of ASCVs. In my view, landfills should not be provided for in ASCVs, due to their potential to damage and displace indigenous vegetation and the habitats of indigenous fauna. I note that the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna is a matter of national importance under s6(c) of the RMA. I consider that, in the scenario outlined by

the submitter, the landfill operation should be undertaken in a way that avoids land scheduled as an ASCV, unless Policy 10.2.1.3 can be met.

Request to amend activity status of indigenous vegetation clearance in ASCVs

Timothy George Morris (OS951.46) and Timothy Morris (on behalf of RG and SM Morris Family Trust) (OS1054.46) (note these submission points are listed in the table in section 5.12.7 below, because they also relate to the activity status of indigenous vegetation clearance in landscape and natural coastal character overlays) seek that Rules 16.3.4.20.d (indigenous vegetation clearance) is removed. I presume that the submitters are seeking permitted activity status for this activity in ASCVs. The submitters note that regrowth of indigenous vegetation (e.g. Kanuka) can be rapid and are concerned that this can adversely affect farming and forestry activities and be considered as "reverse sensitivity". The submitters are of the opinion that the "control of regrowth of indigenous vegetation is necessary as part of long term maintenance of rural land for productive rural activities."

Department of Conservation (OS949.13) seeks to amend Rule 10.3 so that any vegetation clearance within an ASCV or any area determined to be an ASCV through a site specific ecological assessment is a non-complying activity. Since DOC's submission relates to the activity status of all vegetation clearance, I am considering it in this section of the report, rather than in relation to the performance standards for vegetation clearance set out in Rule 10.3.

DOC considers that vegetation should only be allowed to be cleared in exceptional circumstances and, therefore, there should be no permitted amount of vegetation clearance within these areas. In DOC's view, any proposed clearance should be subject to a high test ensuring any adverse effects are avoided.

Oceana Gold (New Zealand) Limited (FS2439.29) opposes Department of Conservation (OS949.13) because they believe the amendment would be "too restrictive for locationally constrained activities such as mining."

Recommendations

I consider that the restricted discretionary activity status for indigenous vegetation clearance is appropriate because it provides protection to areas with very high biodiversity value. I do not recommend permitting indigenous vegetation clearance in ASCVs because in my view the potential adverse effects on indigenous vegetation and the habitats of indigenous fauna are too great to manage under Rule 10.3.2 (vegetation performance clearance standards) and I consider it appropriate that a restricted discretionary resource consent is required.

For consideration of DOC's request that vegetation clearance be non-complying in ASCVs, see discussion below in relation to STOP and Forest and Bird's similar submissions. In terms of DOC's other request to apply the non-complying status to "any area determined to be an ASCV through a site specific ecological assessment", in my opinion tagging an activity status rule to an ecological assessment that has not yet taken place would be *ultra vires*.

Requests for additional activities to be non-complying in ASCVs

STOP (OS900.136) and Forest and Bird (OS958.103, OS958.107 and OS958.92) seek that Rule 16.3 and associated assessment rules be

amended so that all land use, development and subdivision activities in ASCVs, other than those associated with weed and pest removal and conservation activities, become non-complying activities. If these submissions were accepted, all of the activities listed in the background section above as being permitted, restricted discretionary or discretionary (with the exception of conservation activities) would become non-complying in ASCVs.

The submitters request non-complying status for these activities on the basis that they have the potential to adversely affect biodiversity values of ASCVs and undermine protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna.

STOP's submission is supported by HPPC (FS2267.61, which consider that the amendment proposed by STOP is a logical adjunct to protecting ASCVs and in line with Council's intent for ASCVs. It is opposed by Geoff Scurr Contracting Limited (FS2391.70) and by Federated Farmers of New Zealand (FS2449.306), who consider that the outcome sought goes considerably beyond the sustainable management principles and intent of the RMA, its associated case law and the remainder of the 2GP.

STOP (OS900.138) and Forest and Bird NZ (OS958.91 and OS958.93) also seek that all activities listed in Rule 5.3.2 (Activity status table – Network utilities activities) – in other words, all network utilities activities – become non-complying in ASCVs. In this case, STOP's submission is supported by Geraldine Tait (FS2160.8). Ms Tait considers that having strong rules will discourage inappropriate use or people attempting to bend planning rules so that these areas can be developed with risk of loss of biodiversity. Much of the Dunedin area has lost its original bush covering and many habitats are very degraded. In Ms Tait's view, we need to have good planning rules to protect what is left.

Both STOP's and Forest and Bird's submissions are opposed by Vodafone (FS2076.25&38), Chorus (FS2079.10&22) and Spark (FS2146.10&22), who are not in favour of blanket non-complying activity rules for network utilities. The submitters consider that there may be legitimate circumstances where network utilities need to be located within sensitive environments. STOP's submission is also opposed by Geoff Scurr Contracting Limited (FS2391.71) and Forest and Bird's submissions are also opposed by Federated Farmers (FS2449.236, FS2449.237 and FS2449.242), who do not consider that it has been adequately justified why the activity status should be changed to non-complying. FFNZ considers that this approach would be overly onerous and inconsistent with the sustainable management principles of the RMA. In FFNZ's view, the activities in question can be undertaken without significant impact on the specified areas.

In their further submission, Penguin Place (FS2339.3) seeks that the submission by Forest and Bird (OS958.103) be disallowed and also seeks that Rural Tourism – large scale be permitted instead of discretionary in ASCVs (though I note again that this is going beyond the scope of what a further submission should cover, in that it is seeking a different outcome and not just submitting in support or opposition to the outcome sought by the original submission).

Penguin Place notes that proposed ASCV C090 would cover the part of their property that is used for ecotourism operations. Penguin Place considers that non-complying status for these activities would have unforeseen consequences for the on-going viability of the submitter's long-established farming and ecotourism operations, as they would also in other eco-tourism and farming areas on the Otago Peninsula.

The submitter states:

...the yellow eyed penguin tourism operation generates the funding necessary to undertake predator control, native planting and ecological

restoration, and to run a penguin hospital where injured or malnourished birds are looked after... The ecotourism operation also plays a significant role in the wider branding of Dunedin City as a heritage and ecotourism destination that helps draw thousands of visitors to the City on an annual basis. As such the ecotourism operation has a far wider positive economic impact on the City than the income derived directly from the operation itself.

[The non-complying status for large scale rural tourism requested by Forest and Bird] would directly affect our ability to operate our tourism business (could indeed stop it), flexibly manage both parts of our business (tourism and farming) and consequently fund and undertake habitat restoration and wildlife enhancement activities. Whilst we fully support the goal of enhancing penguin habitat and restoring penguin numbers, we consider that the imposition of these non-complying activities as an inappropriate method for achieving these goals, and indeed has the potential to work directly against these goals.

Forest and Bird's submission is also opposed by:

- Federated Farmers (FS2449.381, FS2449.382), who do not believe that sufficient justification has been provided as to why the activity status should be changed to non-complying. FFNZ considers this proposed approach to be overly onerous and inconsistent with the sustainable management principles of the RMA.
- Vodafone (FS2076.37), Chorus (FS2079.23) and Spark (FS2146.23). The telecommunication companies appear to have made their further submissions on this point in error, as they cite opposition to blanket non-complying rules for network utilities in ASCVs as their reason for opposing Forest and Bird's original submission, but the original submission point does not relate to network utilities activities. However, see discussion of Forest and Bird's submission OS958.93 and related further submissions from the telecommunication companies, in the section on network utilities activities in ASCVs, below.

Recommendations

The submissions of STOP and Forest and Bird outlined above request non-complying activity status for a wide range of activities. Responses are given in relation to groups of related activities, under the relevant subheadings set out below.

Land use activities that are permitted in ASCVs

In terms of the land use activities that are permitted in ASCVs (see background above), I consider that the scale and intensity of these land use activities is such that they are unlikely to lead to adverse effects on biodiversity values in ASCVs. Some of these activities – rural research, rural tourism, community and leisure and working from home (e.g. visitor accommodation up to 5 guests) – may be associated with conservation activities that would benefit the ASCV.

I note that additional rules, described above, apply to any development activities (e.g. earthworks or vegetation clearance) that may be proposed in conjunction with these land use activities.

Overall, therefore, in my view, permitted activity status for these land use activities is the most appropriate way to achieve relevant 2GP objectives, in particular Objective 16.2.1 and Objective 10.2.1.

Land use activities that are discretionary in ASCVs

I note that no land use activities are restricted discretionary in ASCVs in the plan as notified. My recommendations on whether any of the notified discretionary land use activities should become non-complying in ASCVs are set out below.

For the purposes of this Plan, licensed premises are not a stand-alone activity and are always treated as secondary to the activity that is selling the alcohol, for example food and beverage retail, restaurant, dairy, visitor accommodation, sport and recreation. Most of these activities are non-complying in ASCVs – but see discussion of the proposed discretionary status in ASCVs for sport and recreation, and restaurants and retail ancillary to sport and recreation, immediately below.

The assessment rules for each of the discretionary activities (i.e. rural research - large scale, rural tourism - large scale, community and leisure - large scale, sport and recreation, and restaurants or retail activities ancillary to sport and recreation) are set out in Rule 16.11.2 and, in relation to potential effects on ASCVs, Rule 10.6.2.6. Under Rule 10.6.2.6, activities must meet Policy 10.2.1.2 (set out in the background section above) – meaning that they are only to be allowed where they “will have net positive effects on the protection and enhancement of the biodiversity values of the Scheduled ASCV”. In my view this is a strong policy test, which provides appropriate protection to the biodiversity values of ASCVs from the potential adverse effects of these activities. Again, I note that additional rules apply to any new buildings, structures, vegetation clearance, earthworks or other site development activities that may be associated with these land use activities in ASCVs.

In addition, some of these discretionary activities – in particular rural research, rural tourism and community and leisure – may be associated with conservation activities that would benefit the biodiversity values of the ASCV.

Overall, I do not consider it necessary to amend the status of any of these activities from discretionary to non-complying.

With regard to Penguin Place’s further submission requesting that rural tourism – large scale be made permitted (rather than non-complying as requested by Forest and Bird and STOP), putting aside any issues with whether there is scope to consider this request as a further submission, I do not consider that this would be appropriate.

Activities of this type can involve regular attendance at a site, with each visit introducing significant numbers of people to the site (noting that rural tourism – large scale consists of those activities that exceed the following attendance rate: “25 people or fewer per day, except for a maximum of 10 days per calendar year an attendance rate of 26 to 50 people per day with more than 25 people attending the site on more than 10 days per calendar year”). I consider that the use of any site at this intensity has the potential to result in adverse effects on the biodiversity values contained within the ASCV (e.g. on a resident population of yellow-eyed penguins), and, therefore, that this activity should be managed via a consent process. Regardless of the activity status of new rural tourism – large scale activities in ASCVs, Penguin Place’s existing ecotourism operation (provided that it was originally legally established) has existing use rights under section 10 of the RMA. In addition, I note that, as discussed above, the boundaries of ASCV C090 are subject to ongoing mediation; this may have implications for whether or not the ASCV covers the area of land used for ecotourism.

Development activities in ASCVs – Accept in part (Amendments 1 to 3)

In terms of the development activities, overall, I consider that activity statuses should remain as notified, except that, for reasons discussed below, I recommend that the following activities be made restricted discretionary rather than permitted in ASCVs:

- New buildings greater than 60m² on a landscape building platform
- Tree planting

Rule 16.3.4.3: New buildings greater than 60m² on a landscape building platform:

The notified status of the above activity in ASCVs is permitted. However, under Rule 10.8.1, landscape building platforms are identified based on an assessment of landscape and natural character values; the process of identifying a landscape building platform will not necessarily take into account potential effects on biodiversity values. Therefore, I recommend that, in order to ensure protection of biodiversity values in ASCVs as sought by the submitter, the status of this activity should be amended to restricted discretionary. This would align it with the notified activity status for other new buildings greater than 60m², discussed below. For reasons discussed below, I do not consider that non-complying status for buildings over 60m² in ASCVs is necessary to protect these areas.

Rule 16.3.4.4: New building or structure less than or equal to 60m² or additions and alterations that result in a building or structure that is less than or equal to 60m², Rule 16.3.4.6: Fences, and Rule 16.3.4.15: Earthworks – small scale:

The notified status of the above activities in ASCVs is permitted. I consider that this activity status appropriately provides for the establishment of small scale structures and earthworks that are unlikely to result in adverse effects on biodiversity values.

I note that, in order to be treated as “earthworks – small scale” in ASCVs, earthworks must comply with a particularly low set of scale thresholds (in comparison with other areas), as set out in Rule 16.6.1.1.a.5. The three limits in place under this rule are as follows:

- Maximum change in ground level = 0.5m
- Maximum area = 25m²
- Maximum volume of combined cut and fill = 1m³, except on slopes of 26° to 35° where no fill is permitted, and on slopes greater than 35° where no cut or fill is permitted.

Rule 16.3.4.5: New building or structure greater than 60m², or additions and alterations that result in a building or structure that is greater than 60m², Rule 16.3.4.16: Earthworks – large scale:

The notified status of the above activities in ASCVs is restricted discretionary. Proposed activities of this kind are assessed against Policy 10.2.1.2. Under this policy (incorporating changes recommended elsewhere in this report in response to submissions), the following test must be met:

The activities are only allowed if they “will have net positive effects on the protection and enhancement of the biodiversity values of the Scheduled ASCV including, but not limited to, those biodiversity values listed in Schedule A1.2”. {NatEnv690.8}”

Rule 10.5.2.7 also states that potential circumstances that may support a consent application include the following:

- “iv. Development activities are associated with conservation.
- v. Measures are proposed to protect or enhance the biodiversity values of the area of significant conservation.”

In my view, these provisions provide sufficient protection for the biodiversity values of ASCVs from the potential effects of larger buildings and structures and larger earthworks. I do not consider that non-complying activity status is appropriate in this case, because these development activities will not necessarily result in significant adverse effects on areas of significant indigenous vegetation and/or significant habitats of indigenous fauna that are identified in ASCVs. The magnitude of any adverse effect could be influenced by a range of factors, including the circumstances set out in Rules 10.5.2.7.iv or v, and the size of the building/structure, and of the cut and/or fill involved in the earthworks, and the location of the activity in relation to vegetation and habitats.

Rule 16.3.4.7: all other buildings and structures activities (RD in ASCVs, recommended change to P):

For reasons discussed in section 5.11.1, below, I have recommended in response to submissions that the status of this activity be changed to permitted.

I do not consider that non-complying activity status is appropriate in this case, because, where no vegetation clearance is involved, these development activities are unlikely to result in adverse effects on the areas of significant indigenous vegetation and/or significant habitats of indigenous fauna that are identified in ASCVs.

Rule 16.3.4.17: Outdoor storage, Rule 16.3.4.19: Parking, loading and access, and Rule 16.3.4.22: Storage and use of hazardous substances:

In my view, if the above activities do not involve earthworks or vegetation clearance (which are subject to separate 2GP provisions), it is unlikely that they will result in adverse effects on the areas of significant indigenous vegetation and/or significant habitats of indigenous fauna that are identified in ASCVs. Therefore, I consider that permitted activity status is appropriate for these activities.

Rule 16.3.4.20: Indigenous vegetation clearance:

Indigenous vegetation clearance is restricted discretionary in ASCVs, as well as being subject to the performance standards on vegetation clearance set out in Rule 10.3.2. Proposed indigenous vegetation clearance in ASCVs is assessed against Policy 10.2.1.4. Under this policy, the following test must be met:

The activity is only allowed where the biodiversity values of the area of indigenous vegetation are maintained or enhanced.

Rule 10.5.2.7 also states that potential circumstances that may support a consent application include the following:

- iv. Development activities are associated with conservation.
- v. Measures are proposed to protect or enhance the biodiversity values of the area of significant conservation."

In my view, these provisions provide sufficient protection for the biodiversity values of ASCVs from the potential effects of indigenous vegetation clearance. I do not consider that non-complying activity status is appropriate in this case, because clearance of indigenous vegetation in one part of an ASCV may be consistent with the maintenance or enhancement of the biodiversity values of the ASCV as a whole, if either or both of the circumstances set out in Rule 10.5.2.7 apply. In addition, the area of vegetation clearance, the species of vegetation being cleared, and the presence of indigenous fauna in the affected area, will influence the magnitude of any adverse effect.

Rule 16.3.4.21: All other vegetation clearance:

Vegetation clearance other than indigenous vegetation clearance is permitted, subject to the performance standards set out in Rule 10.3.2. Most of the Rule 10.3.2 performance standards apply only to indigenous vegetation clearance, but Rule 10.3.2.3 is relevant to all vegetation clearance in ASCVs. This rule controls vegetation clearance:

- within 20m of scheduled wetlands, and
- within 5m of the mean high water springs or water bodies.

Submissions on Rule 10.3.2.3 are discussed in the section 5.8.7 of this report, above.

I note that vegetation clearance that does not affect "indigenous vegetation" (which is defined in the plan as vegetation that is at least 20 or

30% indigenous, depending on the circumstances – see submissions on this definition in section 5.8.1) and that is not controlled under Rule 10.3.2.3 might still affect the habitats of indigenous fauna and, therefore, could adversely affect the protected biodiversity values of ASCVs. In my view, this matter should be discussed at the hearing with input from Dr Kelvin Lloyd of Wildlands Consultants Ltd.

Rule 16.3.4.23: Tree planting (P in ASCVs):

Tree planting is permitted in ASCVs. This activity, including amendments recommended in the Rural Zones section 42A report, is defined as: "The planting of tree species ~~in~~ as a shelter belt or small woodlot (less than one hectare) a group or row {RU 853.6} for the purpose of shelter, screening, stability or erosion control, as a carbon sink {RU 853.6} or for timber use on the same property as which it is grown. This definition excludes activities defined as forestry or conservation..."

In addition to STOP and Forest and Bird's submissions in the table above, that tree planting should be non-complying in ASCVs, another submission point made by both STOP (OS900.144) and Forest and Bird (OS958.24) is relevant to this matter. In this latter submission point, which is also discussed in the section 5.9 of this report, STOP and Forest and Bird seek that 2GP policies be amended to "avoid exotic tree planting into areas of indigenous vegetation". They note that exotic tree planting can adversely affect the water harvesting values of catchments, as well as indigenous biodiversity values, and that the proposed ORC Regional Policy Statement contains policy 2.1.6 (d) Protect important hydrological services, including the services provided by tussock grassland.

In relation to this request, I note that a number of provisions in the 2GP as notified partially achieve the outcomes sought by the submitters, in relation to areas of indigenous vegetation that are within ASCVs. These provisions are as follows:

- Under Rule 16.3.3.7, the planting of exotic trees in ASCVs as part of a forestry activity is a non-complying activity.
- Rule 10.3.2 limits: indigenous vegetation clearance over a certain area throughout the city (not only in ASCVs); any indigenous vegetation clearance near wetlands, water bodies and the coast; and any clearance of certain threatened or mature indigenous species throughout the city. This limits the potential extent of exotic planting in areas of indigenous vegetation, given that, for large-scale plantings, clearance of existing indigenous vegetation is likely to be necessary prior to new species being planted.
- Under Rule 10.3.4, tree planting in ASCVs (and elsewhere in the city) must avoid the use of species prone to wilding such as Lodgepole/contorta pine, Scots pine and Douglas fir. See section 5.9.2 of this report for details of recommended changes to Rule 10.3.4 in response to submissions.

However, I agree with the submitters that a greater degree of control over tree planting in general in ASCVs is warranted. Given that this activity may include the planting of groups of trees up to one hectare in area, if carried out within ASCVs it has the potential to adversely affect the biodiversity values of the area. This may occur, for example, if exotic species are planted, or if species are planted that are indigenous to New Zealand but are not characteristic of the particular ASCV concerned. Therefore, I consider that tree planting should be restricted discretionary in ASCVs, and that Policy 10.2.1.2 and assessment Rule 10.5.2.7 should apply.

Under Policy 10.2.1.2, tree planting in ASCVs would only be allowed if the activity "will have net positive effects on the protection and enhancement of the biodiversity values of the Scheduled ASCV including, but not limited to, those biodiversity values listed in Schedule A1.2."

Any planting of trees that was part of a conservation activity – for example, restoration planting – would not be subject to controls on the "tree

planting" development activity.

I do not agree with Forest and Bird and STOP that tree planting should be non-complying in ASCVs, or that all planting of exotic trees should be non-complying in all areas of indigenous vegetation (including ASCVs), for the following reasons:

- I do not agree that non-complying activity status is justified for tree planting in ASCVs, since there may be circumstances in which this can occur as part of a wider activity that is consistent with Objective 10.2.1 (i.e. areas of indigenous vegetation/habitats of indigenous fauna are maintained or enhanced). This could be the case, for example: if the species planted provided a habitat for indigenous fauna; if the species to be planted was already established in the area; or if measures were proposed that would enhance the area in other ways.
- The 2GP manages forestry and "tree planting" (i.e. shelterbelts and small woodlots up to one hectare) but does not manage the planting of individual trees. It would not be practical to seek to manage planting on this small scale through rules in the plan, as it would be very difficult to enforce; breaches of the rules would be unlikely to come to the Council's attention. In my view, rules of this type would also be unnecessarily onerous; they would impose a significant regulatory burden on landowners, but would not be an efficient means of protecting areas of indigenous vegetation. This is particularly true given that areas of indigenous vegetation (ASCVs included) do not generally consist exclusively of indigenous species; indigenous species are "dominant" in these areas, either (1) indigenous species comprise at least 30% coverage by area or 30% of the total number of specimens present; or (2) indigenous species comprise at least 20% coverage and also make up the tallest stratum of vegetation or are visually conspicuous). This makes it more difficult to justify preventing landowners from planting any additional exotic tree species (i.e. not just those species that are prone to wilding spread) in these areas.

Rule 16.3.4.24: All other site development activities (P in ASCVs):

Under this rule, all site development activities other than those provided for in Rules 16.3.4.15 to 16.3.4.23 are permitted in ASCVs. However, Rules 16.3.4.15 to 16.3.4.23 cover all types of "site development" activity listed in the Development Activity Category in 2GP Section 1.6 Nested Tables, i.e. earthworks, outdoor storage, parking, loading and access, storage and use of hazardous substances, tree planting and vegetation clearance.

Rule 16.3.4.24, therefore, applies only to types of site development activity that have not been anticipated during the drafting of the 2GP. In my view, if such an activity does not involve earthworks, vegetation clearance or hazardous substances (all of which are subject to separate 2GP provisions), it is unlikely that it will result in adverse effects on the areas of significant indigenous vegetation and/or significant habitats of indigenous fauna that are identified in ASCVs. Therefore, I consider that permitted activity status is appropriate in this case.

Subdivision activities in ASCVs

I do not agree with STOP and Forest and Bird's submissions that subdivision should be non-complying in ASCVs in order to protect biodiversity values. I consider that there will be circumstances where subdivision may be contemplated in these areas and be viewed as beneficial to the management and values of these areas. I note an exemption (Rule 16.7.4.2.a) to the minimum site size standard for the creation of sites used solely for an ASCV or QEII covenant. Making subdivision a non-complying activity means that this standard and associated exemption would not apply, making it more difficult to create smaller sites specifically for conservation purposes.

I also consider the revised minimum site size standard for the rural zones, ranging from 25ha to 100ha, will make it more difficult to undertake a subdivision activity that would adversely affect smaller areas (which ONF, ONCC, HNCC overlay zones tend to be). Further, I note assessment rule 10.5.2.2 which requires assessment of the effects of all rural general subdivision activities on areas of indigenous vegetation and the habitat of indigenous fauna. There are also subdivision assessment rules relating to ASCVs, which require assessment of the effects of subdivision on biodiversity. I consider these assessment rules to provide sufficient scope to manage any potential adverse effects of subdivision on these areas.

Network utilities activities in ASCVs

As indicated in the background section, many network utilities activities are restricted discretionary or discretionary in ASCVs. The relevant policies and assessment rules allow for the effects of these activities on the protected values of ASCVs to be assessed and controlled. In addition, where network utilities activities are permitted in ASCVs, any associated earthworks or vegetation clearance nevertheless need to comply with relevant performance standards.

In my view, therefore, 2GP provisions as notified provide for appropriate protection of indigenous biodiversity in ASCVs from the potential adverse effects of these activities, and I do not agree with Forest and Bird's submission that the activity status needs to be changed to non-complying in order to protect biodiversity values.

I consider that changing the activity status of all network utilities and energy generation activities in ASCVs from permitted, restricted discretionary or discretionary (as relevant) to non-complying would be inconsistent with Part 2 of the RMA, with regard to enabling people and communities to provide for their social, economic and cultural well-being. In addition, with regard to the activities associated with renewable electricity generation, I consider that the requested change to non-complying activity status would be inconsistent with the National Policy Statement for Renewable Electricity Generation (NPSREG), which requires councils to provide for REG activities. In order to recognise both the importance of protecting indigenous biodiversity in ASCVs and the importance of providing for REG, the approach taken in the 2GP as notified is to reserve non-complying status in ASCVs for those REG activities that consist of the largest structures and have the greatest potential effects on biodiversity, i.e.: wind generators – community scale; solar panels, wind generators and hydro generators – regional scale; and biomass generators – stand alone.

Recommended amendment:

Amendment One

Amend Rule 16.3.4.3.d as follows, so that new buildings greater than 60m² on a landscape building platform are restricted discretionary rather than permitted in ASCVs:

P RD {NatEnv 958.107}

(NB no amendments are required to any policy or assessment rule as a consequence of the recommended change to Rule 16.3.4.3.d, since amendments recommended elsewhere to Policy 10.2.1.2 and Rule 10.5.2.7 will mean that these provisions apply to all large buildings in ASCVs)

Amendment Two

Amend Rule 16.3.4.23.d as follows, so that tree planting is restricted discretionary rather than permitted in ASCVs:

P RD {NatEnv 958.107}

Amendment Three

In consequence of the above amendment to Rule 16.3.4.23.d, add tree planting to the list of activities covered by assessment Rule 10.5.2.7 as follows:

In a Scheduled ASCV:

- ...
- Earthworks - large scale (that exceed the scale thresholds for a Scheduled ASCV)
- Tree planting {NatEnv958.107}

5.12.2 Activity status of farming, grazing and forestry in landscape and natural coastal character overlays

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
OS185.4 OS185.5	JWB Bradley Family Trust	I seek to have the above provision amended	Amend Rule so that forestry is a permitted activity in the Flagstaff-Mt Cargill Significant Natural Landscape Overlay Zone	Reject	Do not amend rule as requested.
FS2267.142	Harboursides and Peninsula Preservation Coalition	I oppose the submission	Oppose OS185.4. Disallow submission and change activity status of forestry to non-complying in significant natural landscape and natural coastal character overlay zones.	Accept in part	Do not amend Rule 16.3 as requested.
FS2456.108	Kati Huirapa Runaka ki Puketeraki and Te Runanga o Otakou	I oppose the submission	Oppose OS185.5. Disallow submission.	Accept	Do not amend Rule 16.3 as requested.
OS289.9	Chris Walker	I oppose the provision	Amend Rule 17.3.3 so that farming and grazing are permitted in the Outstanding Natural Feature Overlay Zone and amend	Accept	No amendment required. The decision sought is already

			Rule 17.3.4 so that fences and all other vegetation clearance are permitted in the Outstanding Natural Feature Overlay Zone.		provided for in the 2GP.
OS355.7	Robert George & Sharron Margaret Morris	I seek to have the above provision amended	Amend Rule 16.3.3 so that farming, grazing and forestry are permitted in all zones	Reject	Do not amend Rule 16.3.3 as requested.
OS461.5	Bruce Mark Norrish	I seek to have the above provision amended	Amend Rule 16.3 so that farming and forestry are always permitted activities (inferred not stated)	Reject	Do not amend Rule 16.3 as requested.
OS505.3	Christopher Kilpatrick	I seek to have the above provision amended	Amend Rule 16.3.3.7.b so that forestry is permitted in a Significant Natural Landscape (inferred not stated)	Reject	Do not amend Rule 16.3.3.7.b as requested.
FS2456.81	Kati Huirapa Runaka ki Puketeraki and Te Runanga o Otakou	I oppose the submission	Oppose OS505.3. Disallow submission.	Accept	Do not amend Rule 16.3.3.7.b as requested.
OS858.1	Denise von Hardenbroek	I seek to have the above provision amended	Amend Rule 16.3.3.7.b so that small-scale forestry in a Significant Natural Landscape is a permitted activity (inferred not stated)	Reject	Do not amend Rule 16.3.3.7.b as requested.
OS926.2	David Graham	I seek to have the above provision amended	Amend Rule 16.3.3.7 so that the harvesting of forestry in an Outstanding Natural Landscape Overlay Zone is a permitted activity (inferred not stated)	Reject	Do not amend Rule 16.3.3.7 as requested.
OS951.42 OS1054.42	Timothy George Morris Timothy Morris (on behalf of RG and SM Morris Family Trust)	I seek to have the above provision amended	Amend Rule 16.3.3.7 so that forestry is a permitted activity in landscape and natural coastal character overlay zones	Reject	Do not amend Rule 16.3.3.7 as requested.
OS997.90	Construction Industry and Developers	I seek to have the above provision amended	Amend Rule 17.3.3 so that activity status for forestry in relation to Outstanding Natural Feature and High Natural Coastal	Reject	Retain Rule 17.3.3.4 without amendment.

	Association		Character overlay zones changes from non-complying to discretionary		
FS2267.132	Harboursides and Peninsula Preservation Coalition	I oppose the submission	Oppose OS997.90. Disallow submission.	Accept	Retain Rule 17.3.3.4 without amendment.
FS2449.361	Federated Farmers of New Zealand	I support the submission	Support OS997.90. Allow submission.	Reject	Retain Rule 17.3.3.4 without amendment.

Background

Under Rules 16.3.3 and 17.3.3 as notified:

- Farming and grazing are permitted activities in all landscape and natural coastal character overlay zones
- Forestry is a restricted discretionary activity in ONL, SNL and NCC overlay zones, reflecting the more extensive areas covered by SNL, ONL and NCC overlays
- Forestry is a non-complying activity in ONF, ONCC and HNCC overlay zones because these are relatively limited in spatial extent as well as being of particularly high value.

In relation to submissions on forestry, discussed below, I note that the definitions of forestry and tree planting, incorporating amendments recommended in the Plan Overview and Rural Zones section 42A reports, are as follows:

Forestry:

"The use of land and buildings for the purpose of growing trees for commercial timber, wood pulp, wood products, or for use as a carbon sink.

Examples of component activities are:

- preparation of land for planting of trees
- planting of trees
- tending of trees
- harvesting of trees
- the use of portable sawmills
- the sale of firewood produced from the property
- replanting of trees
- necessary infrastructure including roads and forestry landings (i.e. skid sites); and
- on-site extraction and processing of aggregate for the sole purpose of constructing and maintaining access within the property.

This definition excludes:

- the milling and processing of trees, other than with the use of portable sawmills; ~~and excludes small woodlots where the timber is to be used on the same property, either as firewood or other timber products. {RU 853.6}~~
- activities that meet the definition of tree planting. {RU 853.6}

Forestry is an activity in the rural activities category. {PO 576.76 and others}"

Tree planting:

"The planting of tree species ~~in~~ as a shelter belt or small woodlot (less than one hectare) a group or row {RU 853.6} for the purpose of shelter, screening, stability or erosion control, as a carbon sink {RU 853.6} or for timber use on the same property as which it is grown.

This definition excludes activities defined as forestry or conservation.

Tree planting is an activity in the development activities category. {PO 576.76 and others}"

Support for permitted activity status for farming, grazing and related development activities in ONF overlay zones

Chris Walker (OS289.9) seeks that Rules 17.3.3 and 17.3.4 be amended so that farming, grazing, fencing and 'all other vegetation clearance' (i.e. other than indigenous vegetation clearance) are permitted within the ONF Overlay Zone in rural residential zones.

I note that these activities are already permitted in these areas, therefore , no change is required to give relief to this submission. It is likely that use of the 'em-dash' in the activity status tables has led to confusion regarding the activity status that applies in these cases. Please refer to pages 52-55 of the Plan Overview Section 42A Report for discussion and recommendations regarding the use of the em-dash in activity status tables throughout the plan.

Requests for permitted activity status for forestry in landscape and coastal character overlay zones

The JWB Bradley Family Trust (OS185.4 and OS185.5) seeks that forestry be made a permitted activity within the Flagstaff-Mt Cargill Significant Natural Landscape Overlay Zone, in areas where it overlays the Rural Hill Slopes Zone and in areas where it overlays the Rural Residential 2 Zone. This would allow the submitter to make efficient use of their land by harvesting the near mature plantation at 212, 220 and 222 Cowan Road (which was originally approved by the DCC), and by replanting new forestry on the same sites. Similarly, Christopher Kilpatrick (OS505.3) seeks that forestry remain permitted on his property at 140 Upper Junction Road, in order to reduce restrictions on the property, which also falls within the Flagstaff-Mt Cargill Significant Natural Landscape Overlay Zone.

The JWB Bradley Family Trust's submission is opposed by HPPC (FS2267.142), who consider that unnatural plantation forestry is incompatible with a 'natural landscape', and who seek that forestry be made a non-complying activity in significant natural landscape and natural coastal character overlay zones. Both the JWB Bradley Family Trust's and Christopher Kilpatrick's submissions are opposed by Kati Huirapa Runaka ki Puketeraki and Te Runanga o Otakou (FS2456.108 and FS2456.81), who consider that permitted activity status for forestry in the Flagstaff-Mt Cargill Significant Natural Landscape Overlay Zone would not allow consideration of the impact of forestry on Kāi Tahu values where forestry is identified as a threat to the values of wāhi tūpuna.

Denise von Hardenbroek (OS858.1) requests that the planting of native trees and other species as a farm management practice, and the selective harvest of these trees on a sustainable rotation, be a permitted activity within the Maungatua Significant Natural Landscape Overlay Zone. Ms Hardenbroek owns property within this overlay zone and intends, as part of the management of this property, to carry out selective logging based on a sustainable management regime. This may mean harvesting small areas, and replanting these areas following harvest. Ms

Hardenbroek is concerned that the proposed resource consent requirement would result in uncertainty and delays in harvesting and replanting these areas.

David Graham (OS926.2) requests that the harvesting of trees in their natural rotation be made a permitted activity at 1257 Hindon Road, part of which lies within the High Country Outstanding Natural Landscape Overlay Zone. In Mr Graham's view, if this is not done this would amount to a refusal to allow the harvesting of the forest.

Timothy George Morris (OS951.42) and Timothy Morris (on behalf of RG and SM Morris Family Trust) (OS1054.42) seek that Rule 16.3.3.7 be amended so that forestry becomes a permitted activity in the ONL, SNL, NCC, ONF, ONCC and HNCC overlay zones.

Request for discretionary activity status for forestry in ONFs and HNCCs

The Construction Industry and Developers Association (CIDA) (OS997.90) seeks that Rule 17.3.3 be amended so that activity status for forestry in ONF and HNCC overlay zones changes from non-complying to discretionary. CIDA considers that, as notified, the 2GP does not provide enough flexibility for activities and development to proceed in a financially viable way.

CIDA's submission is supported by Federated Farmers (FS2449.361), which consider that discretionary activity status would be more appropriate and workable for the zones specified, and would be a more effects-based approach. CIDA's submission is opposed by HPPC (FS2267.132), who consider that non-complying activity status should be retained, in order to allow for a full assessment of potential effects.

Request for more restrictive activity status for forestry in SNLs and ONLs

STOP request that forestry be removed from Policies 10.2.5.6 and 10.2.5.7, which list activities that are restricted discretionary or discretionary in ONLs and SNLs. STOP's submission point on these matters (OS900.57 and OS900.5) were lodged against Policies 10.2.5.6 and 10.2.5.7, and are therefore listed in the tables in sections 5.4.29 and 5.4.30 of this report. I take these submission points to mean that STOP seek non-complying activity status for forestry in ONLs and SNLs. As set out in sections 5.4.29 and 5.4.30, STOP's submissions on these matters are opposed by a number of further submitters.

Recommendations - activity status for forestry in landscape and coastal character overlay zones

Many of the above submitters have requested permitted activity status for forestry in overlay zones because they are concerned that the proposed change in rules will remove their rights to harvest and/or replant existing areas of forestry on their land. All lawfully established existing forestry activities in overlay zones (or elsewhere) have existing use rights under section 10 of the RMA, meaning that, provided the character, intensity or scale of the forestry activity does not change, no resource consent would be required to harvest existing forest or to replant forest that has been harvested. 2GP rules will only apply to new or expanded forestry activities. However, it should be noted that existing use rights are lost when an activity is discontinued for a continuous period of more than 12 months.

In my view, it is appropriate to require resource consent for new or expanded forestry activities in landscape and coastal character overlay zones. I note that under the definitions of forestry and tree planting, including amendments recommended in the Rural Zones section 42A

report, woodlots of up to one hectare are excluded from the definition of forestry. These smaller woodlots would be treated as tree planting, and would, therefore, be permitted in SNLs, ONLs and NCCs and would only require consent (as restricted discretionary activities) in ONCCs, HNCCs and ONFs. In my view, forestry of one hectare or more within landscape and coastal character overlay zones has the potential to adversely affect landscape and coastal character values. In addition, as highlighted in the Runaka's further submission, in cases where the overlay zone contains wāhi tūpuna, Manawhenua values may be threatened.

As introduced above, 2GP rules have been designed so that restricted discretionary status applies to forestry in the more extensive SNL, ONL and NCC overlays, with non-complying status applying only in ONCCs, HNCCs and ONFs, which are relatively limited in spatial extent as well as being of particularly high value. I consider that these rules are the most appropriate means of achieving Objectives 10.2.3 and 10.2.5, and strike an appropriate balance between providing for rural activities in rural zones and fulfilling the Council's duty under section 6 of the RMA to protect the natural character of the coastal environment and outstanding natural features and landscapes from inappropriate use, and to provide for the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga.

Recommended amendment:

None.

5.12.3 Activity status of mining and landfills in landscape and natural coastal character overlays

Sub pt #	Submitter Name	Support/Oppose/ Seek Amend	Summary Of Submission	Accept/Reject/ Accept in part	Staff Recommendation
OS447.75	Harboursides and Peninsula Preservation Coalition	I seek to have the above provision amended	Amend Rule 16.3.3.10 (Landfills not in a GR1TZ) by changing the activity status as follows: Non-complying in the Outstanding Natural Landscape Overlay Zone, Significant Natural Landscape Overlay Zone and Natural Coastal Character Overlay Zone (column b); Prohibited in the Outstanding Natural Feature Overlay Zone, Outstanding Natural Coastal Character Overlay Zone and High Natural Coastal Character Overlay Zone (column c); Prohibited in a Scheduled Area of Significant Conservation Value (column d). Make consequential changes to Rule	Reject or accept in part only in relation to amending to non-complying activity status in ONL.	Retain discretionary activity status for landfills in SNLs, NCCs and non-complying status in ONF, ONCC and HNCC and ASCV. Either retain discretionary activity status for landfills in ONL or amend to non-complying as shown below.
OS900.109	Save The Otago Peninsula (STOP) Inc Soc				

			16.12.3 (assessment of non-complying land use activities).		
FS2444.18	Waste Management (NZ) Limited	I oppose the submission	Oppose OS447.75. Disallow submission	Accept or accept in part depending on option chosen for activity status in ONLs	Retain discretionary activity status for landfills in SNLs, NCCs and non-complying status in ONF, ONCC and HNCC and ASCV. Either retain discretionary activity status for landfills in ONL or amend to non-complying as shown below.
FS2449.313	Federated Farmers of New Zealand	I oppose the submission	Oppose OS447.75. Disallow submission.	Accept or accept in part depending on option chosen for activity status in ONLs	Retain discretionary activity status for landfills in SNLs, NCCs and non-complying status in ONF, ONCC and HNCC and ASCV. Either retain discretionary activity status for landfills in ONL or amend to non-complying as shown below.
FS2449.312	Federated Farmers of New Zealand	I oppose the submission	Oppose OS900.109. Disallow submission.	Accept or accept in part depending on option chosen for activity status in ONLs	Retain discretionary activity status for landfills in SNLs, NCCs and non-complying status in ONF, ONCC and

					HNCC and ASCV. Either retain discretionary activity status for landfills in ONL or amend to non-complying as shown below.
OS447.76 OS900.110	Harboursides and Peninsula Preservation Coalition Save The Otago Peninsula (STOP) Inc Soc	I seek to have the above provision amended	Amend Rule 16.3.3.13 (Mining not in a GR1TZ) by changing the activity status as follows: Non-complying in the Outstanding Natural Landscape Overlay Zone, Significant Natural Landscape Overlay Zone and Natural Coastal Character Overlay Zone (column b); Prohibited in the Outstanding Natural Feature Overlay Zone, Outstanding Natural Coastal Character Overlay Zone and High Natural Coastal Character Overlay Zone (column c); Prohibited in a Scheduled Area of Significant Conservation Value (column d). Make consequential changes to Rule 16.12.3 (assessment of non-complying land use activities).	Reject or accept in part only in relation to amending to non-complying activity status in ONL.	Retain discretionary activity status for mining in SNLs, NCCs and non-complying status in ONF, ONCC and HNCC and ASCV. Either retain discretionary activity status for mining in ONL or amend to non-complying as shown below.
FS2439.64	Oceana Gold (New Zealand) Limited	I oppose the submission	Oppose OS447.76. Disallow submission and retain Rule 16.3.3.13 as proposed in the 2GP, subject to the addition of a new rural activity as requested in Oceana Gold's original submission.	Accept or accept in part depending on option chosen for activity status in ONLs	Retain discretionary activity status for mining in SNLs, NCCs and non-complying status in ONF, ONCC and HNCC and ASCV. Either retain discretionary activity status for mining in

					ONL or amend to non-complying as shown below.
FS2439.65	Oceana Gold (New Zealand) Limited	I oppose the submission	Oppose OS900.110. Disallow submission and retain Rule 16.3.3.13 as proposed in the 2GP, subject to the addition of a new rural activity as requested in Oceana Gold's original submission.	Accept or accept in part depending on option chosen for activity status in ONLs	Retain discretionary activity status for mining in SNLs, NCCs and non-complying status in ONF, ONCC and HNCC and ASCV. Either retain discretionary activity status for mining in ONL or amend to non-complying as shown below.
OS458.26	Saddle Views Estate Limited	I oppose the provision	Amend Rule 16.3.3.13 so that mining is a discretionary activity in an landscape or natural coastal character overlay zone	Reject	Do not amend Rule 16.3.3.13 as requested.
FS2456.82	Kati Huirapa Runaka ki Puketeraki and Te Runanga o Otakou	I oppose the submission	Oppose OS458.26. Disallow submission.	Accept	Do not amend Rule 16.3.3.13 as requested.
OS447.101	Harboursides and Peninsula Preservation Coalition	I seek to have the above provision amended	Add new Rule 16.12.3.9 with activities: In the ONL, ONF and SNL overlay zone: •Landfills •Mining not in a GR1TZ and guidance: See Section 10.7 for guidance on the assessment of resource consents in relation to Objective 10.2.5 and the effects related to landscape values	Reject or accept in part depending on option chosen for mining and landfills in an ONL.	Either do not make changes requested or amend rule 16.12.3.9 to add assessment rule for ONLs in line with activity status change to non-complying.
FS2439.68	Oceana Gold (New Zealand) Limited	I oppose the submission	Oppose OS447.101. Disallow submission.	Accept or accept in part	Either do not make any changes

				depending on option chosen for activity status in ONLs	requested or amend rule 16.12.3.9 to add assessment rule for ONLs in line with activity status change to non-complying.
FS2444.19	Waste Management (NZ) Limited	I oppose the submission	Oppose OS447.101. Disallow submission	Accept or accept in part depending on option chosen for activity status in ONLs	Either do not make any changes requested or amend rule 16.12.3.9 to add assessment rule for ONLs in line with activity status change to non-complying.

Background

Under Rules 16.3.3.10 and 16.3.3.13, both landfills and mining in rural zones (outside General Residential 1 Transition Overlay Zones) are discretionary activities within ONL, SNL and NCC overlay zones, non-complying activities within ONF, ONCC and HNCC overlay zones.

Activity status for mining and landfills

Landfills

HPPC (OS447.75) and STOP (OS900.109) seek that Rule 16.3.3.10 be amended so that landfills are made a non-complying activity within ONL, SNL and NCC overlay zones, and a prohibited activity within ONF, ONCC and HNCC overlay zones. The submitters consider that these changes are necessary "to assist in maintaining a natural appearance within the rural areas that have landscape protections." As a consequential change, HPPC (OS447.101) also seeks that Rule 16.12.3 (Assessment of non-complying activities) be amended to add appropriate assessment rules to cover mining and landfills in these areas. HPPC (OS447.75) is opposed by Waste Management (NZ) Limited (FS2444.18, FS2444.19) because the submitter would like to be involved in any discussions regarding rules about landfill activity. Federated Farmers (FS2449.312 and FS2449.313) oppose both submissions, as they consider that the outcomes requested "go considerably beyond the sustainable management principles and intent of the RMA, its associated case law and the intent of the 2GP."

Mining

HPPC (OS447.76) and STOP (OS900.110) also seek that Rule 16.3.3.13 be amended so that mining are made a non-complying activity within ONL, SNL and NCC overlay zones, and a prohibited activity within ONF, ONCC and HNCC overlay zones. The submitters consider that these

changes are necessary "to assist in maintaining a natural appearance within the rural areas that have landscape protections." These submissions are opposed by Oceana Gold (New Zealand) Limited (FS2439.64 and FS2439.65, FS2439.68) as the submitter prefers the rule as notified, subject to the addition of a new rural activity as requested in their original submission.

Saddle Views Estate Limited (OS458.26) seeks that Rule 16.3.3.13 be amended so that mining is a discretionary activity in any landscape or natural coastal character overlay zone. This outcome is sought on the grounds that the Saddle Hill quarry is existing and has been confirmed by the High Court as having a resource consent to operate; in the submitter's view, the proposed 2GP rule framework does not reflect the existing activity or consent. The submitter does not consider the notified approach to be efficient or effective in addressing Part 2 of the RMA. I also note that Saddle Hill Views Estate (OS458.29, OS458.55) seeks to remove the Outstanding Natural Feature and Significant Natural Landscape overlays applying to its site. These submissions are addressed section 5.15 below.

This submission is opposed by Kati Huirapa Runaka ki Puketeraki and Te Runanga o Otakou (FS2456.82) on the basis that mining potentially has significant adverse impacts on Kāi Tahu values in wāhi tūpuna; therefore, the Runaka consider that its activity status should be at the highest possible level to provide for full consideration of its impacts on Kāi Tahu.

In consequence of their requested changes to the activity statuses of mining and landfills, HPPC (OS447.25) and STOP (OS900.5) also request that mining and landfills be removed from Policies 10.2.5.6 and 10.2.5.7, which lists activities that are restricted discretionary or discretionary in ONLs and SNLs. HPPC and STOP's submission points on this matter were lodged against the policies, and are therefore listed in the tables in sections 5.4.29 and 5.4.30 of this report. As set out in sections 5.4.29 and 5.4.30, these submission points are opposed by a number of further submissions.

Recommendations

In response to Saddle Views Estate Limited's request that Rule 16.3.3.13 be amended so that mining is a discretionary activity in ONFs, ONCCs and HNCCs (it is already discretionary in the other landscape overlays) I consider that the non-complying activity status in these overlays is appropriate and I recommend that no amendment is made for these overlays.

As stated in the Landscape Section 32 report, ONFs are features of high importance, with a very limited capacity for any use or development and they warrant a very high level of protection. The non-complying status in ONCCs and HNCCs also promote the purpose of the RMA by recognising areas of outstanding or high natural coastal character and providing a high level of protection for their biodiversity values and natural character. The quarry on the lower of Saddle Hill's two hills lies within an ONF overlay, surrounded by an adjacent area of SNL overlay. The ONF overlay recognises the high natural character, cultural and aesthetic values of the upper part of Saddle Hill which according to advice prepared for the 2GP, warrants its protection in terms of Section 6(b) of the RMA (Read, 2015: Saddle Hill Landscape Conservation Area Assessment).

In response the request by HPPC and STOP to make landfills and mining non-complying activity within ONL, SNL and NCC overlay zones, I consider that the discretionary activity status is appropriate for mining and landfills in the SNL and NCC overlay zones and recommend that no amendment is made for these overlays. However, I consider that it may be appropriate to change the activity status for mining and landfills in ONLs to non-complying for reasons outlined below.

The 2GP differentiates between different levels of overlay in terms of their tolerance of effects. As discussed above in Section 2.4.4, the policies under Objective 10.2.5 are quite restrictive of activities in the ONFs, while for the ONLs and SNLs it is the level of effects tolerated that provides the main differentiation. There is a very low tolerance of effects in an ONL and a low tolerance of effects in an SNL, which is reflected in wording used in the policies. The coastal character overlays are similarly differentiated, with ONCCs and HNCCs having exceptional and highly significant natural character respectively while the NCC overlays have less than high significance, as reflected in the wording of the policies.

Although both are matters of national importance under s6(b), the 2GP differentiates in the activity status for ONFs and ONLs because ONLs cover much larger areas, while ONFs overlays protect specific/discrete outstanding features. The Section 32 Landscape report considered whether certain land use activities (such as rural industry and factory farming) should be non-complying in ONLs and SNLs, concluding that because the scale of activities can vary, it would be too restrictive to say they should be avoided when they may only be small scale, any buildings or structures and large scale earthworks would require resource consent, and assessment rules require discretionary activities to consider impact on landscape values. As a discretionary activity, mining and landfill applications would also be subject to an assessment of effects on landscape values under section 16.11.2.4. Under notified provisions, Rule 10.6.2.5 of the Natural Environment chapter requires that adverse effects of mining and landfills on the landscape values of the ONL, as identified in Appendix A3, are insignificant (although I note that recommendations in section 5.4.22 of this report would change the policy test for restricted discretionary and discretionary activities in ONLs, as shown below). The policy wording that refers to "insignificant" effects correlates to the strictest (very lowest tolerance) of effects in the 2GP protocol. However, I do consider that it may also be appropriate to send a signal through activity status rules that mining and landfills are not anticipated in an ONL except in exceptional circumstances as for ONF, ONCC, HNCC and ASCV overlays. If the panel prefers this approach the activity status for mining and landfills in ONLs could be amended to non-complying under Rule 16.12.3 as shown below. This will also require consequential changes to be made to policies under Objective 10.2.5 to remove mining and landfills from the 'only allow' policy (10.2.5.6) and to include them in the new 'avoid unless' policy for ONLs (recommended in the Network Utilities section 42A report) as shown below. There would also need to be consequential amendments made to Rules 16.11.2.4 and 16.12.3 to transfer mining and landfills from the discretionary assessment rule to the non-complying assessment rule.

In response to the request by HPPC and STOP to make landfills and mining prohibited in ONF, ONCC and HNCC overlay zones, in my view a non-complying activity status is appropriate for these overlays zones and I recommend that no change is made. Prohibited activity status was considered for mining and landfills on ONFs because of the potentially significant impacts on landform. I agree with the conclusion outlined in the Landscape Section 32 report that is more appropriate to use a non-complying activity status because it indicates that mining and landfills are not anticipated activities, while allowing for exceptional circumstances.

Recommended amendment:

Amendment one

Amend 16.3.3.13 as follows:

<u>Rural activities</u>	Activity status				Performance standards
	a. <u>RU</u>	b. <u>ONL/ SNL/NCC</u>	c. <u>ONE/ ONCC/HNCC</u>	d. <u>ASCV</u>	
13. Mining not in a GR1TZ	D	D+ <u>in SNL/NCC</u> <u>NC in ONL</u> {NatEnv 900.110}	NC	NC	
Landfills not in a GRITZ	D	D+ <u>in SNL/NCC</u> <u>NC in ONL</u> {NatEnv 900.110}	NC	NC	

Amendment two

Amend Policies 10.2.5.6 and 10.2.5.17 as follows, in response to NatEnv900.110, to transfer mining and landfills from the 'only allow' policy to the 'avoid, unless' policy for ONLs:

Policy 10.2.5.6 (note that the text below incorporates amendments recommended in the Network Utilities section 42A report, and elsewhere in this report):

Only allow ~~mining,~~ {NatEnv 900.110} forestry, ~~landfills,~~ {NatEnv 900.110} large buildings and structures, earthworks - large scale, network utilities poles and masts - small scale, network utilities structures - small scale, on-site energy generation devices, energy resource investigation devices, and community scale hydro generators and solar panels, natural hazard mitigation activities, transportation activities, public amenities, {NatEnv 919.12} in the Outstanding Natural Landscape Overlay Zone (ONL) where any adverse effects on the landscape values of the ONL, as identified in Appendix A3, ~~would be insignificant.~~ will be: {NatEnv 874.15}

1. avoided or, if avoidance is not possible, no more than minor; or {NatEnv 874.15}
2. where there are no practicable alternative locations, adequately mitigated. {NatEnv 874.15}

Policy 10.2.5.17 (Note that this recommendation overrides the previous content of this policy recommended in the Network Utilities report, but it incorporates the amendments recommended in the earlier report):

Avoid {NU 764.1 and others} mining, landfills, {NatEnv 900.110} wind generators - community scale, biomass generators - stand-

alone and regional scale energy generation in Outstanding Natural Landscape (ONL) overlay zones unless {NU 764.1 and others} adverse effects on the landscape values of the ONL, as identified in Appendix A3, are insignificant. {NU 308.462}

Amendment three

Consequential amendment to assessment Rules 16.11.2.4 and 16.12.3 to transfer mining and landfills from the discretionary assessment rule to the non-complying assessment rule.

5.12.4 Activity status of other rural land use activities in landscape and natural coastal character overlays

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
OS997.80	Construction Industry and Developers Association	I seek to have the above provision amended	Amend activity status for the following activities in relation to Outstanding Natural Features, Outstanding Natural Character Overlay Zone and High Natural Coastal Character Overlay Zone from non-complying to restricted discretionary: <ul style="list-style-type: none"> Domestic animal boarding and breeding not including dogs. 	Accept	No amendment required. The decision sought is already provided for in the 2GP.
FS2267.122	Harboursides and Peninsula Preservation Coalition	I oppose the submission	Oppose OS997.80. Disallow submission.	Accept	Do not amend activity status as requested.
OS997.91	Construction Industry and Developers Association	I seek to have the above provision amended	Amend Rule 17.3.3 so that activity status for domestic animal boarding and breeding in relation to Outstanding Natural Feature and High Natural Coastal Character overlay zones changes from non-complying to discretionary	Reject	Do not amend activity status as requested.
FS2267.133	Harboursides and Peninsula Preservation Coalition	I oppose the submission	Oppose OS997.91. Disallow submission.	Accept	Do not amend activity status as requested.

FS2449.362	Federated Farmers of New Zealand	I support the submission	Support OS997.91. Allow submission.	Reject	Do not amend activity status as requested.
OS997.81	Construction Industry and Developers Association	I seek to have the above provision amended	Amend activity status for the following activities in relation to Outstanding Natural Features, Outstanding Natural Character Overlay Zone and High Natural Coastal Character Overlay Zone from non-complying to restricted discretionary: <ul style="list-style-type: none"> • Domestic animal boarding and breeding including dogs. 	Reject	Do not amend activity status as requested.
FS2267.123	Harboursides and Peninsula Preservation Coalition	I oppose the submission	Oppose OS997.81. Disallow submission.	Accept	Do not amend activity status as requested.
OS997.82	Construction Industry and Developers Association	I seek to have the above provision amended	Amend activity status for the following activities in relation to Outstanding Natural Features, Outstanding Natural Character Overlay Zone and High Natural Coastal Character Overlay Zone from non-complying to restricted discretionary: <ul style="list-style-type: none"> • Factory farming not in a General Residential 1 Transitional Zone 	Reject	Do not amend activity status as requested.
FS2267.124	Harboursides and Peninsula Preservation Coalition	I oppose the submission	Oppose OS997.82. Disallow submission.	Accept	Do not amend activity status as requested.
OS997.84	Construction Industry and Developers Association	I seek to have the above provision amended	Amend 16.3.3 Activity status table - land use activities to change the activity status from Non Complying to Discretionary in relation to Outstanding Natural Features, Outstanding Natural Character Overlay Zone and High Natural Coastal Character Overlay Zone. <ul style="list-style-type: none"> • Rural Research - large scale (outside 	Reject	Do not amend activity status as requested.

			the Invermay Farm mapped area).		
FS2267.126	Harboursides and Peninsula Preservation Coalition	I oppose the submission	Oppose OS997.84. Disallow submission.	Accept	Do not amend activity status as requested.

Background

Rules 16.3.3 and 17.3.3 provide for a range of rural activities (other than farming, grazing, forestry, mining and landfill, which are discussed in the tables above) taking place within landscape and natural coastal character overlay zones in both rural zones and rural residential zones. The activity status of these activities is as follows:

	SNLs, ONLs, NCCs	ONFs, ONCCs, HNCCs
Domestic animal boarding and breeding <i>not including dogs</i>	P	NC
Domestic animal boarding and breeding <i>including dogs</i>	RD	NC
Factory farming	RD	NC
Mineral exploration and mineral prospecting	P	NC
Rural ancillary retail	P	P
Rural tourism - small scale	P	P
Rural tourism - large scale	D	D
Rural research - small scale	P	P
Rural research - large scale	D	NC

Requests for less restrictive activity status for a range of activities in ONF, HNCC and ONCC overlay zones

The Construction Industry and Developers Association (CIDA) seeks that Rules 16.3.3 and 17.3.3 be amended so that the activity status of a range of activities taking place within ONF, HNCC and ONCC overlay zones is altered as follows:

- Amend activity status of domestic animal boarding and breeding not including dogs from non-complying to restricted discretionary in rural zones, and from non-complying to discretionary in rural residential zones (OS997.80 and OS997.91)
- Amend activity status of domestic animal boarding and breeding including dogs from non-complying to restricted discretionary in rural zones (OS997.81)
- Amend activity status of factory farming from non-complying to restricted discretionary in rural zones (OS997.82)
- Amend activity status of rural research – large scale from non-complying to discretionary in rural zones (OS997.84)

CIDA consider that the 2GP as notified does not provide enough flexibility for activities and development to take place in a financially viable way.

Each of CIDA's submissions is opposed by HPPC (FS2267.122, FS2267.133, FS2267.123, FS2267.124 and FS2267.126) on the basis that non-complying activity status is necessary to provide adequate protection from adverse effects.

In relation to domestic animal boarding and breeding not including dogs in the rural residential zones, CIDA's submission is supported by Federated Farmers (FS2449.362), on the basis that the outcome sought by CIDA is more effects-based and would be more appropriate and workable for the zones specified.

Recommendations

I do not recommend that activity status of the activities listed above be amended from non-complying to either discretionary or restricted discretionary in ONF, HNCC and ONCC overlay zones.

I note that, as well as containing high or outstanding landscape or coastal character values, ONF, HNCC and ONCC overlays cover very little land within Dunedin. In addition, ONF, HNCC and ONCC overlays are currently almost entirely without existing development and uninhabited, generally occupying land on the summits of hills or the periphery of the coast. Therefore, I consider that demand to establish new domestic animal boarding and breeding, factory farming and rural research – large scale activities in these areas is likely to be low. These factors limit the extent to which non-complying activity status restricts the flexibility and financial viability of activity and development in rural areas.

I consider that non-complying activity status appropriately recognises and protects the high values of these areas, and is the most appropriate way of achieving Objectives 10.2.3 and 10.2.5 and recognising the relevant section 6 matters.

Recommended amendment:

None.

5.12.5 Activity status of residential, commercial and industrial activities in landscape and natural coastal character overlays

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
OS951.44	Timothy George Morris	I seek to have the above provision amended	Amend Rule 16.3.3.23 so that standard residential activity is a permitted activity in landscape and natural coastal character overlay zones	Reject	Retain Rule 16.3.3.23 without amendment.
OS1054.44	Timothy Morris (on behalf of RG and SM Morris Family Trust)				

FS2267.67	Harboursides and Peninsula Preservation Coalition	I oppose the submission	Oppose OS951.44. Disallow submission.	Accept	Retain Rule 16.3.3.23 without amendment.
OS997.83	Construction Industry and Developers Association	I seek to have the above provision amended	Amend activity status for the following activities in relation to Outstanding Natural Features, Outstanding Natural Character Overlay Zone and High Natural Coastal Character Overlay Zone from non-complying to restricted discretionary: <ul style="list-style-type: none"> • Standard residential 	Reject	Retain Rule 16.3.3.23 without amendment.
FS2267.125	Harboursides and Peninsula Preservation Coalition	I oppose the submission	Oppose OS997.83. Disallow submission.	Accept	Retain Rule 16.3.3.23 without amendment.
OS997.92	Construction Industry and Developers Association	I seek to have the above provision amended	Amend Rule 17.3.3 so that activity status for standard residential in relation to Outstanding Natural Feature and High Natural Coastal Character overlay zones changes from non-complying to discretionary	Reject	Retain Rule 17.3.3.10 without amendment.
FS2267.134	Harboursides and Peninsula Preservation Coalition	I oppose the submission	Oppose OS997.92. Disallow submission.	Accept	Retain Rule 17.3.3.10 without amendment.
FS2449.363	Federated Farmers of New Zealand	I support the submission	Support OS997.92. Allow submission.	Reject	Retain Rule 17.3.3.10 without amendment.
OS997.85	Construction Industry and Developers Association	I seek to have the above provision amended	Amend 16.3.3 Activity status table - land use activities to change the activity status from Non Complying to Discretionary in relation to Outstanding Natural Features, Outstanding Natural Character Overlay Zone and High Natural Coastal Character Overlay Zone.	Reject	Retain Rule 16.3.3.24 without amendment.

			<ul style="list-style-type: none"> Supporting living facilities. 		
FS2267.127	Harboursides and Peninsula Preservation Coalition	I oppose the submission	Oppose OS997.85. Disallow submission.	Accept	Retain Rule 16.3.3.24 without amendment.
OS997.86	Construction Industry and Developers Association	I seek to have the above provision amended	<p>Amend 16.3.3 Activity status table - land use activities to change the activity status from Non Complying to Discretionary in relation to Outstanding Natural Features, Outstanding Natural Character Overlay Zone and High Natural Coastal Character Overlay Zone.</p> <ul style="list-style-type: none"> Veterinary services - large animal practice 	Reject	Retain Rule 16.3.3.34 without amendment.
FS2267.128	Harboursides and Peninsula Preservation Coalition	I oppose the submission	Oppose OS997.86. Disallow submission.	Accept	Retain Rule 16.3.3.34 without amendment.
OS997.93	Construction Industry and Developers Association	I seek to have the above provision amended	Amend Rule 17.3.3 so that activity status for veterinary services - large animal practice in relation to Outstanding Natural Feature and High Natural Coastal Character overlay zones changes from non-complying to discretionary	Reject	Retain Rule 17.3.3.20 without amendment.
FS2267.135	Harboursides and Peninsula Preservation Coalition	I oppose the submission	Oppose OS997.93. Disallow submission.	Accept	Retain Rule 17.3.3.20 without amendment.
FS2449.364	Federated Farmers of New Zealand	I support the submission	Support OS997.93. Allow submission.	Reject	Retain Rule 17.3.3.20 without amendment.
OS997.87	Construction Industry and Developers	I seek to have the above provision amended	Amend 16.3.3 Activity status table - land use activities to change the activity status from Non Complying to Discretionary in	Reject	Retain Rule 16.3.3.35 without amendment.

	Association		relation to Outstanding Natural Features, Outstanding Natural Character Overlay Zone and High Natural Coastal Character Overlay Zone. <ul style="list-style-type: none"> • Visitor accommodation. 		
FS2267.129	Harboursides and Peninsula Preservation Coalition	I oppose the submission	Oppose OS997.87. Disallow submission.	Accept	Retain Rule 16.3.3.35 without amendment.
OS997.94	Construction Industry and Developers Association	I seek to have the above provision amended	Amend Rule 17.3.3 so that activity status for visitor accommodation in relation to Outstanding Natural Feature and High Natural Coastal Character overlay zones changes from non-complying to discretionary	Reject	Retain Rule 17.3.3.21 without amendment.
FS2267.136	Harboursides and Peninsula Preservation Coalition	I oppose the submission	Oppose OS997.94. Disallow submission.	Accept	Retain Rule 17.3.3.21 without amendment.
FS2449.365	Federated Farmers of New Zealand	I support the submission	Support OS997.94. Allow submission.	Reject	Retain Rule 17.3.3.21 without amendment.
OS997.88	Construction Industry and Developers Association	I seek to have the above provision amended	Amend 16.3.3 Activity status table - land use activities to change the activity status from Non Complying to Discretionary in relation to Outstanding Natural Features, Outstanding Natural Character Overlay Zone and High Natural Coastal Character Overlay Zone. <ul style="list-style-type: none"> • Rural Industry. 	Reject	Retain Rule 16.3.3.38 without amendment.
FS2267.130	Harboursides and Peninsula Preservation Coalition	I oppose the submission	Oppose OS997.88. Disallow submission.	Accept	Retain Rule 16.3.3.38 without amendment.

Background

Under Rules 16.3.3.23 and 17.3.3.10, standard residential activities are non-complying activities within the ONF, HNCC and ONCC overlay zones in the rural and rural residential zones. Under Rule 16.3.3.24, supported living facilities are also non-complying within these overlay zones in the rural zones generally. Standard residential activities are permitted activities in ONL, SNL and NCCs in the rural zones.

Under Rules 16.3.3.34, 16.3.3.35 and 16.3.3.38, veterinary services (large animal practice), visitor accommodation and rural industry are non-complying activities within ONF, HNCC and ONCC overlay zones in the rural zones. Under Rules 17.3.3.20 and 17.3.3.21, veterinary services (large animal practice) and visitor accommodation are non-complying activities within ONF and HNCC overlay zones in the rural residential zones.

Request for less strict activity status for standard residential activities and supported living facilities in landscape and coastal character overlay zones

Timothy George Morris (OS951.44) and Timothy Morris (on behalf of RG and SM Morris Family Trust) (OS1054.44) seek that standard residential activities be changed from non-complying to permitted status in ONF, HNCC and ONCC overlay zones. I note in other overlay zones (ONL, SNL and NCCs), standard residential is already a permitted activity, and treat their submission as support for this status.

This submission is opposed by HPPC (FS2267.67) because the submitter believes that the "underlying tenet" of the landscape and coastal zones is that development is "subject to rules and Council review".

The Construction Industry and Developers Association (CIDA) (OS997.83 and OS997.92) seeks that standard residential activities be changed from non-complying to restricted discretionary within ONF, HNCC and ONCC overlay zones in the rural zones and changed to discretionary from non-complying within ONF and HNCC overlay zones in the rural residential zones. CIDA considers that the 2GP as notified does not provide enough flexibility for activities and development to take place in a financially viable way.

These submissions are opposed by HPPC (FS2267.125 and FS2267.134) on the basis that non-complying activity status is necessary to provide adequate protection from adverse effects. In relation to rural residential zones, CIDA's submission is supported by Federated Farmers (FS2449.363), who considers that the outcome sought by CIDA is more effects-based and would be more appropriate and workable for the zones specified.

CIDA (OS997.85) seeks that supported living facilities be made discretionary within ONF, HNCC and ONCC overlay zones in the rural zones. CIDA consider that the 2GP as notified does not provide enough flexibility for activities and development to take place in a financially viable way.

This submission is opposed by HPPC (FS2267.127) on the basis that non-complying activity status is necessary to provide adequate protection from adverse effects.

In addition to the activity status for residential activities, Construction Industry and Developers Association also seek changes to the activity

status of a range of commercial and industrial activities in overlay zones. Specifically, CIDA considers that veterinary services (large animal practices) and visitor accommodation should be discretionary rather than non-complying in ONF, HNCC and ONCC overlay zones in the rural and rural residential zones (OS997.86, OS997.87, OS997.93 and OS997.94). In addition, the submitter considers that rural industry should be discretionary rather than non-complying in ONF, HNCC and ONCC overlay zones in the rural zones (OS997.88).

Federated Farmers (FS2449.364 and FS2449.365) support CIDA's submissions relating to visitor accommodation and veterinary services within overlays in the rural residential zones, because they believe the outcomes sought by CIDA are more appropriate and workable for the zones specified and more effects based.

HPPC (FS2267.128, FS2267.135, FS2267.129, FS2267.136 and FS2267.130) oppose each of CIDA's submissions on these matters, on the basis that non-complying activity status is necessary to provide adequate protection from adverse effects.

Recommendations

I consider that it is appropriate that the activity status for standard residential activities and supported living facilities remains non-complying in ONF, HNCC and ONCC overlay zones in the rural and rural residential zones. I also consider that a non-complying status is appropriate for developments including veterinary services (large animal practices) and visitor accommodation as well as for rural industry in the ONF, HNCC and ONCC overlays. As previously discussed, the 2GP differentiates between different levels of overlay in terms of their tolerance of effects. ONF, ONCCs and HNCCs have exceptional values or highly significant character, and are highly sensitive to development, and the non-complying status sends a signal that these activities are not anticipated or provided for within these overlays except in exceptional circumstances. With regard to the further submission of HPPC that it is appropriate that development of landscape and coastal overlays be subject to Council review, I note that for the ONL, SNL and NCCs, although residential activities are permitted, they are still subject to development performances standards including height, minimum building separation and reflectivity.

For the reasons outlined, I recommend rejecting the submissions of Timothy George Morris and Timothy Morris (on behalf of RG and SM Morris Family Trust), the Construction Industry and Developers Association (CIDA) and the further submission of Federated Farmers, and, and accepting the further submissions of HPPC.

Recommended amendment:

None.

5.12.6 Activity status of major facilities activities in landscape and natural coastal character overlays

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
OS447.77	Harboursides and Peninsula	I seek to have the above provision	Amend Rule 16.3.3.40 (Cemeteries) by changing the activity status as follows:	Reject	Do not amend Rule 16.3.3.40 as

OS900.112	Preservation Coalition Save The Otago Peninsula (STOP) Inc Soc	amended	Prohibited in the Outstanding Natural Landscape Overlay Zone, Significant Natural Landscape Overlay Zone and Natural Coastal Character Overlay Zone (column b); Prohibited in the Outstanding Natural Feature Overlay Zone, Outstanding Natural Coastal Character Overlay Zone and High Natural Coastal Character Overlay Zone (column c); Prohibited in a Scheduled Area of Significant Conservation Value (column d).		requested.
OS447.78 OS900.113	Harboursides and Peninsula Preservation Coalition Save The Otago Peninsula (STOP) Inc Soc	I seek to have the above provision amended	Amend Rule 16.3.3.41 (Crematoriums) by changing the activity status as follows: Prohibited in the Outstanding Natural Landscape Overlay Zone, Significant Natural Landscape Overlay Zone and Natural Coastal Character Overlay Zone (column b); Prohibited in the Outstanding Natural Feature Overlay Zone, Outstanding Natural Coastal Character Overlay Zone and High Natural Coastal Character Overlay Zone (column c); Prohibited in a Scheduled Area of Significant Conservation Value (column d).	Reject	Do not amend Rule 16.3.3.41 as requested.
OS447.79 OS900.114	Harboursides and Peninsula Preservation Coalition Save The Otago Peninsula (STOP) Inc Soc	I seek to have the above provision amended	Amend Rule 16.3.3.42 (All other major facilities) by changing the activity status as follows: Prohibited in the Outstanding Natural Landscape Overlay Zone, Significant Natural Landscape Overlay Zone and Natural Coastal Character Overlay Zone (column b); Prohibited in the Outstanding Natural Feature Overlay Zone, Outstanding Natural Coastal Character Overlay Zone and High Natural Coastal Character Overlay Zone (column c); Prohibited in a Scheduled Area of Significant Conservation Value (column d).	Reject	Do not amend Rule 16.3.3.42 as requested.
<u>Background</u>					

Under Rules 16.3.3.40 and 16.3.3.41, cemeteries and crematoriums are restricted discretionary activities within ONL, SNL and NCC overlay zones, and are non-complying activities within ONF, HNCC and ONCC overlay zones in the rural zones. Under Rule 16.3.3.42, all other major facility activities are non-complying in all landscape and coastal character overlay zones in the rural zones.

Submissions

HPPC (OS447.77, OS447.78 and OS447.79) and STOP (OS900.112, OS900.113 and OS900.114) seek that cemeteries, crematoriums and all other major facility activities be made prohibited activities in all landscape and coastal character overlay zones and in scheduled ASCVs in the rural zones. The submitters consider that these changes are necessary to assist in maintaining a natural appearance within the rural areas that have landscape protections.

Recommendations

Note that I address these submissions points, as they relate to ASCVs, in section 5.12.1 of this report, above.

I do not recommend any change to the activity status of major facility activities in landscape and coastal character overlay zones.

I consider that the notified non-complying activity status is appropriate for all major facilities activities in ONF, HNCC and ONCC overlay zones. I do not agree that it is necessary to change this activity status to prohibited in order to maintain a natural appearance in the affected areas. Major facilities activities include airport, campus, hospital, major recreation facility and port activities, as well as cemeteries, crematoriums, emergency services, prisons or detention centres, and schools.

Under non-complying activity status, the policies that apply to these activities (incorporating amendments recommended elsewhere in this report) include the following tests:

- in ONCCs and HNCCs, there must be no material effects on the natural character values (Policy 10.2.3.2)
- in ONFs, there must be no material effects on landscape values (Policy 10.2.5.2)

Cemeteries, crematoriums and other major facility activities have the same activity status in ONL, SNL and NCC overlay zones as in the general rural zone. I consider that this is appropriate, since ONL, SNL and NCC overlay zones cover extensive areas of the city and because the use of land and buildings for these activities is unlikely to result in significant adverse effects on landscape or natural character values, although the establishment of associated buildings and structures could. Buildings and structures associated with these activities are required to comply with, as relevant, Policy 10.2.3.4, 10.2.5.6 or 10.2.5.7 (which has been renumbered to 10.2.5.8 via a recommendation in an earlier section 42A report), which state the tests that must be met, in relation to effects on the relevant values, by large buildings and structures in these areas.

These tests are as follows:

- large buildings and structures in NCCs and SNLs are only allowed where adverse effects on identified natural character or landscape values will be avoided or, if avoidance is not possible, adequately mitigated.
- large buildings and structures in ONLs are only allowed where adverse effects on identified landscape values of the ONL will be avoided or, if avoidance is not possible, no more than minor, or where there are no practicable alternative locations, adequately mitigated.

Overall, I consider that the notified provisions for major facilities activities provide a high level of protection for landscape and coastal character overlay zones, that:

- recognises the differing values and sensitivities of each type of protected area
- provides a particularly high level of protection in the areas with the highest values, which are almost entirely without existing development (i.e. ONF, HNCC and ONCC overlay zones), and
- provides a greater degree of flexibility in those landscape and natural coastal character overlay zones that are more extensive and that already contain some development (i.e. ONL, SNL and NCC overlay zones).

Prohibited activity status means that no application for resource consent may be made for the activity involved, and that consent authorities must not grant consent for it. I do not consider that such an absolute approach is necessary to achieve Objectives 10.2.3 and 10.2.5.

Recommended amendment:

None.

5.12.7 Activity status of indigenous vegetation clearance in landscape and natural coastal character overlays

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
OS951.46	Timothy George Morris	I oppose the provision	Remove Rules 16.3.4.20.b, c and d (indigenous vegetation clearance)	Reject	Retain Rule 16.3.4.20 b, c and d.
OS1054.46	Timothy Morris (on behalf of RG and SM Morris Family Trust)				
OS958.106	Forest and Bird NZ	I seek to have the above provision amended	Amend Rule 16.3.4.20.c to make indigenous vegetation clearance non-complying in Outstanding Natural Feature, Outstanding Natural Coastal Character and High Natural Coastal Character overlay zones	Reject	Do not make changes as requested.
FS2140.19	John Scott	I oppose the submission	Oppose OS958.106. Disallow submission and do not make changes as requested by submitter.	Accept	Do not make changes as requested.
FS2267.68	Harboursides and Peninsula Preservation	I support the submission	Support OS958.106. Allow submission.	Reject	Do not make changes as requested.

	Coalition				
FS2279.19	Ben Graham	I oppose the submission	Oppose OS958.106. Disallow submission and do not make changes as requested by submitter.	Accept	Do not make changes as requested.
FS2300.19	Mathew O'Connell	I oppose the submission	Oppose OS958.106. Disallow submission and do not make changes as requested by submitter.	Accept	Do not make changes as requested.
FS2391.94	Geoff Scurr Contracting Limited	I oppose the submission	Oppose OS958.106. Disallow submission.	Accept	Do not make changes as requested.
FS2416.19	Alan Brown, Carrowmore Properties Limited, Robyn and Stephan Smith and Rick and Jill Clarke ("Pigeon Flat Road Group")	I oppose the submission	Oppose OS958.106. Disallow submission and do not make changes as requested by submitter.	Accept	Do not make changes as requested.
FS2449.327	Federated Farmers of New Zealand	I oppose the submission	Oppose OS958.106. Disallow submission.	Accept	Do not make changes as requested.

Background

Under Rule 16.3.4.20, indigenous vegetation clearance is permitted within all landscape overlay zones (SNLs, ONLs, ONFs) in the rural zones, and restricted discretionary within all coastal character overlays (NCCs, HNCCs, ONCCs) and ASCVs in the rural zones.

Request to permit indigenous vegetation clearance in all rural zone landscape and coastal character overlays

Timothy George Morris (OS951.46) and Timothy Morris (on behalf of RG and SM Morris Family Trust) (OS1054.46) seek that Rules 16.3.4.20.b and c (indigenous vegetation clearance) be removed. The submitters note that regrowth of indigenous vegetation (e.g. Kanuka) can be rapid and are concerned that this can adversely affect farming and forestry activities and be considered as "reverse sensitivity". The submitters are of the opinion that the "control of regrowth of indigenous vegetation is necessary as part of long term maintenance of rural land for productive rural activities."

Request that indigenous vegetation clearance becomes non-complying in ONF, ONCC and HNCC overlays

Forest and Bird NZ (OS958.106) seek that Rule 16.3.4.20.c be amended to change the activity status of indigenous vegetation clearance to non-complying in ONF (where it is permitted), ONCC and HNCC (where it is restricted discretionary) overlay zones. Forest and Bird consider that the 2GP's objectives and Part II of the RMA are better met if indigenous vegetation clearance is non-complying in these areas. The submission is

supported by HPPC (FS2267.68), on the basis that indigenous vegetation is an especially important component of landscape protection areas.

Forest and Bird's submission is opposed by John Scott (FS2140.19), Ben Graham (FS2279.19), Mathew O'Connell (FS2300.19), Geoff Scurr Contracting Limited (FS2391.94) Alan Brown, Carrowmore Properties Limited, Robyn and Stephan Smith and Rick and Jill Clarke ("Pigeon Flat Road Group") (FS2416.19), who consider that the outcome sought is unduly onerous and restrictive.

The submission is also opposed by Federated Farmers of New Zealand (FS2449.327), who consider that the outcome sought is onerous and does not recognise that some vegetation clearance will be necessary, such as for firebreaks, or could even benefit the landscape, such as for new fencing.

Overall Recommendations

I recommend that no change be made to the activity status for indigenous vegetation clearance in landscape and natural coastal character overlays.

The restricted discretionary activity status for indigenous vegetation clearance in the NCC, ONCC, HNCC overlays provides additional protection and to areas where vegetation clearance might have the greatest adverse effects, including in areas adjoining the coast (NCC, ONCC, HNCC), giving effect to RMA s6(a) and the NZCPS. With respect to concern raised by Timothy George Morris (OS951.46) and Timothy Morris (on behalf of RG and SM Morris Family Trust) (OS1054.46) that regrowth of indigenous vegetation can adversely affect farming, I note that clearance is a permitted activity in all landscape overlays in the rural zones. I do not recommend permitting indigenous vegetation clearance in the NCC, ONCC, HNCC overlays because in my view the potential adverse effects on indigenous vegetation and the habitats of indigenous fauna are too great to manage under Rule 10.3.2 (vegetation performance clearance standards) and I consider it appropriate that a restricted discretionary resource consent is required.

In response to Forest and Bird's submission, in my opinion a restricted discretionary status is most appropriate for the natural coastal character overlays, as a restricted discretionary status allows for consideration of the adverse effects of clearance on the natural character values in Appendix A5. A non-complying status would mean that indigenous vegetation could only be cleared in exceptional circumstances.

In terms of the status in ONFs, indigenous vegetation clearance is a permitted activity in the ONF in rural zones (and notified) and managed through Rule 10.3.2, with the focus of ONF being on protecting landscape values, which are not restricted to areas of indigenous vegetation and may include other values (such as cultural and historic values). The focus of the NCC, HNCC and ONCC overlays is on natural coastal character, which includes indigenous vegetation. This is reflected in the restricted discretionary status for indigenous vegetation clearance in these overlays. However, areas of indigenous vegetation within ONFs are also subject to Rule 10.3.2.3 Protected Areas which prevents indigenous vegetation clearance within wetlands, the coastal environment mapped area, or close to the MHWS or water bodies with a bed at least 3m in width. Further, under Rule 10.3.2.4, indigenous vegetation clearance must not occur in areas with one or more of the threatened plants listed in Appendix 10A or one or more of the mature examples of the native tree species listed in Appendix 10A. It must also be noted that some areas of indigenous vegetation in ONFs also have additional protection under ASCV or natural coastal character overlays and clearance will require resource consent.

With respect to the further submission of Federated Farmers, there are a number of exceptions in the indigenous vegetation clearance rules that allow for activities such as fencing, conservation, and fire breaks.

Recommended amendment:

None.

5.12.8 Activity status of subdivision, earthworks and tree planting in landscape and natural coastal character overlays

Sub pt #	Submitter Name	Support/Oppose/ Seek Amend	Summary Of Submission	Accept/Reject/ Accept in part	Staff Recommendation
OS958.108	Forest and Bird NZ	I seek to have the above provision amended	Amend Rule 16.3.5.1.c to make subdivision non-complying in Outstanding Natural Feature, Outstanding Natural Coastal Character and High Natural Coastal Character overlay zones	Reject	Retain Rule 16.3.5.1.c as notified.
FS2140.20	John Scott	I oppose the submission	Oppose OS958.108. Disallow submission and do not make changes as requested by submitter.	Accept	Retain Rule 16.3.5.1.c as notified.
FS2279.20	Ben Graham	I oppose the submission	Oppose OS958.108. Disallow submission and do not make changes as requested by submitter.	Accept	Retain Rule 16.3.5.1.c as notified.
FS2300.20	Mathew O'Connell	I oppose the submission	Oppose OS958.108. Disallow submission and do not make changes as requested by submitter.	Accept	Retain Rule 16.3.5.1.c as notified.
FS2391.95	Geoff Scurr Contracting Limited	I oppose the submission	Oppose OS958.108. Disallow submission.	Accept	Retain Rule 16.3.5.1.c as notified.
FS2416.20	Alan Brown, Carrowmore Properties Limited, Robyn and Stephan Smith and Rick and Jill Clarke ("Pigeon Flat Road	I oppose the submission	Oppose OS958.108. Disallow submission and do not make changes as requested by submitter.	Accept	Retain Rule 16.3.5.1.c as notified.

	Group")				
FS2449.328	Federated Farmers of New Zealand	I oppose the submission	Oppose OS958.108. Disallow submission.	Accept	Retain Rule 16.3.5.1.c as notified.
OS958.105	Forest and Bird NZ	I seek to have the above provision amended	Amend Rules 16.3.4.16.c and 16.3.4.23.c (activity status - earthworks - large scale, tree planting) so that these activities are non-complying in Outstanding Natural Feature, Outstanding Natural Coastal Character and High Natural Coastal Character overlay zones	Reject	Do not amend rules as requested
FS2140.17	John Scott	I oppose the submission	Oppose OS958.105. Disallow submission and do not make changes as requested by submitter.	Accept	Do not amend rules as requested
FS2202.11	Clifton Trust	I oppose the submission	Oppose OS958.105. Disallow submission and do not make changes as requested by submitter.	Accept	Do not amend rules as requested
FS2279.17	Ben Graham	I oppose the submission	Oppose OS958.105. Disallow submission and do not make changes as requested by submitter.	Accept	Do not amend rules as requested
FS2300.17	Mathew O'Connell	I oppose the submission	Oppose OS958.105. Disallow submission and do not make changes as requested by submitter.	Accept	Do not amend rules as requested
FS2391.92	Geoff Scurr Contracting Limited	I oppose the submission	Oppose OS958.105. Disallow submission.	Accept	Do not amend rules as requested
FS2416.17	Alan Brown, Carrowmore Properties Limited, Robyn and Stephan Smith and Rick and Jill Clarke ("Pigeon Flat Road Group")	I oppose the submission	Oppose OS958.105. Disallow submission and do not make changes as requested by submitter.	Accept	Do not amend rules as requested
FS2449.320	Federated Farmers	I oppose the	Oppose OS958.105. Disallow submission.	Accept	Do not amend rules

of New Zealand

submission

as requested

Background

Under Rule 16.3.5, there is no change to the activity status of general subdivision (it remains a restricted discretionary activity) in ONF, HNCC and ONCC overlay zones, though additional assessment matters apply as outlined in Rules 10.5.2.6 and 10.5.2.13.

Under Rules 16.3.4.16 and 16.3.4.23, both earthworks – large scale and tree planting are restricted discretionary activities within ONF, HNCC and ONCC overlay zones, and earthworks – large scale is also restricted discretionary within SNLs and ONLs. Tree planting is permitted in SNLs and ONLs.

The following policies (incorporating amendments recommended in the Network Utilities Section 42A report, and elsewhere in this report) are relevant to these rules:

- Policy 10.2.3.7: Only allow subdivision activities in Outstanding Natural Coastal Character (ONCC), High Natural Coastal Character (HNCC) and Natural Coastal Character (NCC) overlay zones where the subdivision is designed to ensure that any future land use or development activities will maintain or enhance, on an on-going basis, the natural character values identified in Appendix A5 and will be in accordance with Policies 10.2.3.1-10.2.3.5.
- Policy 10.2.5.14~~2~~: Only allow subdivision activities in Outstanding Natural Feature (ONF), Outstanding Natural Landscape (ONL), and Significant Natural Landscape (SNL) overlay zones where the subdivision is designed to ensure that any future land use or development will maintain the landscape values identified in Appendix A3 and will be in accordance with policies 10.2.5.1 - 10.2.5.9.
- Policy 10.2.3.3: Only allow ... tree planting ... [and] earthworks - large scale... in the Outstanding Natural Coastal Character (ONCC) and High Natural Coastal Character (HNCC) overlay zones where adverse effects on the natural character values identified in Appendix A5 ~~are insignificant~~ will be avoided or, if avoidance is not possible, effects are no more than minor. {NatEnv 908.14}
- Policy 10.2.5.3: Only allow tree planting... [and] earthworks - large scale... in the Outstanding Natural Feature Overlay Zone (ONF) where the adverse effects on the landscape values of the ONF, as identified in Appendix A3, ~~would be insignificant.~~ will be avoided or, if avoidance is not possible, no more than minor. {NatEnv 458.19}
- Policy 10.2.5.6: Only allow ... earthworks - large scale... in the Outstanding Natural Landscape Overlay Zone (ONL) where any adverse effects on the landscape values of the ONL, as identified in Appendix A3, ~~would be insignificant~~ will be
 1. avoided or, if avoidance is not possible, no more than minor; or
 2. where there are no practicable alternative locations, adequately mitigated." {NatEnv874.15}
- Policy 10.2.5.7: "Only allow ...earthworks - large scale... in the Significant Natural Landscape Overlay Zone (SNL) where any adverse effects on the landscape values of the SNL, as identified in Appendix A3, will be avoided or, if avoidance is not possible, ~~be no more than minor~~ adequately mitigated." {NatEnv458.12}

Request to change activity status of general subdivision in ONFs, ONCCs, HNCCs to non-complying

Forest and Bird NZ (OS958.108) seeks to amend Rule 16.3.5.1.c to make subdivision non-complying, rather than restricted discretionary, in Outstanding Natural Feature, Outstanding Natural Coastal Character and High Natural Coastal Character overlay zones. The only reasons given for this submission refer to Forest and Bird's related submission about subdivision in ASCVs (addressed in Section 5.16.1)

This submission is opposed by John Scott (FS2140.20), Ben Graham (FS2279.20), Mathew O'Connell (FS2300.20), Geoff Scurr Contracting Limited (FS2391.95), Pigeon Flat Road Group (FS2416.20), who each consider the amendment to be "onerous and unnecessary" and Federated Farmers of New Zealand (FS2449.328) who is concerned that it "does not recognise that some subdivision will be appropriate and therefore be consistent with s6(b) of the RMA, or could even benefit the landscape such as a new lot that could be gifted as a conservation property".

Recommendations

I do not agree with Forest and Bird (OS958.108) that subdivision should be non-complying in ONF, ONCC and HNCC overlay zones in order to protect biodiversity values. I consider that there will be circumstances where subdivision may be contemplated in these areas and be viewed as beneficial to the management and values of these areas.

I also consider the revised minimum site size standard for the rural zones, ranging from 25ha to 100ha, will make it more difficult to undertake a subdivision activity that would adversely affect smaller areas (which ONF, ONCC, and HNCC overlay zones tend to be). Further, I note assessment rule 10.5.2.2 which requires assessment of the effects of all rural general subdivision activities on areas of indigenous vegetation and the habitat of indigenous fauna. There are also subdivision assessment rules relating to each particular overlay zone, which require assessment of the effects of subdivision on landscape values or natural character, in accordance with the policies set out in the background section, above. I consider these assessment rules to provide sufficient scope to manage any potential adverse effects of subdivision on these areas.

Request to change activity status of earthworks – large scale and tree planting in ONFs, ONCCs, HNCCs to non-complying

Forest and Bird NZ (OS958.105) seeks to have Rules 16.3.4.16 and 16.3.4.23 amended so that both earthworks – large scale and tree planting become non-complying (rather than restricted discretionary as notified) in ONF, ONCC and HNCC overlay zones. Forest and Bird consider that large scale earthworks and tree planting, just as new buildings and structures, have the potential to adversely affect the natural character values in these overlays.

This submission is opposed by John Scott (FS2140.17), Ben Graham (FS2279.17), Mathew O'Connell (FS2300.17), Geoff Scurr Contracting Limited (FS2391.92) Alan Brown, Carrowmore Properties Limited, Robyn and Stephan Smith and Rick and Jill Clarke ("Pigeon Flat Road Group") (FS2416.17), and the Clifton Trust (FS2202.11). In these submitters' view, the outcome sought would be prejudicial to farming activities and unnecessarily restrictive.

The submission is also opposed by Federated Farmers of New Zealand (FS2449.320), who consider that the outcome sought is onerous and does

not recognise that some activities will be appropriate and therefore consistent with s6(b) of the RMA. The notified restricted discretionary status still means that applications will be assessed and matters can be limited to adverse effects on the specific landscape. Federated Farmers notes that Objective 16.2.5 seeks to enable earthworks, and the proposed non-complying status does not recognise this.

Request for more restrictive activity status for earthworks – large scale in SNLs

STOP requests that earthworks – large scale be removed from Policies 10.2.5.6 and 10.2.5.7, which list activities that are restricted discretionary or discretionary in ONLs and SNLs. STOP’s submission point on these matters (OS900.57 and OS900.5) were lodged against Policies 10.2.5.6 and 10.2.5.7, and are therefore listed in the tables in sections 5.4.29 and 5.4.30 of this report. I take these submission points to mean that STOP seek non-complying activity status for earthworks – large scale in ONLs and SNLs. As set out in sections 5.4.29 and 5.4.30, STOP’s submissions on these matters are opposed by a number of further submitters.

Recommendations

In my view, the policy tests set out in the background section, above, provide appropriate levels of protection for the special values of ONFs, ONCCs, HNCCs, ONLs and SNLs. Therefore, I do not consider a more restrictive activity status (such as non-complying) is necessary for earthworks – large scale or tree planting in these areas. Given the potential variation in size, and degree of effect, of both activities, I consider that restricted discretionary status is suitable, as it provides for smaller developments with negligible effects, while giving the Council the ability to decline consent for larger developments.

I note that the permitted activity thresholds for earthworks in all landscape and natural coastal character overlays are relatively low, with the lowest thresholds in the most sensitive areas. In my view, it is appropriate that activities at these scales are provided in these areas. Finally, given that “tree planting” includes activities such as new shelter belts, which could be fairly small scale and may be essential to the farming of a property, I consider that permitted activity status is appropriate in the larger SNL and ONL areas, and that restricted discretionary status should be reserved for the smaller, more sensitive areas.

Recommended amendment:

None.

5.12.9 Activity status of public amenities in landscape and natural coastal character overlays

Sub pt #	Submitter Name	Support/Oppose/ Seek Amend	Summary Of Submission	Accept/Reject/ Accept in part	Staff Recommendation
OS447.58 OS900.92	Harboursides and Peninsula Preservation Coalition Save The Otago	I oppose the provision	Remove Rule 10.5.2.14 (assessment of restricted discretionary activities - large scale public artworks)	Reject	Retain restricted discretionary activity status for public artworks – large scale.

	Peninsula (STOP) Inc Soc				
FS2449.225, FS2449.232	Federated Farmers of New Zealand	I oppose the submission	Oppose OS447.58 and OS900.92. Disallow submissions.	Accept	Retain restricted discretionary activity status for public artworks – large scale.
OS447.83 OS900.118	Harboursides and Peninsula Preservation Coalition Save The Otago Peninsula (STOP) Inc Soc	I seek to have the above provision amended	Amend Rule 16.3.4 to add a new activity of 'Outdoor art located more than 3 metres away from the primary residence and within any dimension exceeding one metre' with an activity status of Permitted, except where in a landscape or natural coastal character overlay zone or scheduled Area of Significant Conservation Value where it is Non-complying.	Reject	No amendment required

Background

Public amenities (including public artworks) are managed as a citywide activity. Public artworks are defined at small scale and large scale, with a small scale public artwork (that is not a mural) having a maximum volume capable of being contained within an envelope with a gross floor area of 5m² and a height of 3m above ground level. Public artworks – small scale are permitted (except in residential zones) and public artworks – large scale are restricted discretionary activities. In landscape and natural coastal character overlay zones, the assessment of applications for public artworks – large scale considers effects on landscape values and natural character of the coast as matters of discretion (refer Rule 3.7.3).

I note the definition of public artworks is “Artistic works located in a public place or located and designed to be viewed from a public place, for public enjoyment.” and exclude “...artworks on private property that may be visible from a public place but are for the enjoyment of residents, occupants, or visitors to that property, and are unlikely to attract significant public attention”.

Art on a private property that is not located or designed to be visible from a public place, would fall within the definition of a structure or building and be managed accordingly. In ONL, SNL and NCC overlay zones and ASCVs it would be permitted up to 60m², subject to standards such as maximum height, reflectivity and setback from ridgeline (though at any larger scale it would certainly be considered to fall into the definition of public artwork due to its visibility). However, any new building or structure would be non-complying in any ONF, ONCC or HNCC overlay zone, reflecting the discrete and highly sensitive nature of these areas.

Requests to remove Rule 10.5.2.14

HPPC (OS447.58) and STOP (OS900.92) seek to remove Rule 10.5.2.14. The submitters state that “Large scale public artworks are not required to fulfil either Council civic functions or land habitation. Also, they are not a natural 'landscape' feature and would present a difficult reflectivity

conundrum. Public artworks become an NC activity except in the Rural Zone where they are P.”

Federated Farmers of New Zealand (FS2449.225, FS2449.232) considers that the changes are not effects based or necessary and make the rule impractical, unworkable and inconsistent with the relevant policies.

Recommendations

I note that these submissions are effectively asking for large scale public artworks to be non-complying in landscape overlay zones, although the submissions were on the restricted discretionary assessment rule. Under Objective 3.2.1 all public amenities (including public artworks – large scale) are required to meet the relevant objectives and policies for any overlay zone.

The relevant policies in section 10, including amendments recommended elsewhere in this report, as follows:

Policy 10.2.5.6: “Only allow... public amenities in the Outstanding Natural Landscape overlay zone (ONL) where any adverse effects on the landscape values of the ONL... ~~would be insignificant~~ will be avoided or, if avoidance is not possible, no more than minor, or where there are no practicable alternative locations, adequately mitigated. {NatEnv 874.15}

Policy 10.2.5.7: “Only allow... public amenities in the Significant Natural Landscape overlay zone (SNL) where any adverse effects on the landscape values of the SNL... will be avoided or, if avoidance is not possible, ~~be no more than minor~~ adequately mitigated. {NatEnv458.12}

Policy 10.2.5.3: ““Only allow... public amenities in the Outstanding Natural Feature overlay zone (ONF) where any adverse effects on the landscape values of the ONF... ~~would be insignificant~~ will be avoided or, if avoidance is not possible, no more than minor. {NatEnv458.19}

I consider that, while large scale public artworks are not essential in the sense that network utilities are, their location may be practically tied to a location, for example a mural on a building or structure, or memorial or cultural sculpture about a specific location.

The restricted discretionary status recognises that where adverse effects are insignificant or minor, such artworks may be appropriate in a landscape overlay. While they are not a 'natural' landscape feature, in some cases they may arguably enhance the attractiveness and understanding of the landscape and add to public enjoyment of the landscape.

I do not consider that it is appropriate for the activity status to be change to non-complying as it would set too high a bar in requiring that there are no material effects on the landscape values as identified in Appendix (Rule 10.7 Assessment of Non-complying activities) and it would make for an overly onerous process even for temporary works of art. I recommend rejecting the submissions by STOP and HPPC and accepting that of Federated Farmers.

Request for new rule related to “outdoor art”

HPPC (OS447.83) and STOP (OS900.118) seek that the activity status table for development activities in the rural zones (specifically, Rule 16.3.4) be amended to provide for outdoor art “located more than 3m away from the primary residence and within any dimension exceeding one metre”. The submitters seek that this activity be permitted in the rural zones, but non-complying in all landscape and coastal character overlays zones and in scheduled ASCVs. The submitters seek this outcome in order to protect landscapes.

Recommendations

Outdoor art is not a defined activity in the 2GP and would fall within the definition of a structure (or sometimes a building, e.g. in the case of a mural). I consider the proposed amendment to be highly restrictive of the way that people could use their properties. The specified dimensions of more than 3m away from a primary residence and more than 1m in any dimension would mean that even fairly ordinary and innocuous garden sculptures would be non-complying activities. I am not aware of (nor has the submitter provided any examples of) any artworks that have caused any issues in landscape overlay zones in the operative Plan. I recommend rejecting this submission as unnecessary (and therefore inefficient) as I consider the provisions relating to public artworks sufficient to capture any art that may impact on the values of these overlay zones, noting that art on a private property that attracts significant public attention would fall within this definition of public artworks.

Recommended amendment:

None.

5.12.10 Activity status of network utilities activities in SNLs

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
OS900.58	Save The Otago Peninsula (STOP) Inc Soc	I seek to have the above provision amended	Amend Policy 10.2.5.7 as follows: 'Only allow forestry, mining, landfills, large buildings and structures, and earthworks – large scale, network utilities poles and masts – small scale, network utilities structures - small scale, on-site energy generation devices, energy resource investigation devices, and community scale hydro generators and solar panels, in the Significant Natural Landscape Overlay Zone (SNL)...'	Reject	Do not amend policy as requested.
FS2444.45	Waste Management (NZ) Limited	I oppose the submission	Oppose OS900.58. Disallow submission	Accept	Do not amend policy as requested.

Background

Under Rule 5.3.2.9.d the proposed activity status of "network utilities poles and masts – small scale" in SNLs is restricted discretionary. Under rules in the Network Utilities section (including amendments recommended in the Network Utilities Section 42A report), network utilities poles and masts that exceed 25m in height are treated as "network utilities structures – large scale", which are discretionary in SNLs.

The following policy (including amendments recommended elsewhere in this report in response to submissions) applies to network utilities poles

and masts – small scale in SNLs:

Policy 10.2.5.7: “Only ... network utilities poles and masts - small scale... in the Significant Natural Landscape Overlay Zone (SNL) where any adverse effects on the landscape values of the SNL, as identified in Appendix A3, will be avoided or, if avoidance is not possible, ~~be no more than~~ minor adequately mitigated.” {NatEnv458.12}

Request for more restrictive activity status for earthworks – large scale in SNLs

STOP (whose submission point on this matter OS900.5 was lodged against Policy 10.2.5.7, and is therefore listed in the table in section 5.4.30 of this report) request that network utilities poles and masts – small scale be removed from Policy 10.2.5.7, which lists activities that are restricted discretionary or discretionary in SNLs, because the submitter considers this activity to be an “inappropriate” activity in SNLs. I take this submission to mean that STOP seek non-complying activity status for this activity in SNLs. As set out in section 5.4.30, STOP’s submission on this matter is opposed by Waste Management (NZ) Ltd (FS2444.45).

Recommendation

In my view, the policy test set out in the background section, above, provide an appropriate level of protection for the special values of SNLs from the potential adverse effects on network utilities poles and masts – small scale. Therefore, I do not consider a more restrictive activity status (such as non-complying) is necessary for this activity in SNLs. In addition, I do not believe it would be appropriate, given that network utilities companies may well have an operational need to establish poles and masts up to 25m in height in SNLs in order to sustain or upgrade their services (for example, by extending power or telecommunication lines). In accordance with Objective 5.2.1, 2GP provisions should allow for consideration of these operational requirements, as well as potential effects on landscape values.

Recommended amendment:

None.

5.13 Submissions on Assessment Rules

5.13.1 10.4.2 Assessment of all performance standard contraventions

Sub pt #	Submitter Name	Support/Oppose/ Seek Amend	Summary Of Submission	Accept/Reject/ Accept in part	Staff Recommendation
OS958.78	Forest and Bird NZ	I support the provision	Retain Rule 10.4.2.1 (assessment of performance standard contraventions)	Accept	Retain Rule 10.4.2 without amendment
OS1088.49	Oceana Gold (New Zealand) Limited	I support the provision	Retain Rule 10.4.2 (assessment of all performance standard contraventions)	Accept	Retain Rule 10.4.2 without amendment

OS447.40, OS900.73	Harboursides and Peninsula Preservation Coalition Save The Otago Peninsula (STOP) Inc Soc	I seek to have the above provision amended	Amend Rule 10.4.2.1 by amending para (b) as follows: "b. The degree of non-compliance with the performance standard is minor <u>where, for numerically defined performance standards, the deviation is less than 10%.</u> " and inserting a new para (d): " <u>d. The site is owned by a person(s) with a legacy that historically the site or land adjacent to the site was first owned by a grandparent or older direct forbearer and family ownership has been continuous.</u> "	Reject	Retain Rule 10.4.2 without amendment
FS2373.20, FS2373.59	Howard Saunders	I oppose the submission	Oppose OS447.40 and OS900.73. Disallow submissions to amend Rule 10.4.2.1.	Accept	Retain Rule 10.4.2 without amendment
FS2449.195, FS2449.200	Federated Farmers of New Zealand	I oppose the submission	Oppose OS447.40 and OS900.73. Disallow submissions.	Accept	Retain Rule 10.4.2 without amendment

Background

Rule 10.4.2 provides assessment guidance for all contraventions of performance standards, as follows:

General assessment guidance:

- a. Where more than one standard is contravened, the combined effects of the contraventions will be considered.

Potential circumstances or mitigation measures that may support a consent application include:

- b. The degree of non-compliance with the performance standard is minor.
- c. The development incorporates conservation activity that will have significant positive effects on biodiversity or natural character values.

Submissions in support

Forest and Bird NZ (OS958.78) supports the retention of this rule, with no reason given. Oceana Gold (New Zealand) Limited (OS1088.49) also supports Rule 10.4.2, particularly the reference to conservation activity.

Request to specify 10% deviation in Rule 10.4.2.1 and add new clause (d) for legacy holdings

HPPC (OS447.40) and STOP (OS900.73) seek to amend the rule as shown in the table above. In relation to the proposed change to clause (b), the submitters believe that for decision-making consistency, for vague terms such as 'minor', numeric values should be used where they are acceptably definable. In relation to the proposed new clause (d), the submitter states that zoning changes should be avoided unless absolutely necessary, as they are very disruptive to the lives of property owners, especially in cases of long-standing family linkages and identification with the land.

Howard Saunders (FS2373.20, FS2373.59) opposes these submissions because he believes the amendment is too prescriptive and that council should be impartial in regards to (d). Federated Farmers of New Zealand (FS2449.195, FS2449.200) opposes these submissions because they believe the amendments proposed go significantly further than appropriate or required for performance standards in this area.

Recommendations

In relation to the proposed guidance that a deviation must be “less than 10%” to be considered minor, I consider that it is inappropriate to include an arbitrary threshold in the assessment rule, given that the resource consent process allows the individual circumstances of each application to be considered on a case by case basis. In my view, better outcomes are likely if decision makers have the discretion to make appropriate decisions on each application with appropriate guidance on that assessment provided by the Plan, including through clearly linked and worded objectives and policies, which in my view is provided by the drafting protocol used for the plan and detail provided in these rules (10.4.3 and 10.4.4).

In relation to the proposed new clause (d) in relation to legacy holdings, I do not see the fact that a site may have been in continuous family ownership as a valid RMA reason for treating any application for any of the development activities listed in Rule 10.4 any differently. I do not recommend that the new clause (d) is added.

Recommended amendment:

None.

5.13.2 10.4.3 Assessment of performance standard contraventions located in Natural Environment

Sub pt #	Submitter Name	Support/Oppose/ Seek Amend	Summary Of Submission	Accept/Reject/ Accept in part	Staff Recommendation
OS908.33	Otago Regional Council	I seek to have the above provision amended	Amend Rule 10.4.3 (Assessment of performance standard contravention located in Natural Environment) to consider effects on water bodies, natural character and natural functioning (of water bodies).	Accept	Amend Rule 10.4.3.1 and 10.4.3.4 as shown below
OS958.79	Forest and Bird NZ	I seek to have the above provision amended	Amend Rule 10.4.3 (assessment of performance standard contraventions located in Natural Environment) so that matters of discretion for all activities include an assessment of the significance of the indigenous biodiversity using the criteria set out in Appendix One to submission	Accept in part	Amend rules 10.4.3.2, 10.4.3.3, 10.4.3.4 and 10.4.3.5 as shown below

Background

Rule 10.4.3 provides for assessment of contraventions of the esplanade reserves and strips, vegetation clearance, minimum building separation, reflectivity, setback from coast and water bodies and tree species performance standards.

Request to amend Rule 10.4.3 to consider effects on water bodies, natural character and natural functioning of water bodies

Otago Regional Council (OS908.33) seeks to amend Rule 10.4.3 to consider effects on water bodies, natural character and natural functioning of water bodies. The submitter states "that it is important the effects of land based activities on water body values are considered when consent is sought." The submission is concerned in particular with exemptions to the vegetation clearance standards when submitting on Rule 10.4.3.

Recommendations (Amendment 1)

I agree that it is important that the effects of land based activities on water body values are considered when consent is sought. I note that assessment Rule 10.4.3.1 for esplanade reserves and strips makes specific reference to the water body values in Appendix 10C, under the matter of discretion "effects on biodiversity and natural character values of riparian margins and the coast". I recommend that this assessment rule and Rule 10.4.3.4 (which assesses applications for vegetation clearance within the margins of wetlands, the coast and water bodies) are amended to include guidance on assessing the effects on the adjacent water bodies. I have recommended amendments to this effect below.

Request to amend Rule 10.4.3 to include significance criteria

Forest and Bird NZ (OS958.79) seeks to amend Rule 10.4.3 so that matters of discretion for all activities include an assessment of the significance of the indigenous biodiversity using the criteria set out in Appendix One to their submission. The submitter states that "in order to meet S6c requirements and maintain indigenous biodiversity any activities affecting indigenous vegetation need to be assessed to ensure that sites with significant values are identified to enable their protection through consent conditions."

Recommendations (Amendment 2)

I agree with the submitter to the extent that any application that involves the clearance of indigenous vegetation or vegetation that may contain habitats of indigenous fauna should consider the potential significance of the area affected, in order to meet the requirements of section 6(c) of the RMA. Accordingly, I have recommended amendments to the assessment rules for any contravention of the vegetation clearance standard. I do not consider that this amendment is necessary for the other assessment rules under Rule 10.4.3, such as minimum building separation and reflectivity.

The submitter sought that the criteria set out in Appendix One to their submission were used in assessment, which are the criteria in the proposed Regional Policy Statement. In the recommended amendment, I have referenced the significance criteria Policy 2.2.3.1. I note that I have recommended in section 5.2.2 above that the criteria in Policy 2.2.3.1 are amended to better have regard to the criteria in the pORPS-dv.

I also note that this change is being proposed to give partial relief to submissions elsewhere on this matter requesting policy amendment and new rule to protect vegetation or habitats that meet significance criteria (refer discussion under Policy 2.2.3.2 in section 5.2.3).

Recommended amendment:

Amendment One

Amend Rule 10.4.3.1.a.iii as follows:

"iii. In assessing a change or reduction to the required esplanade reserve or strip, Council will consider the effects on the values of the water body as identified in Appendix 10C, along with effects on the natural character and natural functioning of the water body, {NatEnv908.33} and any other measures proposed to enhance the biodiversity of the riparian or coastal margin and associated water body.

Amend Rule 10.4.3.4.a by adding an additional point v. under "General assessment guidance" as follows:

"v. In assessing a contravention of the performance standards for vegetation clearance or indigenous vegetation clearance, Council will consider the effects on the values of the water body, including the natural character and natural functioning of the water body." {NatEnv908.33}

Amendment Two

Amend rules 10.4.3.2.a, 10.4.3.3.a, 10.4.3.4.a and 10.4.3.5.a by adding a new header "General assessment guidance" and adding the following text under that heading:

"In assessing the significance of effects on biodiversity values, Council will consider whether the area affected meets one or more of the criteria set out in Policy 2.2.3.1 (the criteria for being assessed as an Area of Significant Conservation Value) and, for areas that meet one or more of the criteria, assess the significance of effects as if it was a scheduled Area of Significant Conservation Value" {NatEnv958.79}

5.13.3 Rule 10.4.4.5 Sediment control (earthworks standards) assessment rule

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
OS900.79	Save The Otago Peninsula (STOP) Inc Soc	I seek to have the above provision amended	Amend Rule 10.4.4.5 by adding the following relevant objectives and policies: Objective 10.2.1 and policies 10.2.1.1, 10.2.1.3 as amended by this submission, Objective 2.2.3 and policies 2.2.3.1, 2.2.3.2, 2.2.3.3. 2.2.3.4	Reject	Do not amend Rule 10.4.4.5 as requested
OS958.86	Forest and Bird NZ				
FS2449.206	Federated Farmers	I oppose the	Oppose OS900.79. Disallow submission.	Accept	Do not amend Rule

	of New Zealand	submission			10.4.4.5 as requested
<p><u>Background</u></p> <p>Rule 10.4.4.5 assesses any contravention of the sediment control part of the earthworks standard, which states “Earthworks must be undertaken in a way that prevents sediment entering water bodies, stormwater networks or going across property boundaries”. Relevant objectives and policies listed in the assessment rule are Objective 10.2.2 (about maintaining and enhancing the biodiversity values and the natural character of the coast and riparian margins) and Policy 10.2.2.4 (sets up the setbacks rules for earthworks and general requirements to ensure sediment doesn’t enter waterways). I note the recommended amendments to Policy 10.2.2.4 and the sediment control rule in section 5.4.10 above.</p> <p><u>Request to add objectives and policies to Rule 10.4.4.5</u></p> <p>STOP (OS900.79) and Forest and Bird (OS958.86) seek to add objectives and policies to Rule 10.4.4.5 as set out in the table above, with no specific reason given except that these are relevant objectives and policies.</p> <p>Federated Farmers of New Zealand (FS2449.206) opposes the STOP submission, stating that “The amendments proposed go significantly further than appropriate or required for performance standards in this area”.</p> <p><u>Recommendations</u></p> <p>I refer the submitters to the earlier response to their similar submission in section 5.8.5.3 above. I do not consider that the assessment rule should be amended as requested, as the objectives and policies suggested do not have a direct relationship with the rule and I do not consider they are relevant to what the policy and related rule is focused on, which is the potential adverse effects of sediment on water bodies in terms of biodiversity effects and effects on natural character (noting that other matters related to water quality more broadly are managed by the Otago Regional Council). I consider it would detract from the clarity of this assessment to expand the assessment rule as suggested to consider these other matters.</p> <p>I note that if earthworks also involve vegetation clearance, then they are also subject to the vegetation clearance activity rules including Rule 10.3.2.2, the assessment of which under Rule 10.4.3.3 does reference back to Objective 10.2.1 and Policy 10.2.1.3.</p> <p>Recommended amendment: None.</p>					

5.13.4 10.5.2 Assessment of restricted discretionary activities

Sub pt #	Submitter Name	Support/Oppose/ Seek Amend	Summary Of Submission	Accept/Reject/ Accept in part	Staff Recommendation
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OS900.133	Save The Otago Peninsula (STOP) Inc Soc	I support the provision	Retain Rule 10.5.2.1 (assessment of restricted discretionary activities - earthworks large scale)	Accept	Retain Rule 10.5.2.1
FS2449.233	Federated Farmers of New Zealand	I oppose the submission	Oppose OS900.133. Disallow submission.	Reject	Retain Rule 10.5.2.1
OS958.88	Forest and Bird NZ	I support the provision	Retain Rule 10.5.2.1 (assessment of restricted discretionary activities - earthworks large scale)	Accept	Retain Rule 10.5.2.1
OS360.164	Dunedin City Council	I seek to have the above provision amended	<p>Amend Rule 10.5.2.4 as follows:</p> <ul style="list-style-type: none"> • 'New buildings or structures greater than 60m² <u>and less than or equal to 350m²</u>, or additions and alterations that result in a building or structure that is greater than 60 m² GFA <u>and less than or equal to 350m²</u> and/or has any wall longer than 20m • <u>New buildings or additions and alterations that result in a building that is greater than 350m² and/or has any wall longer than 20m</u>'. <p>Amend Rule 10.5.2.7 as follows:</p> <ul style="list-style-type: none"> • 'New buildings or additions and alterations that result in a building greater than 60m² GFA <u>and less than or equal to 350m²</u> and/or has any wall longer than 20m • <u>New buildings or additions and alterations that result in a building that is greater than 350m² and/or has any wall longer than 20m</u>' 	Accept in part	Amend Rule 10.5.2.4, Rule 10.5.2.7 and Rule 20.3.4.4 as shown below
OS447.50	Harboursides and Peninsula	I seek to have the above provision	Amend para (iv) of Rule 10.5.2.3 and para (iii) of Rules 10.5.2.4, 10.5.2.5, 10.5.2.6,	Reject	Do not amend rules 10.5.2.3 -10.5.2.6,

	Preservation Coalition	amended	10.5.2.11, 10.5.2.12, 10.5.2.15 and 10.5.2.16 by replacing the word 'consider' with ' <u>will give precedence to, and be restricted by</u> '		10.5.2.11, 10.5.2.12, 10.5.2.15,10.5.2.16 as requested
FS2332.18	Radio New Zealand Limited	I oppose the submission	Oppose OS447.50. Disallow submission	Accept	Do not amend rules 10.5.2.3 -10.5.2.6, 10.5.2.11, 10.5.2.12, 10.5.2.15,10.5.2.16 as requested
FS2373.68	Howard Saunders	I oppose the submission	Oppose OS447.50. Disallow submission to amend Rule 10.5.2.16	Accept	Do not amend rules 10.5.2.3 -10.5.2.6, 10.5.2.11, 10.5.2.12, 10.5.2.15,10.5.2.16 as requested
FS2449.220	Federated Farmers of New Zealand	I oppose the submission	Oppose OS447.50. Disallow submission.	Accept	Do not amend rules 10.5.2.3 -10.5.2.6, 10.5.2.11, 10.5.2.12, 10.5.2.15,10.5.2.16 as requested
OS951.19	Timothy George Morris	I seek to have the above provision amended	Amend Rule 10.5.2 (assessment of restricted discretionary activities) to include Policy 16.2.1.1 as a consideration	Accept in part	Amend Rule 16.10.3 and 16.10.5 as shown below
OS1054.19	Timothy Morris (on behalf of RG and SM Morris Family Trust)	I seek to have the above provision amended	Amend Rule 10.5.2 (assessment of restricted discretionary activities) to include Policy 16.2.1.1 as a consideration	Accept in part	Amend Rule 16.10.3 and 16.10.5 as shown below

Background

Rule 10.5.2 assesses restricted discretionary activities with respect to their effects on the natural environment.

Submissions in support

STOP (OS900.133) and Forest and Bird NZ (OS958.88) support Rule 10.5.2.1, which assesses earthworks - large scale, but do not give specific reasons for their support.

Federated Farmers (FS2449.233) opposes STOP (OS900.133) as part of a broader submission in opposition to a number of instances where

STOP has sought changes to assessment rules. This may indicate a misreading of this original submission point, where STOP is in support of the assessment rule.

Request to amend Rules 10.5.2.4 and 10.5.2.7 to clarify that large buildings in recreation zone are included

Dunedin City Council (OS360.164) seeks to amend rules 10.5.2.4 and 10.5.2.7 for buildings and structures to align with the Recreation Zone activity status rules 20.3.4.5 and 20.3.4.5. These separate out different development activities for buildings which are either less than or equal to, or greater than, 350m². The recommended amendments to rules 10.5.2.4 and 10.5.2.5 are intended to reflect both development activities for buildings listed in Rule 20.3.4.

I note that the Recreation Zone Section 42A Report has recommended on pages 32-33 that Rule 20.3.4.5 should be amended to clarify that the restricted discretionary assessment of new buildings greater than 350m² in NCC overlay zones or ASCVs should include an assessment of the effects on natural character of the coast and biodiversity respectively.

Recommendations –Amendment 1

The DCC submission seeks to clarify to align the names of the activities listed in the assessment rules in the Natural Environment section with the names of the activities (which rely on zone specific “qualifiers” related to building scale) listed in the Recreation Zone section as needing assessment.

I note that the DCC submission did not provide for structures greater than 350m², which is an error. I notice that other assessment rules under 10.5.2 simply use the phrase “All RD buildings and structures activities”, and rely on these being appropriately linked from activity status tables and assessment rules in other management zones. I also note that in the Plan Overview hearing amendments are suggested to better clarify which activities also need to be assessed based on overlay zones through the addition of a plus symbol in the activity status table.

I consider this approach would be simpler and clearer than any variation of the proposed amendment in this submission. I have recommended an amendment to rules 10.5.2.4 and 10.5.2.7 below to this effect.

Minor correction required – Amendment 2

In considering this submission, I have noticed what appears to be an error in the Plan text where both Rule 20.3.4.4 and 5 capture “and/or has any wall longer than 20m” with one leading to a permitted status and the other a RD status. The assessment Rule 20.3.4 shows that any building with a wall longer than 20m is intended to be assessed as a restricted discretionary activity in the Recreation Zone, so clearly Rule 20.3.4.4 is meant to refer to “does not have any wall longer than 20m”. Accordingly, I have recommended a consequential amendment to Rule 20.3.4.4 below.

Request to change restricted discretionary assessment rules by replacing the word “consider” with “will give precedence to, and be restricted by”

HPPC (OS447.50) seeks to change a number of the restricted discretionary assessment rules, as set out in the table above, where reference is made to either natural character values outlined in Appendix A5 or landscape values in Appendix A3. The submitter considers that the

assessment should not “consider” but “give precedence to, and be restricted by” these values. The reason for this submission is that “The foundation and reason for creating publicly recognized landscape and coastal overlay management zones is that their landscape and character values are to be 'protected'. Protection cannot be achieved unless what we are trying to preserve and shield from injury is assigned a top priority.”

Radio New Zealand Limited (FS2332.18) opposes this submission as the changes are unnecessary. Howard Saunders (FS2373.68) opposes this submission, stating the original wording is adequate. Federated Farmers of New Zealand (FS2449.220) opposes this submission as the changes are not effects based or necessary and will make the rules impractical, unworkable and inconsistent with the relevant policies.

Recommendations

I understand the submitter’s viewpoint that the wording “consider” may not seem particularly strong in relation to assessment of an application in relation to the values listed in Appendices 3 and 5. However, I am not recommending acceptance of the submitted wording for the following reasons.

Firstly, ‘general assessment guidance’ in the assessment rules is used to provide information about how something will be assessed generally in terms of the information that will be considered, not about the weight to be given, which should be directed by the policies and objectives wording (e.g. the use of more flexible for prescriptive wording). I note that the same format is used for other part of the Plan, for example Rule 13.7.2.1.c (Heritage Section references to Appendix A2).

Give precedence to - The rules submitted on are part of an assessment that in each case only assess either effects on natural character of the coast (rules 10.5.2.3-10.5.2.6) or effects on landscape values (rules 10.5.2.11, 12, 15, 16) in terms of the Natural Environment section. However, they will generally also have other matters of discretion within the assessment rules of the management or major facility zone or city-wide section of the 2GP from which the assessment of the activity originates. I do not consider that the assessment component within the Natural Environment section should as a matter of course take precedence over assessment of an application against objectives included elsewhere in the 2GP. Where matters of national importance are to be considered, such as with ONFs or ONLs, I consider the policy wording will provide a sense of the relative weight to be given to landscape or natural character matters.

Be restricted by – As stated, the part of a restricted discretionary assessment conducted under these assessment rules is restricted to either effects on natural character of the coast or effects on landscape values. The relevant policies cited in the assessment rules reference Appendices A3 and A5, which gives the values in these appendices a level of prominence. However, the assessment rules also reference Objective 10.2.3 and 10.2.5, which take a broader stance on the protection of natural coastal character and landscape overlay zones from inappropriate use and development, as well as maintaining or enhancing (or preserving) their values. I consider that assessment of the effects on natural character or landscape values should not be restricted by the values within these appendices, in recognition that there may be values or threats not listed within these appendices that are identified as part of a resource consent application and should be considered.

Request to amend Rule 10.5.2 to reference Policy 16.2.1.1

Timothy George Morris (OS951.19) and Timothy Morris (on behalf of RG and SM Morris Family Trust) (OS1054.19) seek to amend Rule 10.5.2 to

reference Policy 16.2.1.1, without giving specific reasons for this request.

Recommendations – Amendment 3

I do not recommend this amendment as it is contrary to the Plan structure to include reference to a management zone policy in a city wide section. Policy 16.2.1.1 sets up the permitted activity status of farming, grazing and conservation activities in the rural zones as one way of achieving Objective 16.2.1 (which also clearly supports these activities). However, I understand the concern of the submitter that this objective and policy do not seem to get referenced in the assessment rules where associated activities (buildings and structures) may need consent because they are in a landscape or natural coastal character overlay.

I recommend in order to address the concerns of the submitter a more appropriate amendment would be to add a row to Rule 16.10.3 (assessment of RD development activities) and Rule 16.10.5 (assessment of RD development activities in an overlay zone, mapped area or affecting a scheduled item) as follows:

	Activity	Matters of discretion	Guidance on the assessment of resource consents
1.	All RD activities	Positive effects in terms of supporting farming or conservation activity	Relevant objectives and policies: Objective 16.2.1

This amendment will allow positive effects and the attainment of Objective 16.2.1 to be considered when assessing any restricted discretionary development activity. I note that the Morrises make a similar request in relation to discretionary activities (see section 5.13.8 of this report) where I make a similar recommendation.

Recommended amendment:

Amendment One

Amend Rule 10.5.2.4 as follows:

~~"...New buildings or structures greater than 60m², or additions and alterations that result in a building or structure that is greater than 60m² GFA and/or has any wall longer than 20m All RD buildings and structures activities ...{NatEnv360.164}"~~

Amend Rule 10.5.2.7 as follows:

~~"...New buildings or structures or additions and alterations, that result in a building or structure that is greater than 60m² GFA and/or has any wall longer than 20m All RD buildings and structures activities ... {NatEnv360.164}"~~

Amendment Two

Amend Rule 20.3.4.4 as follows:

~~"4. New buildings or additions and alterations that result in a building that is greater than 60m² and less than or equal to 350m² and/or has any~~

~~wall longer than 20m and does not have any wall longer than 20m" {NatEnv360.164}~~

Amendment Three

Amend Rule 16.10.3 and Rule 16.10.5 by adding the following row as the start of the tables (creating a new rule 16.10.3.1 and 16.10.5.1) and consequentially renumbering following rules:

	Activity	Matters of discretion	Guidance on the assessment of resource consents
1.	All RD activities	a. Positive effects in terms of supporting farming or conservation activity	Relevant objectives and policies: Objective 16.2.1

{NatEnv951.19}

5.13.5 10.5.2.2 Assessment of all subdivision activities

Sub pt #	Submitter Name	Support/Oppose/ Seek Amend	Summary Of Submission	Accept/Reject/ Accept in part	Staff Recommendation
OS360.155	Dunedin City Council	I seek to have the above provision amended	Amend Rule 10.5.2.2.c.v to: 'Council will consider the positive effects for public access provided by the subdivision, including those that are additional to any esplanade <u>reserve or esplanade strip</u> requirements that apply.'	Accept	Amend Rule 10.5.2.2.c.v as shown below
OS900.134	Save The Otago Peninsula (STOP) Inc Soc	I seek to have the above provision amended	Amend Rule 10.5.2.2 by adding the following relevant objectives and policies: <u>Objective 2.2.3 and policies 2.2.3.1, 2.2.3.2, 2.2.3.3. and policies 10.2.1.1 10.2.1.2, 10.2.1.3</u> (as amended by this submission) and by deleting para (ii) The design of the subdivision and any future land use or development activities will avoid or, if avoidance is not possible, adequately mitigate adverse effects on other important areas of indigenous vegetation or the	Reject	Do not amend Rule 10.5.2.2 as requested

			habitat of indigenous fauna (Policy 10.2.1.9.b): and adding the following amended version under General assessment guidance: <u>The design of the subdivision and any future land use or development activities will avoid or, if avoidance is not possible, adequately mitigate adverse effects on other important areas of indigenous vegetation or the habitat of indigenous fauna.</u>		
FS2449.234	Federated Farmers of New Zealand	I oppose the submission	Oppose OS900.134. Disallow submission.	Accept	Do not amend Rule 10.5.2.2 as requested
OS958.89	Forest and Bird NZ	I seek to have the above provision amended	Amend Rule 10.5.2.2 (assessment of subdivision) to add Objective 2.2.3 and policies 2.2.3.1, 2.2.3.2, 2.2.3.3. and Policies 10.2.1.1 10.2.1.2, 10.2.1.3 as amended by this submission; and by deleting para (ii) The design of the subdivision and any future land use or development activities will avoid or, if avoidance is not possible, adequately mitigate adverse effects on other important areas of indigenous vegetation or the habitat of indigenous fauna (Policy 10.2.1.9.b): and adding the following amended version under General assessment guidance: <u>The design of the subdivision and any future land use or development activities will avoid or, if avoidance is not possible, adequately mitigate adverse effects on areas of indigenous vegetation or the habitat of indigenous fauna.</u>	Accept in part	Amend Policy 10.2.1.9 as shown in section 5.4.7 above
FS2449.238	Federated Farmers of New Zealand	I oppose the submission	Oppose OS958.89. Disallow submission.	Accept in part	Do not amend Rule 10.5.2.2 as requested
<p><u>Background</u> Rule 10.5.2.2 provides for assessment of the effects of all restricted discretionary subdivision activities.</p>					

Requests to correct drafting

Dunedin City Council (OS360.155) seeks to amend Rule 10.5.2.2.c.v to improve plan clarity, through spelling out the phrase “esplanade reserve or esplanade strip”, which will allow hyperlinking to the definitions of esplanade reserve and esplanade strip.

Recommendations – Amendment 1

I recommend that this submission is accepted, as I consider that allowing the hyperlinking to the definitions of “esplanade reserve” and “esplanade strip” will improve plan clarity.

Requests to add additional objectives and policies to Rule 10.5.2.2 and amend clause (ii)

STOP (OS900.134) and Forest and Bird (OS958.89) seek to amend Rule 10.5.2.2 by adding Objective 2.2.3 and policies 2.2.3.1, 2.2.3.2, 2.2.3.3 and Policies 10.2.1.1 10.2.1.2, 10.2.1.3 (as amended by their submission), and by removing clause (ii) and placing an amended version of it under “General assessment guidance” as shown in the table above. I note that the Forest and Bird submission amended this version of clause (ii) by removing the words “other important” prior to “areas of indigenous vegetation or the habitat of indigenous fauna”, whereas the STOP submission did not remove these words and is effectively still the same as clause (ii).

STOP and Forest and Bird both state that the “Matters of discretion also need to include biodiversity. Other objectives and policies should apply”. Forest and Bird also points out they are seeking the deletion of Policy 10.2.1.9 and that the matters are dealt with under Rule 10.5.2.2 as assessment matters.

Federated Farmers of New Zealand (FS2449.234, FS2449.238) opposes these submissions as it considers that the changes are not effects based or necessary and make the rule impractical, unworkable and inconsistent with the relevant policies.

Recommendations

Rule 10.5.2.2 is about the assessment of RD subdivision activities; it refers to objectives 10.2.1, 10.2.2 and 10.2.4 and policies 10.2.1.9.b, 10.2.2.5 and 10.2.4.3, which give guidance on the level of effects to be tolerated/outcomes to be achieved in terms of subdivision and effects on of indigenous vegetation and the habitat of indigenous fauna, biodiversity, natural character of riparian margins and the coast and public access. Rule 10.5.2.2 also has additional guidance on assessing effects with respect to these matters which includes conservation activities in the list of potential circumstances that may support a consent application.

Objective 2.2.3 and policies 2.2.3.1, 2.2.3.2, 2.2.3.3 set up the methods used in the plan in terms of the retention, enhancement and restoration of indigenous biodiversity. I do not recommend referring to the strategic directions policies as they do not give helpful guidance as they are designed to explain the methods in the plan not provide guidance on assessing subdivision consents. Generally speaking, strategic directions policies mainly get referenced in terms of non-complying activities as they can be helpful in assessing what is contrary to the plan integrity (particularly in terms of ‘out-of-zone’ applications.) In my opinion they are not helpful (and probably will cause confusion to plan users) to add as requested by the submitter.

I also note that any indigenous vegetation clearance required as a result of subdivision or subsequent land use activity will be subject to the vegetation clearance Rule 10.3.2, which will separately assess such objectives and policies. The intent of having a matter of discretion for effects on areas of indigenous vegetation and the habitat of indigenous fauna in Rule 10.5.2.2 is to encourage the design of subdivision to take account of existing areas of indigenous vegetation or habitat, for example, in the way that new resultant sites are laid out.

Request to remove para (ii) and add under general assessment guidance – I do not recommend that this amendment is made, as I am not recommending the removal of Policy 10.2.1.9 as set out in section 5.4.7 above. On that basis, I consider that Policy 10.2.1.9 should remain as a relevant policy in Rule 10.5.2.2. I note, however, that I am recommending the removal of the word “important” from Policy 10.2.1.9.b.

I am not recommending any amendments as a result of this submission.

Recommended amendment:

Amendment One

Amend Rule 10.5.2.2.c.v as follows:

“v. Council will consider the positive effects for public access provided by the subdivision, including those that are additional to any esplanade reserve or esplanade strip {*NatEnv360.155*} requirements that apply.”

5.13.6 10.5.2.3-10.5.2.6 Assessment of restricted discretionary activities in ONCC, HNCC, NCC overlay zones

Sub pt #	Submitter Name	Support/Oppose/ Seek Amend	Summary Of Submission	Accept/Reject/ Accept in part	Staff Recommendation
OS322.92	KiwiRail Holdings Limited	I support the provision	Retain Rule 10.5.2.3.	Accept	Retain Rule 10.5.2.3 as notified.
FS2264.12	Powernet Limited	I support the submission	Support OS322.92. Allow submission.	Accept	Retain Rule 10.5.2.3 as notified.
OS447.49	Harboursides and Peninsula Preservation Coalition	I seek to have the above provision amended	Amend Rule 10.5.2.3 by in para (i) after the word 'Objective 10.2.3' inserting ' <u>Policy 10.2.3.2, Policy 10.2.5.6</u> '	Reject	Do not amend Rule 10.5.2.3 as requested
FS2449.219	Federated Farmers of New Zealand	I oppose the submission	Oppose OS447.49. Disallow submission.	Accept	Do not amend Rule 10.5.2.3 as requested

OS447.51	Harboursides and Peninsula Preservation Coalition	I seek to have the above provision amended	Amend Rule 10.5.2.5 by inserting a new para (v): <u>For solar panels, innovative solutions to the reflectivity of solar panels.</u>	Reject	Do not amend Rule 10.5.2.5 as requested
OS900.87	Save The Otago Peninsula (STOP) Inc Soc				
FS2449.221, FS2449.229	Federated Farmers of New Zealand	I oppose the submission	Oppose OS447.51 and OS900.87. Disallow submissions.	Accept	Do not amend Rule 10.5.2.5 as requested

Background

Rules 10.5.2.3 to 10.5.2.6 assess restricted discretionary activities in ONCC, HNCC and NCC overlay zones.

Submissions in support

KiwiRail Holdings Limited (OS322.92) seeks to retain Rule 10.5.2.3, which assesses activities in the ONCC or HNCC overlay zones. The submitter supports that consideration is able to be given to the functional need for the network utility to locate where proposed.

This submission is supported by Powernet Limited (FS2264.12), who “supports the inclusion of assessment criteria regarding the locational and operational constraints associated with network utilities, where network utilities are proposed to be located in areas with character/landscape controls”.

Request to amend Rule 10.5.2.3 by including Policy 10.2.3.2 and Policy 10.2.5.6

Rule 10.5.2.3 relates to the assessment of restricted discretionary activities in the ONCC and HNCC overlay zones. It references the related policies in terms of those activities.

HPPC (OS447.49) seeks to amend Rule 10.5.2.3 by including policies 10.2.3.2 and 10.2.5.6 as relevant policies. The submitter states that this will give continuity with earlier recommended policy amendments.

Policy 10.2.3.2 seeks to “avoid” a range of land use, development, network utility and energy generation activities in ONCC and HNCC overlay zones, and is linked to NC activities. Policy 10.2.5.6 seeks to “only allow” a range of land use, development, network utility and energy generation activities in the ONL overlay zones.

Federated Farmers (FS2449.219) opposes this submission, as it considers that the changes are not effects based or necessary and make the rule impractical, unworkable and inconsistent with the relevant policies.

Recommendations

As has been discussed previously in this report and other s42A reports, the 2GP is designed to have direct and specific relationships between policies and rules which are reinforced and clarified through the policy drafting protocol and the links provided in the assessment rules. Maintaining this plan structure and drafting protocol is important to maintain the plan clarity it seeks to achieve.

I do not recommend that Rule 10.2.5.3 is amended to include these policies as I do not consider they are relevant to the assessment of restricted discretionary activities in the ONCC and HNCC overlay zones. Policy 10.2.3.2 relates to non-complying activities in ONCC and HNCC overlay zones and is used in the assessment of these in Rule 10.7.2.4. Policy 10.2.5.6 relates to restricted discretionary and discretionary activities in the ONL overlay zone and I do not consider this directly relevant to ONCC and HNCC areas. There will be some sites that are both in an ONL and either ONCC or HNCC overlay zones but I consider the policies and assessment rules for these different types of overlay zone should remain discrete for sake of plan clarity.

Requests to amend Rule 10.5.2.5 to insert new clause for solar panels

HPPC (OS447.49, OS447.51) and STOP (OS900.87) seek to amend Rule 10.5.2.5 by adding a new "Potential circumstances that may support a consent application" as follows: "v. For solar panels, innovative solutions to the reflectivity of solar panels." The submitters state that "Solar panels are a great advantage but also present a great landscape challenge....sparkles covering the slopes!"

Federated Farmers of New Zealand (FS2449.219 and FS2449.221) opposes these submissions as it considers that the changes are not effects based or necessary and make the rule impractical, unworkable and inconsistent with the relevant policies.

Recommendations

I acknowledge the point raised by the submitters, that the reflectivity of solar panels has the potential to adversely affect natural character values, and I agree that the assessment rule should be amended to provide additional guidance on the mitigation of this effect. However I consider that, rather than referring to "innovative solutions to ... reflectivity" as requested by the submitters, it would be clearer to refer to design and materials that "minimise reflectivity and glare as far as practicable". This wording recognises the fact that some degree of reflectivity and glare from solar panels may be unavoidable.

Recommended amendment:

Amend Rule 10.5.2.5 as follows:

iv. For utilities activities:

1. The network utility is co-located with existing buildings or network utilities structures.
2. It is essential for the activity to locate on the feature to ensure the ongoing operation of a network utility service.
3. Landscaping or other forms of screening will be used to reduce the visibility of the network utility from surrounding properties and public viewpoints.
4. Solar panels and other structures use a design and/or materials that minimise reflectivity and glare as far as practicable.
{NatEnv447.49}

5.13.7 10.5.2.11-10.5.2.16 Assessment of restricted discretionary activities in ONF, ONL, SNL overlay zones

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
OS322.93	KiwiRail Holdings Limited	I support the provision	Retain Rule 10.5.2.12.	Accept	Retain Rule 10.5.2.12
FS2264.13	Powernet Limited	I support the submission	Support OS322.93. Allow submission.	Accept	Retain Rule 10.5.2.12
OS322.94	KiwiRail Holdings Limited	I support the provision	Retain Rule 10.5.2.15.	Accept	Retain Rule 10.5.2.15
FS2264.14	Powernet Limited	I support the submission	Support OS322.94. Allow submission	Accept	Retain Rule 10.5.2.15
OS322.95	KiwiRail Holdings Limited	I support the provision	Retain Rule 10.5.2.16.	Accept	Retain Rule 10.5.2.16
FS2264.15	Powernet Limited	I support the submission	Support OS322.95. Allow submission	Accept	Retain Rule 10.5.2.16
OS447.57	Harboursides and Peninsula Preservation Coalition	I seek to have the above provision amended	Amend Rule 10.5.2.13 by in para (iv) inserting after the words 'building platform' the words ' <u>considered and approved as part of a Resource Consent assessment</u> '	Reject	Do not amend Rule 10.5.2.13 as requested
OS900.91	Save The Otago Peninsula (STOP) Inc Soc				
FS2449.224, FS2449.231	Federated Farmers of New Zealand	I oppose the submission	Oppose OS447.57 and OS900.91. Disallow submissions.	Accept	Do not amend Rule 10.5.2.13 as requested
<u>Background</u>					
Rules 10.5.2.11-10.5.2.16 provide assessment guidance for restricted discretionary activities in ONF, ONL, SNL overlay zones.					

Note that, as a result of the Network Utilities Section 42A report, it is recommended that a new Rule 10.5.2.16 is added for network utilities and energy generation, but the discussion below refers to the rule numbers as notified.

Submissions in support

KiwiRail Holdings Limited (OS322.93, OS322.94 and OS322.95) supports rules 10.5.2.12, 10.5.2.15 and 10.2.5.16, in particular “that consideration is able to be given to the functional need for the network utility to locate where proposed.” Powernet Limited (FS2264.13, FS2264.14 and FS2264.15) supports these submissions, as the submitter “supports the inclusion of assessment criteria regarding the locational and operational constraints associated with network utilities, where network utilities are proposed to be located in areas with character/landscape controls”.

Requests to amend Rule 10.2.5.13 to include “considered and approved as part of a resource consent assessment”

HPPC (OS447.57) and STOP (OS900.91) seek to amend Rule 10.2.5.13 by clarifying that the landscape building platform in clause (iv) are considered and approved as part of a resource consent assessment. The submitters state that “Council may wish to require a landscape building platform, but the platform/landscape assessment, per 10.8.1 does not require it to meet with Council approval.”

Federated Farmers of New Zealand (FS2449.224, FS2449.231) considers that the changes are not effects based or necessary and make the rule impractical, unworkable and inconsistent with the relevant policies.

Recommendations

I do not recommend this amendment is accepted, as clause (iv) refers to a condition that may be imposed as part of a decision on a resource consent application for subdivision. The clause sought by the submitters is, therefore, redundant and I consider it would detract from plan clarity. I disagree with the submitters that approval is not required to create landscape building platforms, as decision-maker approval is a necessary requirement for any consent notice to be issued.

Recommended amendment:

None.

5.13.8 10.6.2 Assessment of discretionary activities

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
OS874.44	Blackhead Quarries Ltd	I oppose the provision	Remove Rule 10.6.2.3 (assessment of discretionary activities - mining and landfills)	Reject	Retain Rule 10.6.2.3.

OS901.37	Tussock Top Farm Ltd	I oppose the provision	Remove Rule 10.6.2.3 (assessment of discretionary activities - mining and landfills)	Reject	Retain Rule 10.6.2.3.
OS874.35	Blackhead Quarries Ltd	I oppose the provision	Remove Rule 10.6.2.5 (assessment of discretionary activities in Significant Natural Landscape or Outstanding Natural Landscape overlay zones)	Reject	Retain Rule 10.6.2.5
OS901.28	Tussock Top Farm Ltd	I oppose the provision	Remove Rule 10.6.2.5 (assessment of discretionary activities in Significant Natural Landscape or Outstanding Natural Landscape overlay zones)	Reject	Retain Rule 10.6.2.5
OS951.20	Timothy George Morris	I seek to have the above provision amended	Amend Rule 10.6.2 (assessment of discretionary activities) to include Policy 16.2.1.1 as a consideration	Accept in part	Amend Rule 16.11.2.1.a as shown below
OS1054.20	Timothy Morris (on behalf of RG and SM Morris Family Trust)	I seek to have the above provision amended	Amend Rule 10.6.2 (assessment of discretionary activities) to include Policy 16.2.1.1 as a consideration	Accept in part	Amend Rule 16.11.2.1.a as shown below
FS2391.19	Geoff Scurr Contracting Limited	I support the submission	Support OS1054.20. Allow submission.	Reject	Do not amend Rule 10.6.2 as requested
OS447.61	Harboursides and Peninsula Preservation Coalition	I seek to have the above provision amended	Amend Rule 10.6.2.4.b by after the words '(Policy 10.2.5.5)' inserting the words ' <u>for hazard and transport activities</u> ' and adding the sentence ' <u>For public amenities, the standard is not to be 'impracticable' but rather 'not physically possible.'</u>	Reject	Do not amend Rule 10.6.2.4 as requested
OS900.95	Save The Otago Peninsula (STOP) Inc Soc				
FS2449.239	Federated Farmers of New Zealand	I oppose the submission	Oppose OS900.95. Disallow submission.	Accept	Do not amend Rule 10.6.2.4 as requested
OS447.63	Harboursides and Peninsula Preservation	I seek to have the above provision amended	Amend Rule 10.6.2.9.b by after the words '(Policy 10.2.3.5)' inserting the words ' <u>for hazard and transport activities</u> ' and adding	Reject	Do not amend Rule 10.6.2.9.b as requested

OS900.97	Coalition Save The Otago Peninsula (STOP) Inc Soc		the sentence ' <u>For public amenities, the standard is not to be 'impracticable' but rather 'not physically possible.'</u> (policy/rule numbering inferred from submission).		
FS2449.241	Federated Farmers of New Zealand	I oppose the submission	Oppose OS900.97. Disallow submission.	Accept	Do not amend Rule 10.6.2.9.b as requested
OS447.62	Harboursides and Peninsula Preservation Coalition	I seek to have the above provision amended	Amend Rule 10.6.2.5.c by after the words 'Appendix A3' inserting the words ' <u>effects with less than 10% visible from other properties, roads or public places</u> '.	Reject	Do not amend Rule 10.6.2.5 as requested
OS900.96	Save The Otago Peninsula (STOP) Inc Soc	I seek to have the above provision amended	Amend Rule 10.6.2.5 paras (b) and (c) by after the words 'Appendix A3' inserting the words ' <u>effects with less than 10% visible from other properties, roads or public places</u> '	Reject	Do not amend Rule 10.6.2.5 as requested
FS2439.34	Oceana Gold (New Zealand) Limited	I oppose the submission	Oppose OS900.96. Disallow submission.	Accept	Do not amend Rule 10.6.2.5 as requested
FS2449.240	Federated Farmers of New Zealand	I oppose the submission	Oppose OS900.96. Disallow submission.	Accept	Do not amend Rule 10.6.2.5 as requested

Background

Rule 10.6.2 (Assessment of Discretionary Activities) includes the provisions related to assessment of discretionary activities with respect to on the topics covered in Section 10 Natural Environment:

- Rules 10.6.2.4 and 10.6.2.5 focus on activities in landscape overlay zones;
- Rule 10.6.2.7 assesses activities in ASCVs; and
- Rules 10.6.2.8 and 10.6.2.9 focus on activities in natural coastal character overlay zones.

Note that any assessment of a discretionary activity is not restricted to the matters set out in Rule 10.6.2, as usually there will also be assessment matters laid out in the relevant management zone section.

Requests to remove Rule 10.6.2.3 and Rule 10.6.2.5

Blackhead Quarries Ltd (OS874.44) and Tussock Top Farm Ltd (OS901.37) seek to remove Rule 10.6.2.3, which assesses mining and landfills. No specific reason is given for this request, although it is likely to be related to their request for new mining activities to be a restricted discretionary rather than a discretionary activity, and for the expansion of existing mining to be a controlled activity. These requests for changes to activity status were considered in the Cross-Plan: Mining Activities Section 42A report (refer pp 14-23).

Blackhead Quarries Ltd (OS874.35) and Tussock Top Farm Ltd (OS901.28) also seek to remove Rule 10.6.2.5, which assesses mining and landfills in ONL or SNL overlay zones. Saddle View Estates also seeks the removal of Rule 10.6.2.5, stating that “quarries by their nature are extractive activities that will modify landforms to allow access to the aggregate resource.....these are working environments with significant levels of modification through farming, forestry and mining activities”.

Recommendations

The reporting officer, Katie James, in the Cross-Plan: Mining Activities Section 42A report did not recommend acceptance of the submissions for new mining to be a restricted discretionary activity or the expansion of existing mining to be a controlled activity. I concur with the recommendation in this report, and for this reason do not consider that Rule 10.6.2.3 should be removed as I consider it appropriate to assess the effects of mining on the natural environment, including areas of indigenous vegetation and the habitats of indigenous fauna.

I also do not recommend that Rule 10.6.2.5 should be removed. I consider it appropriate that the effects on landscape values are assessed where mining or landfill activity is proposed in either an ONL or SNL overlay zone.

Request to amend Rule 10.6.2 to refer to Policy 16.2.1.1

Timothy George Morris (OS951.20) and Timothy Morris (on behalf of RG and SM Morris Family Trust) (OS1054.20) seek that Rule 10.6.2 is amended to include consideration of Policy 16.2.1.1, which states “Enable farming, grazing and conservation activity in the rural zones.” do not provide reasons for seeking Policy 16.2.1.1 as a consideration of assessment. The Morris Family Trust submission (OS1054.20) is supported by Geoff Scurr Contracting Limited (FS2391.19) who considers that the recommended amendment is appropriate.

Recommendations – Amendment 1

I make the same recommendation as I did in response to the same submitters in section 5.13.4, that the specific request be rejected as it is contrary to the Plan structure to include reference to a management zone policy in a city wide section. However, as with the response above, I consider partial relief could be given to these submissions by amending the discretionary assessment rule 16.11.2.1 (all discretionary land use activities) in the rural zones section to specifically consider Objective 16.2.1. I have recommended an amendment to this effect below.

I note that this is an amendment to the assessment rules for discretionary land use activities, with there not being any discretionary development activities in the rural zones. I also note that my response in section 5.13.4 above was directed at restricted discretionary development activities, which I have inferred was the submitters' intent in having particular concern regarding consideration of development activities in overlay zones in their wider submissions. This has led to a discrepancy in responding to these submissions, with one amendment aimed at assessment of restricted discretionary development activities and the other at discretionary land use activities. The Panel may wish to

either broaden the scope of this relief to also consider restricted discretionary land use activities, and/or ask for clarification from the submitters at the hearing.

I note also that the assessment of any application for a discretionary activity is not limited by rules 16.11.2 or 10.6.2, therefore Policy 16.2.1.1 can still be considered in the assessment where relevant, regardless of the recommended amendment below.

Request to add amend Rules 10.6.2.4 and 10.6.2.9 to make test “not physically possible” for public amenities

HPPC (OS447.61, OS447.63) and STOP (OS900.95, OS900.97) seek to amend rules 10.6.2.4 and 10.6.2.9, which assess hazard mitigation structures and earthworks, discretionary transportation activities and discretionary public amenities, in landscape and natural coastal character overlay zones respectively. The submitters seek to amend the rules for public amenities in particular, by adding the sentence “For public amenities, the standard is not to be ‘impracticable’ but rather ‘not physically possible’.” The submitters state that “The term ‘practicable’ can allow higher cost considerations to be an element of consideration. However, all such costs are a fair and acceptable price to protect landscape overlays from public amenities as these are of a less necessary nature than hazards and transportation.”

Federated Farmers of New Zealand (FS2449.239, FS2449.241) opposes the submissions by STOP, stating that the amendments “*are excessive, inappropriate and overly onerous*”.

Recommendations (Amendment 2 – Plan Correction)

I consider that rules 10.6.2.4 and 10.6.2.9 are in error in including “discretionary public amenities” as there are no public amenities activities that are discretionary, except for two performance standards which become discretionary within a certain range of contravention (namely, light spill and noise). I do not consider that rules 10.6.2.4 or 10.6.2.9 were meant to be assessing these performance standards as there is no link to them from the relevant Public Amenities section rule 3.8.2.1.

I consider that as the relevant section 10 policies for public amenities are “only allow” policies that cover both restricted discretionary and discretionary activities, the reference to discretionary public amenities was inserted into the discretionary assessment rules in error. I have recommended an amendment below to remove this reference in rules 10.6.2.4 and 10.6.2.9.

Request to amend Rule 10.6.2.5 to limit to effects that are less than 10% visible from outside the site

HPPC (OS447.62) and STOP (OS900.96) seek to amend Rule 10.6.2.5.b and 10.6.2.5.c by inserting the words “effects with less than 10% visible from other properties, roads or public places” into the assessment rules. The submitters state that “a definition with a numeric measure is required to insure decision-making consistency. In addition, quantifying a measure has the advantage that applicants will be clear about a standard rather than wonder what subjective judgment might be made.”

Federated Farmers of New Zealand (FS2449.240) opposes the submission of STOP, stating that the amendments “are excessive, inappropriate and overly onerous. Terminology used is inconsistent with that commonly accepted under the RMA and figures like 10% proposed are arbitrary.” Oceana Gold (New Zealand) Limited (FS2439.34) also opposes STOP, stating that although they do not operate in SNL or ONL areas “imposition

of a "less than 10 % visible" requirement is unduly onerous for mining activity in these areas which, by nature, can be large scale and therefore visible."

Recommendations

I assume from the submissions that the submitters are seeking that only less than 10% of an activity may be visible from outside the site, otherwise resource consent should not be granted. I do not recommend that this amendment is accepted as I consider it to be inappropriate to include an arbitrary threshold in the assessment rule, given that the resource consent process allows the individual circumstances of each application to be considered on a case by case basis. The proposed amendment does not allow for a situation where, for instance, a neighbouring property may view more than 10% of an activity but be comfortable with the effects of the activity. I consider that better outcomes are likely if decision makers have the discretion to make appropriate decisions on each application with appropriate guidance on that assessment provided by the Plan.

Recommended amendment:

Amendment One

Amend Rule 16.11.2.1.a as follows:

"a. Objectives 16.2.1, 16.2.2, 16.2.3, 16.2.4." {NatEnv951.20}

Amendment Two

Amend Rule 10.6.2.4 as follows:

"4. In the ONF, ONL, or SNL overlay zones:

- Hazard mitigation structures
- Hazard mitigation earthworks
- Discretionary transportation activities
- ~~Discretionary public amenities ...~~ {c116}

Amend Rule 10.6.2.9 as follows:

"9. In the ONC, HNCC, NCC overlay zones:

- hazard mitigation structures
- hazard mitigation earthworks
- Discretionary transportation activities
- ~~Discretionary public amenities ...~~ {c116}

5.13.9 Rule 10.7 Assessment of non-complying activities

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
OS447.65 OS900.99	Harboursides and Peninsula Preservation Coalition Save The Otago Peninsula (STOP) Inc Soc	I seek to have the above provision amended	Amend Rules 10.7.2.4 and 10.7.2.5 as follows: 'NC activities as indicated in the relevant management or major facility zone or city wide activities section <u>and RD activities that have become NC as the result of a performance standard contravention...</u> '	Reject	Do not amend rules 10.7.2.4 and 10.7.2.5 as requested
FS2076.29, FS2076.24	Vodafone NZ Ltd	I oppose the submission	Oppose OS447.65 and OS900.99. Disallow submissions.	Accept	Do not amend rules 10.7.2.4 and 10.7.2.5 as requested
FS2079.14, FS2079.9	Chorus New Zealand Limited (Chorus)	I oppose the submission	Oppose OS447.65 and OS900.99. Disallow submissions.	Accept	Do not amend rules 10.7.2.4 and 10.7.2.5 as requested
FS2146.14, FS2146.9	Spark New Zealand Trading Limited	I oppose the submission	Oppose OS447.65 and OS900.99. Disallow submissions.	Accept	Do not amend rules 10.7.2.4 and 10.7.2.5 as requested
FS2264.27, FS2264.29	Powernet Limited	I oppose the submission	Oppose OS447.65 and OS900.99. Disallow submissions.	Accept	Do not amend rules 10.7.2.4 and 10.7.2.5 as requested
FS2449.245, FS2449.247	Federated Farmers of New Zealand	I oppose the submission	Oppose OS447.65 and OS900.99. Disallow submissions.	Accept	Do not amend rules 10.7.2.4 and 10.7.2.5 as requested
OS900.98	Save The Otago Peninsula (STOP) Inc Soc	I seek to have the above provision amended	Amend Rule 10.7.1.1 by inserting after the word 'conditions' the following sentence ' <u>These conditions must include meeting all performance standards outlined for the P, D and RD status categories for land use activity, development, and/or subdivision.</u> '	Reject	Do not amend Rule 10.7.1.1 as requested

FS2076.30	Vodafone NZ Ltd	I oppose the submission	Oppose OS900.98. Disallow submission	Accept	Do not amend Rule 10.7.1.1 as requested
FS2079.15	Chorus New Zealand Limited (Chorus)	I oppose the submission	Oppose OS900.98. Disallow submission	Accept	Do not amend Rule 10.7.1.1 as requested
FS2146.15	Spark New Zealand Trading Limited	I oppose the submission	Oppose OS900.98. Disallow submission	Accept	Do not amend Rule 10.7.1.1 as requested
FS2264.28	Powernet Limited	I oppose the submission	Oppose OS900.98. Disallow submission	Accept	Do not amend Rule 10.7.1.1 as requested
FS2373.62	Howard Saunders	I oppose the submission	Oppose OS900.98. Disallow submission to amend Rule 10.7.1.1.	Accept	Do not amend Rule 10.7.1.1 as requested
FS2449.246	Federated Farmers of New Zealand	I oppose the submission	Oppose OS900.98. Disallow submission.	Accept	Do not amend Rule 10.7.1.1 as requested
OS951.21 OS1054.21	Timothy George Morris Timothy Morris (on behalf of RG and SM Morris Family Trust)	I seek to have the above provision amended	Amend Rule 10.7.2 (assessment of non-complying activities) to include Policy 16.2.1.1 as a consideration	Reject	Do not amend Rule 10.7.2 as requested
FS2391.20	Geoff Scurr Contracting Limited	I support the submission	Support OS1054.21. Allow submission.	Reject	Do not amend Rule 10.7.2 as requested

Background

Rule 10.7 provides guidance on the assessment of resource consents for activities that are non-complying, in relation to effects covered by the Natural Environment section. This includes consents involving scheduled ASCVs and in landscape and natural coastal character overlay zones.

Request to add RD activities that become NC as the result of a performance standard contravention

HPPC (OS447.65) and STOP (OS900.99) seek to amend rules 10.7.2.4 and 10.7.2.5 so that these also apply to restricted discretionary activities that become non-complying as a result of performance standard contravention. HPPC and STOP consider that these amendments are necessary to clarify the types of non-complying activity that the rules apply to.

These submissions are opposed by Vodafone (FS2076.29, FS2076.24), Chorus (FS2079.14, FS2079.9), Spark (FS2146.14, FS2146.9) and

PowerNet (FS2264.27, FS2264.9), due to their opposition to blanket non-complying activity rules for network utilities. They also opposed by Federated Farmers of New Zealand (FS2449.245, FS2449.247), who state "It is completely inconsistent with the structure and intent of the RMA to make conditions for non-complying activities the same as those for lesser activities including permitted activities. If the activities could meet permitted activity conditions, the applicant would not need consent. The proposals are illogical, inconsistent and outside the scope of the RMA."

Recommendations

Rule 10.7.2.4 considers non-complying activities in the ONCC, HNCC or NCC overlay zones, while Rule 10.7.2.5 considers non-complying activities in the ONF, ONL or SNL overlay zones. I note that Rule 10.7.2.5 already lists one instance of a performance standard contravention, namely Rule 5.5.6.5 (co-location on an ONF).

Performance standard contraventions that are non-complying in management and major facility zones typically include standards such density, minimum site size, light spill, noise, hazardous substances quantity limits and storage requirements, setback from national grid, hazard development standards (hazard exclusion areas) and archaeological sites (earthworks). The drafting of the assessment rules for these contraventions has considered where guidance should specifically list effects on natural environment such as biodiversity, landscape or natural character values.

I do not consider it would aid plan clarity to add the amendment as specified by the submitter, when the 2GP is not guiding all instances of a non-complying performance standard contravention to the Natural Environment section. If the submitters have specific performance standards that should be considered under rules 10.7.2.4 and 10.7.2.5, then these could be considered separately. However, I do not support a blanket approach to listing non-complying performance standard contraventions in these assessment rules. I note that, for a non-complying activity, any effects on Natural Environment matters may still be considered as part of the assessment of any resource consent.

Request to amend Rule 10.7.1.1 to require all performance standards to be achieved

STOP (OS900.98) to amend Rule 10.7.1.1 so that all non-complying activities must meet performance standards for permitted, restricted discretionary and discretionary land use, development and subdivision activities.

This submission is opposed by Vodafone (FS2076.30), Chorus (FS2079.15), Spark (FS2146.15), PowerNet (FS2264.28), Howard Saunders (FS2373.62) and Federated Farmers (FS2449.246). Vodafone, Chorus and Spark state that "It is not appropriate to pre-determine the specific scope of conditions such as meeting all performance standards for otherwise P, D and RD activities. The reason for seeking consent in the first place may be as the result of not meeting a performance standard. This may be appropriate depending on the particular circumstances." Powernet does not think a blanket non-complying status should apply to network utility activities and structures.

Howard Saunders' reason for opposition is "Inappropriate wording for the Introduction; guidance where necessary is already in the table." Federated Farmers' reason for opposition is the same as given in response to HPPC (OS447.65) and STOP (OS900.99) above.

Recommendations

The same request made by HPPC (OS447.64) was considered on pages 110-111 of the Plan Overview Section 42A Report. The reporting

planner, Dr Anna Johnson, recommended rejecting this submission and gave three reasons as set out on page 111. I agree with Dr Johnson's recommendation and, therefore, recommend that the STOP submission is also rejected.

Request to amend Rule 10.7.2 to reference Policy 16.2.1.1

Timothy George Morris (OS951.21) and Timothy Morris (on behalf of RG and SM Morris Family Trust) (OS1054.21) seek that Rule 10.7.2 is amended to include consideration of Policy 16.2.1.1, which states "Enable farming, grazing and conservation activity in the rural zones."

Timothy Morris (on behalf of RG and SM Morris Family Trust) (OS1054.21) is supported by Geoff Scurr Contracting Limited (FS2391.20) who considers that the recommended amendment is appropriate.

Recommendations

I do not recommend this amendment, as it is contrary to the Plan structure to include reference to a management zone policy in a city wide section. I note that the Morris' have made a similar request in terms of RD and D activity assessment rules, for which I recommended an amendment to give relief to the issue being raised. However, in the case of non-complying activities, I do not make the same recommendation for two reasons. Firstly, positive effects with respect to any of the Plan's objectives can be considered if decision-makers determine them to be relevant. Secondly, in determining something should be treated as non-complying, the Plan has already determined that something should only be granted as a 'true exception' and, therefore, the guidance in related policies and assessment rules is focused on what might constitute a 'true exception'. In my opinion, "Enabling farming, grazing and conservation activity in the rural zones" is not a high enough bar.

Recommended amendment:

None.

5.14 Areas of Significant Conservation Value – Schedule and Mapping

5.14.1 Introduction to Schedule

Sub pt #	Submitter Name	Support/Oppose/ Seek Amend	Summary Of Submission	Accept/Reject/ Accept in part	Staff Recommendation
OS919.67	Federated Farmers of New Zealand	I seek to have the above provision amended	Amend the Introduction of Schedule A1.2 Areas of Significant Conservation Value to provide an historic context to the loss of indigenous vegetation and habitat in Dunedin.	Reject	Do not Amend A1.2 Introduction to Areas of Significant Conservation Value, as requested

Background

The Introduction to Areas of Significant Conservation Value in Schedule A1.2 states:

"The extent of indigenous vegetation and habitat in Dunedin is now a fraction of what it was prior to the arrival of humans. While the wholesale removal of vegetation cover has largely ceased, incremental loss still threatens the long-term viability of indigenous vegetation and habitats. Under section 6(c) of the Resource Management Act (1991) local authorities are obliged to protect areas of significant indigenous vegetation and significant habitats of indigenous fauna. In Dunedin these areas are listed as Scheduled Areas of Significant Conservation Value (ASCV) in the district plan. Because ASCVs are only listed in the district plan with the consent of land owners Council also recognises other forms of protection, including QEII covenants. ASCVs extend through most of Dunedin's diverse landscapes and ecosystems from the sea shore and off shore islands, Otago Peninsula, estuaries, inlets and lagoons, wetlands, forests, uplands and the Strath Taieri and its surrounds. There is a diversity of indigenous flora and fauna within these landscapes, some of which are endemic to Dunedin and are rare and/or subject to threats. Landowners who have a site they wish to be listed as an ASCV require an ecological assessment to be undertaken which considers the ecological characteristics of the area against the criteria for significance." (Criteria are contained within Policy 2.2.3.1).

Submission

Federated Farmers of New Zealand (OS919.67) seeks to amend the introduction to Areas of Significant Conservation Value to acknowledge the historical context for vegetation loss and states: "New Zealand's forests were initially seen as a valuable timber resource and were an important component of the early export trade. At times during history there were even government incentives to clear bush to bring land into production. During the war years food security was an important issue, which meant that clearing land for food production was valued more than preserving native bush. Although we now understand that the remaining bush is important, it pays to remember that the decline of bush was not the fault of individual landowners but a result of overall attitudes and the prevailing government directions at the time."

Recommendation

I note that the focus of the Schedule is to identify areas of significant value in order to help provide for their on-going protection. ASCVs are only listed in the 2GP with the consent of landowners, who play an important role in protecting these significant areas of indigenous vegetation and habitats of indigenous fauna. The Introduction to Areas of Significant Conservation Value acknowledges that the extent of indigenous vegetation is now *"a fraction of what it was prior to the arrival of humans."* This statement does not imply that any particular sector of society has been responsible for the loss of vegetation, but rather, the arrival of humans to New Zealand led to the wholesale removal of vegetation cover; the introduction acknowledges that this has now largely ceased. In my view this history is fairly well understood and documented widely elsewhere, and as such, I do not consider it necessary to provide more detailed information about the historical drivers for vegetation removal in the Schedule. I, therefore, recommend the Federated Farmers of New Zealand (OS919.67) submission is rejected.

Recommended amendment:

None.

5.14.2 Schedule

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
OS129.1	Phil and Jillian Borrie	I seek to have the above provision amended	Amend the Schedule of Areas of Significant Conservation Area (C087) to include the Queen Elizabeth II Trust land at the end of Doctors Point (Lot 26 Doctors Point Road & Lot 1 White Road, Waitati)	Reject	Retain ASCV C087 without amendment
OS273.2	Murray Johnston	I seek to have the above provision amended	Add Waitati Beach Society land at Doctors Point Road (Lots 26 & 34 Doctors Point Road & Lot 1 White Road, Waitati) to Schedule of Areas of Significant Conservation Value (C087)	Reject	Retain ASCV C087 without amendment
OS360.193	Dunedin City Council	I seek to have the above provision amended	Remove C013 - Waikouaiti River from A1.2 Schedule of Areas of Significant Conservation Value	Accept	Remove C013 from Schedule of Areas of Significant Conservation Value
OS690.23	Yellow-eyed Penguin Trust	I seek to have the above provision amended	Amend schedule to include the following breeding sites to the list: Aramoana, Penguin Beach/Kumokumowhero Bay, Papanui, Papanui Beach, Fuchsia Gully, Pipikaretu, Rvans, Reids/Omihi	Accept in part	Do not amend Schedule to include the Yellow-eyed Penguin breeding sites at Penguin Beach/Kumokumowhero Bay, Papanui, Papanui Beach, Fuchsia Gully, Pipikaretu, Rvans, Reids/Omihi as requested
				Accept in part	Amend Schedule and 2GP planning maps to include the Yellow-eyed Penguin breeding site at Aramoana, as shown below

FS2188.2	Elm Tourism Limited	I oppose the submission	Oppose OS690.23. Disallow submission and do not make changes as requested by submitter	Accept	Do not amend Schedule to include the Yellow-eyed Penguin breeding sites at Penguin Beach/Kumokumowhero Bay, Papanui, Papanui Beach, Fuchsia Gully, Pipikaretu, Rvans, Reids/Omihi as requested
				Reject	Amend Schedule and 2GP planning maps to include the Yellow-eyed Penguin breeding site at Aramoana, as shown below
FS2339.1	Penguin Place Limited	I oppose the submission	Oppose OS690.23 (in part). Disallow submission and do not amend Schedule of Areas of Significant Conservation Value to include Pipikaretu Beach and Ryans Beach, and remove the ASCV C090 from land at 45 Pakihau Road, Portobello	Accept	Do not amend Schedule to include the Yellow-eyed Penguin breeding sites at Penguin Beach/Kumokumowhero Bay, Papanui, Papanui Beach, Fuchsia Gully, Pipikaretu, Rvans, Reids/Omihi as requested
FS2367.1	DRJ and HM McKay Family Trust	I oppose the submission	Oppose OS690.23. Disallow submission to amend Schedule of Areas of Significant Conservation Value	Accept	Do not amend Schedule to include the Yellow-eyed Penguin breeding sites at Penguin Beach/Kumokumowhero Bay, Papanui, Papanui Beach, Fuchsia Gully, Pipikaretu, Rvans, Reids/Omihi as requested
				Reject	Amend Schedule and 2GP planning maps to include the Yellow-eyed Penguin breeding site at Aramoana, as shown below
FS2392.1	DJ McKay Family Trust	I oppose the submission	Oppose OS690.23. Disallow submission to amend Schedule of Areas of Significant Conservation	Accept	Do not amend Schedule to include the Yellow-eyed Penguin breeding sites at Penguin

			Value		Beach/Kumokumowhero Bay, Papanui, Papanui Beach, Fuchsia Gully, Pipikaretu, Rvans, Reids/Omihi as requested
				Reject	Amend Schedule and 2GP planning maps to include the Yellow-eyed Penguin breeding site at Aramoana, as shown below
FS2442.2	Alan Clearwater and Sandra Clearwater	I oppose the submission	Oppose OS690.23. Disallow submission	Accept in part	Do not amend Schedule to include the Yellow-eyed Penguin breeding sites at Penguin Beach/Kumokumowhero Bay, Papanui, Papanui Beach, Fuchsia Gully, Pipikaretu, Rvans, Reids/Omihi as requested
				Accept in part	Amend Schedule and 2GP planning maps to include the Yellow-eyed Penguin breeding site at Aramoana, as shown below
FS2482.2	Forest and Bird NZ	I support the submission	Support OS690.23. Allow submission	Reject	Do not amend Schedule to include the Yellow-eyed Penguin breeding sites at Penguin Beach/Kumokumowhero Bay, Papanui, Papanui Beach, Fuchsia Gully, Pipikaretu, Rvans, Reids/Omihi as requested
				Accept	Amend Schedule and 2GP planning maps to include the Yellow-eyed Penguin breeding site at Aramoana

OS919.68	Federated Farmers of New Zealand	I seek to have the above provision amended	Amend the Schedule of Areas of Significant Conservation Value where an item is located on private land and the details are disputed by the landowner, through revisiting these matters with the landowner and amending the 'Descriptions and Values' that are recorded on the schedule, and amending the mapping of the Area of Significant Conservation Value as required	Reject	Do not amend schedule as requested
FS2482.35	Forest and Bird NZ	I oppose the submission	Oppose OS919.68. Disallow submission	Accept	Do not amend schedule as requested
OS949.21	Department of Conservation	I seek to have the above provision amended	Retain Schedule of Areas of Significant Conservation Value but amend so that all areas of land within Dunedin that qualify as Areas of Significant Conservation Value are included	Accept in part	Amend Schedule and 2GP planning maps to include the Yellow-eyed Penguin breeding site at Aramoana, 'significant' areas of Grassy Point, and QEII covenants over Alexanders Creek, as shown below
FS2482.42	Forest and Bird NZ	I support the submission	Support OS949.21. Allow submission	Accept in part	Amend Schedule and 2GP planning maps to include the Yellow-eyed Penguin breeding site at Aramoana, 'significant' areas of Grassy Point, and QEII covenants over Alexanders Creek, as shown below

Background

A number of submitters seek to amend the Schedule of Areas of Significant Conservation Value to add or remove particular areas.

Areas of Significant Conservation Value (ASCVs) have been identified through a process which is summarised in sub-section 2.2.1. In addition,

the assessment criteria used to determine whether parts of a site are significant, or not, were revised in line with case law and best practise. This review is outlined in a report by Wildlands Consultants, titled 'Ecological Significance Criteria for the Second Generation of the Dunedin City District Plan 2014'; this report was notified with the 2GP.

In addition, the Queen Elizabeth II National Trust helps private landowners in New Zealand to permanently protect special natural and cultural features on their land with open space covenants. This is a process outside the RMA and district plan which some landowners have followed; more information on this process can be found on the website <http://www.openspace.org.nz/>. As notified, some areas demarcated as ASCVs are also QEII covenants.

Submissions to add QEII Trust land at Doctors Point to ASCV

Submissions

Phil and Jillian Borrie (OS129.1) consider it important that the Queen Elizabeth II Trust land at the end of Doctors Point is recorded on maps because it is an important reserve that everyone should be aware of. In addition, Murray Johnston (OS273.2) states in his submission: "This land already has a QEII covenant and should be included within the District Plan. Beach Society members are continuing to enhance the plantings in the area with assistance from the DCC."

Recommendation

The 2GP has scheduled an ASCV on Doctors Point which is named 'QEII Trust Covenant' (ASCV CO87, Schedule A1.2). There is also a nearby estuary/mudflat ASCV C104; both of these ASCVs are shown in Figure 1a and 1b of Appendix 3, which is attached to this report. Because the land in question appears to be already listed in Schedule A1.2 and mapped in the 2GP under ASCV CO87 and ASCV C104, no amendments are necessary and I, therefore, recommend the submissions of Phil and Jillian Borrie (OS129.1) and Murray Johnston (OS273.2) are rejected.

Submissions which request to remove CO13 – Waikouaiti from A1.2

Submissions

Dunedin City Council (OS360.193) seeks to remove CO13 from the Schedule because this area is already mapped and combined as part of Schedule CO14 (Waikouaiti River Estuary Wetland and Ellison Saltmarsh and Merton Arm Wildlife Management Reserve).

Recommendation – Amendment 1

The 2GP has scheduled (Schedule A1.2) ASCV CO13 'Waikouaiti River' in error; ASCV CO14 takes in the Waikouaiti River margins, the subject of the mis-scheduled ASCV CO13. Figure 2 of Appendix 3, attached to this report, shows the extent of ASCV CO14, as notified. I, therefore, recommend accepting the submission of the Dunedin City Council (OS360.193) and removing ASCV CO13 from Schedule A1.2.

Submissions to add seven yellow-eyed Penguin breeding sites to ASCV Schedule

Background

The seven areas proposed by the Yellow-eyed Penguin Trust (OS690.23) are shown in Figures 3a and 3b of Appendix 3, attached to this report. The Aramoana breeding site proposed by the Yellow-eyed Penguin Trust is owned by the Crown and Department of Conservation. All other sites are located on private land, which extends in all cases right to the beach. The Penguin Beach/Kumokumowhero breeding site is part of 1265 Harington Point Road Peninsula which is privately owned. The Reid's/Omihi breeding site is part of 890 Harington Point Road Peninsula which is also privately owned. The Pipikaretu and the Ryans breeding sites are both part of the privately owned 45 Pakihau Road Portobello; and the Papanui and Fuchsia Gully breeding sites are comprised of a number of sites on McKay Road, Cape Saunders Road and Kaimata Road Peninsula, all of which are all privately owned.

Submissions

Yellow-eyed Penguin Trust (OS690.23) seeks to add seven breeding sites for yellow-eyed penguins to the Schedule, as listed above, because the submitter considers that they are 'significant' habitats for indigenous wildlife. The Trust has provided photographs showing the approximate locations of the breeding sites; these have been reproduced in Figure's 3a and 3b of Appendix 3. Forest and Bird NZ (FS2482.2) supports this submission because it considers that the breeding sites of yellow-eyed penguins 'qualify as significant sites'. There are five submissions in opposition to OS690.23, including Elm Tourism Limited (FS2188.2) who believe ASCV rules are 'too restrictive' and the submitter also considers that there should be wider consultation with stakeholders. Penguin Place (FS2339.1) also opposes OS690.23 in part, specifically in relation to Pipikaretu Beach and Ryans Beach. The submitter also seeks to remove ASCV CO90 from its own land and cites concerns about viability of farming and ecotourism operations under ASCV rules. DRJ and HM McKay Family Trust (FS2367.1) and DJ McKay Family Trust (FS2392.1) oppose OS690.23 because the restrictions imposed by the additional ASCVs would 'seriously affect' farming viability and access for ecotourism operators and as landowners and lessee of Little Papanui Beach and surrounding farmland, and OS690.23 fails to recognise the years of hard work and dedication the McKay's have undertaken in preserving the Penguin colony. Alan Clearwater and Sandra Clearwater (FS2442.2) also oppose OS690.23 because ASCV restrictions would affect the viability of wildlife tours and the submitter's farming operation at 35 Kaimata Road, Peninsula, through loss of access fees. See separate submissions for full lists of reasons from each of the opposing further submitters.

Recommendation – Amendment 2

Dr Kelvin Lloyd has provided expert ecological evidence on this Yellow-eyed Penguin Trust submission point (OS690.23) and has stated (in paragraphs 116 and 117): "Submitter OS690.23 requests that a number of breeding sites for yellow-eyed penguin (*Megadyptes antipodes*), which have a threat classification of Threatened-Nationally Vulnerable, are included into the ASCV schedule. Breeding sites for nationally Threatened populations of indigenous fauna would qualify as being significant under both Proposed District Plan and Proposed RPS criteria, so ASCV status would be justified for these sites. The boundaries of the sites should be discussed with landholders, as other submissions indicate that the areas of breeding yellow-eyed penguin habitat mapped by the submitter are not fully accurate. Several submissions (FS2188.2, FS2339.1, FS2367.1, and FS2442.2) oppose submission OS690.23, largely because of perceived impacts that Proposed Plan policy would have for ecotourism and farming operations in these areas. This could be potentially resolved by identifying relevant areas as significant, but having policy that allowed sensitive ecotourism and farming use of the sites." Further to Dr Lloyds evidence, I note that the yellow-eyed penguin has recently had its threat status elevated to "Nationally Vulnerable" (Robertson *et al.* 2016 cited on DOC website) indicating the species is continuing to decline over its range.

In order to qualify as an ASCV under the current DCC regime, ecological assessments are required that apply criteria laid out in Strategic Policy 2.2.3.1. As outlined in the Natural Environment Section 32 report, the DCC has adopted "a voluntary approach" to scheduling, relying on

landowner's willingness to have an ecological assessment carried out, and to have an area added to the Schedule. Thus, even if the areas requested by the Yellow-eyed Penguin Trust were assessed as being significant in terms of the criteria in Policy 2.2.3.1, areas of private land can only be added to the ASVC schedule with the agreement of the landowner.

I note that only the Aramoana breeding site proposed by the Yellow-eyed Penguin Trust is publically owned (by the Crown and Department of Conservation) and the remainder of these sites are in private ownership. It is clear that there is opposition from some private landowners to scheduling a number of these sites; refer further submissions from DRJ and HM McKay Family Trust (FS2367.1), DJ McKay Family Trust (FS2392.1) and Alan Clearwater and Sandra Clearwater who are all private landowners and have existing farming operations. It is also clear that all submitters and further submitters support the protection of the Yellow-eyed Penguin breeding sites although the mechanism of protection and more specifically, whether protection under the 2GP is necessary is in dispute. I also note that the ASCV rules in the 2GP control indigenous vegetation clearance, building and structures and earthworks – large scale which are all restricted discretionary activities in the rural zones. Further to this, recommended changes to vegetation clearance rules detailed in section 5.8.7.4 now include restrictions on the clearance of indigenous fauna habitat, including breeding habitat for the nationally vulnerable yellow-eyed penguin. I agree with Dr Lloyd that it would be advantageous to discuss the boundaries of Yellow-eyed penguin breeding sites with private landowners, and if the landowners were amenable, to protect these breeding sites as ASCVs in the 2GP. Mediation is planned to occur, between affected landowners and the Yellow-eyed Penguin Trust, with the goal of trying to reach agreement on the breeding habitat boundaries (Figures 3a and 3b of Appendix 3, attached to this report, show indicative boundaries only) and agreement on including breeding habitat into the 2GP as ASCVs (landowner permission is required, as detailed above, due to the 'voluntary' regime adopted by DCC).

Notwithstanding, this I have had correspondence with the Department of Conservation about the Aramoana Yellow-eyed Penguin breeding site who agree with the submitter that this breeding site is significant and therefore should be protected as an ASCV under the 2GP. I, therefore, recommend that the Aramoana Yellow-eyed Penguin breeding site (indicative boundary shown on Figure 3a of Appendix 3, attached to this report) should be scheduled and mapped as a new yellow-eyed penguin habitat ASCV, and that the submission is accepted in part (OS690.23). Figure 3a indicates that the area of importance is the coastal area beyond "Keyhole Rock" on Aramoana Beach, which includes some land above the beach.

I also recommend that the other potential ASCVs identified by the Yellow-eyed Penguin Trust (e.g. at Penguin Beach/Kumokumowhero Bay, Papanui, Papanui Beach, Fuchsia Gully, Pipikaretu, Rvans, Reid's/Omihi), which are all privately owned, are not included as ASCVs at this stage, pending the outcome of any mediation and/or discussions during the Hearing. Given the heightened threat status recently afforded to yellow-eyed penguins, and the importance of this iconic species to Dunedin City, I encourage landowner/Yellow-eyed Penguin Trust liaison to work towards achieving ASCV status for these sites (or a subset of them) in the near future. Also refer to the discussion and recommendations on submissions which request to add all areas that qualify as ASCVs to the Schedule (below).

With regards to the Penguin Place (FS2339.1) submission that seeks to remove ASCV CO90 from 45 Pakihau Road, I note that this particular ASCV does not apply to 45 Pakihau Road; I, therefore, recommend the submission point is rejected.

Submissions which request to review ASCVs that occur on private land

Submissions

Federated Farmers of New Zealand (OS919.68) state on pages 56 and 57 of their submission that: "Where Council has included private land within the schedule, Federated Farmers assumes this has been checked and ground-truthed with the landowner. Where this is not the case, or where the landowner is concerned around the accuracy of either the map or the description and values, we encourage Council to revisit these matters with the landowner." This is opposed by Forest and Bird NZ (FS2482.35) who considers that "amendments to the schedule and map should only be to correct facts, not as required".

Recommendation

The process which is followed in the identification of privately owned ASCVs is outlined above in sub-section 2.2.1 above. All sites which have the potential to be significant, upon agreement with landowners, are assessed by a suitably qualified ecologist against the assessment criteria for significance (see introduction to the schedule of ASCVs, above and Strategic Policy 2.2.3.1). This ecological assessment can only be done by the ecologist visiting the site, and only the parts of the site which are deemed by the ecologist to be significant, are considered as an ASCV. This process is only undertaken in liaison with landowners. In my view the process of ecological assessments, as outlined above, provides robust 'checking and ground-truthing' and therefore no amendment to the current process is necessary. I, therefore, recommend that the Federated Farmers of New Zealand submission is rejected (OS919.68).

Submissions to add all areas that qualify as ASCVs to Schedule***Submissions***

Department of Conservation (OS949.21) have stated on page 9 of their submission that: "The introduction states the ASCVs are only listed in the District Plan with the consent of landowners. Section 6(c) of the RMA does not differentiate between public and private land and therefore any land which qualifies through the criteria to be an ASCV should be included in the Plan." Forest and Bird (FS2482.42) also considers that the schedule is incomplete.

Recommendation

I agree with the Department of Conservation and Forest and Bird that the schedule does not include a full list of ASCVs over the DCC; there are other areas, not scheduled, that are potentially significant. In addition, in some instances ecological assessments have been undertaken at a site but because of landowner opposition, significant areas have not been included as ASCVs.

The consultation undertaken over the 2008-2015 period which is summarised in sub-section 2.2.1 outlines the process which has been followed in the identification of ASCVs, both on public and private land. It is my understanding that consultation was undertaken by Council officers with landowners with potential ASCVs with the strict understanding that if an ecologist was allowed on site to undertake an ecological assessment and parts of the site were deemed to be significant that there would be no requirement for these sites (or parts thereof) to be an ASCV. In other words it was ultimately up to the discretion of the landowner whether an ASCV was applied to a property or not.

I also recognise that the ownership of land may be considered irrelevant in the matters of national importance under section 6(c) of the RMA of "the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna". Furthermore, the operative Regional Policy Statement and the decision version of the proposed Regional Policy Statement for Otago have a number of objectives and policies related

to the identification and protection of ASCVs (refer to sub-section 3.3 above).

The DCC's voluntary approach to the scheduling of ASCVs recognises that often these significant ecological areas only exist because of the management practice of landowners and it is ultimately the goodwill of landowners that will mean these areas will continue to be protected. In addition, there are other processes outside the 2GP, notably the QEII National Trust process of covenanting, for the protection of special natural areas on private land. Council has incentives outside the 2GP to encourage protection of these special natural areas which includes the Biodiversity Fund which is a contestable fund that gives priority to sites which are scheduled as ASCVs.

I note there was a discussion of the approach to scheduling ASCVs in section 5.2.2 above, in response to another DOC submission. I note also there was no specific recommendation as to whether scheduling should be mandatory or voluntary, leaving discussion of this matter to the Natural Environment hearing.

I defer to that recommendation but, from my experience to date, note the following in relation to any mandatory scheduling:

- this should involve extensive consultation with affected landowners so there is an understanding of the implications of owning land with an ASCV overlay, and this should be undertaken as a separate district plan change process;
- there should also be consideration of other forms of protection outside the district plan process, notably QEII covenants;
- consideration should also be made to amending the non-regulatory provisions that apply to ASCVs, particularly in regards to any potential incentives; and
- based on the previous consultation with private landowners, there is likely to be some controversy in changing from the current voluntary approach to the listing of ASCVs.

While I am not recommending acceptance of the DOC submission to schedule all areas that are known to qualify as significant, I note that during consultation (as outlined in section 2.2.1) two additional sites were identified as potential ASCVs: Grassy Point and Alexanders Creek. Both of these sites are discussed below, but on the basis of both the ensuing discussion and points I raise above, I recommend the Department of Conservation submission (OS949.21) is accepted in part by the inclusion of these two sites on the ASCV schedule.

Potential ASCV at Grassy Point (Portobello Road, Portobello)

Background

As part of the consultation process outlined in sub-section 2.2.1 above, landowners of 620, 640 & 648 Portobello Road, Portobello, were contacted about a potential ASCV covering these sites at Grassy Point. An ecological assessment was undertaken by Wildlands Limited in 2015 which identified parts of the area as being significant and so meeting the criteria for inclusion as an ASCV. Landowners of these properties were given copies of this ecological assessment. Figures 4a and 4b of Appendix 3, attached to this report, shows the location of 'significant' areas identified in the ecological assessment (red-edged polygons) and the location of 640 Portobello Road. Most of the 'significant' area is located on 640 Portobello Road (c. 0.75 ha is located on the adjacent 648 Portobello Road). Mr David Parker, the landowner of 640 Portobello Road, has confirmed in writing that he wishes to have the parts of his property which are identified as significant as an ASCV; no agreement has been reached with the other landowners about the listing of parts of their properties as ASCVs.

Submission

I consider there is scope to include additional ASCVs into the notified 2GP schedule, and planning maps, under the Department of Conservation submission point OS949.21, which is discussed above under the title 'submissions to add all areas that qualify as ASCVS to Schedule.'

Recommendation – Amendments 3, 4

I refer to my comments on the voluntary versus compulsory approach for the identification of ASCVs outlined above under the title 'submissions to add all areas that qualify as ASCVS to Schedule'. At this stage I consider that only those landowners that have agreed to an ASCV on their property can be listed in the schedule and identified on planning maps. As outlined above only the landowner of 640 Portobello Road has agreed. I, therefore, recommend that a new ASCV is applied over the parts of 640 Portobello Road identified as 'significant' in the Wildlands Limited 2015 ecological report for Grassy Point, and identified by the red polygons in Figure 4a of Appendix 3, attached to this report.

Potential ASCV at Alexanders Creek**Background**

Dr Kelvin Lloyd, one of DCC's expert ecologists for the 2GP, has indicated in email correspondence that: "Miro Trust, which owns the Blueskin Farm land, and which I'm a Trustee of, is happy to have the QEII covenants on the 156 Manse Road property scheduled as ASCV sites in the Dunedin City District Plan."

Submission

As outlined above I consider that there is scope for the addition of new ASCVs to the 2GP ASCV schedule, and planning maps, under the Department of Conservation submission point (OS949.21).

Recommendation – Amendments 5, 6

As outlined in the background Dr Lloyd is a trustee of the Miro Trust, which owns 156 Manse Road, part of which contains two QEII covenants. I agree with Dr Lloyd that the attributes that make this site significant for a QEII covenant also make it appropriate to be an ASCV. A number of sites which are scheduled as ASCVs in the 2GP, also contain QEII covenants. I, therefore, recommend that a new ASCV is applied over the parts of 156 Manse Road identified as QEII covenants, and as shown in Figure 5 of Appendix 3, attached to this report.

Recommended amendments:**Amendment 1**

Remove the text of ASCV CO13 (Waikouaiti River) from A1.2 Schedule of Areas of Significant Conservation Value. {*NatEnv 360.193*}

Amendment 2

Amend A1.2 Schedule of Areas of Significant Conservation Value and 2GP planning map by applying a new 'ASCV C06 Yellow-eyed Penguin

habitat' to parts of the DOC owned land immediately adjacent to Aramoana Beach, beyond 'Keyhole Rock'; indicative boundaries are shown on Figure 3a of Appendix 3, attached to this report. {NatEnv 690.23}

Site Number	Name (Location)	Area (ha)	Description and values	Other protection status
C06	<u>Aramoana Beach yellow-eyed penguin habitat</u>	<u>9-10</u>	<u>Habitat for yellow-eyed penguin (<i>Megadyptes antipodes</i>), which have a threat classification of Threatened-Nationally Endangered.</u>	<u>Heyward Point Conservation Area and Heyward Point Scenic Reserve.</u>

{NatEnv 690.23}

Amendment 3

Amend A1.2 Schedule of Areas of Significant Conservation Value by adding the following to ASCV C013 {NatEnv 949.21}

Site Number	Name (Location)	Area (ha)	Description and values	Other protection status
C013	<u>Grassy Point</u>	<u>2.5-3</u>	<u>Contains significant coastal forest that provides habitat for one nationally at risk and seven locally important plant species and a representative assemblage of indigenous forest birds. Likely to contain at risk-declining jewelled geckos.</u>	<u>None</u>

Amendment 4

Amend 2GP planning map by adding ASCV C013 Grassy Point to 640 Portobello Road only as shown in the Wildlands Limited 2015 ecological report for Grassy Point, and in Figure 4a of Appendix 3, attached to this report. {NatEnv 949.21}

Amendment 5

Amend A1.2 Schedule of Areas of Significant Conservation Value by adding a new ASCV C07 Manse Road {NatEnv 949.21}

Site Number	Name (Location)	Area (ha)	Description and values	Other protection status
C07	<u>Alexanders Creek</u>	<u>29.56</u>	<u>Podocarp/broadleaved</u>	<u>QEII Trust Covenants</u>

			<u>forest in gullies.</u> <u>Alexanders Creek</u> <u>supports banded</u> <u>kokopu, longfin eel,</u> <u>koura, and the At Risk</u> <u>amphipod <i>Austridotea</i></u> <u><i>benhami</i>.</u> <u>Birds include kereru,</u> <u>tomtit, brown creeper,</u> <u>rifleman and other</u> <u>common forest birds.</u>	
<p>{NatEnv 949.21}</p> <p>Amendment 6 Amend 2GP planning map by adding ASCV C07 Alexanders Creek to the parts of 156 Manse Road which have a QEII Trust Covenant applied to them, as shown in Figure 5 of Appendix 3, attached to this report. {NatEnv 949.21}</p>				

5.14.3 Mapping of ASCVs

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
OS129.2	Phil and Jillian Borrie	I seek to have the above provision amended	Amend C104 on the Schedule of Areas of Significant Conservation Value to include the area along the Doctor's Point Road foreshore to the Waitati Railway Bridge that is in the Area of Significant Conservation Value in the operative Plan	Reject	Retain C104 as notified
FS2162.18	KiwiRail Holdings Limited	I support the submission	Support OS129.2. Allow submission	Reject	Retain C104 as notified
OS269.2	Penelope Margaret Hutchins	I seek to have the above provision amended	Retain C104 on Schedule of Areas of Significant Conservation Value along the foreshore between Doctors Point and the Orokonui Inlet	Reject	Retain C104 as notified

OS360.197	Dunedin City Council	I seek to have the above provision amended	Adjust the map of C058 (Scheduled Area of Significant Conservation Value) by partially removing it from 87 Seal Point Road, Otago Peninsula.	Accept	Remove ASCV C058 (Boulder Beach WWF Block) from 87 Seal Point Road
OS664.5	Bruce Wayne Taylor	I oppose the provision	Remove C058 from the Schedule of Areas of Significant Conservation Value	Accept	Remove ASCV C058 (Boulder Beach WWF Block) from 87 Seal Point Road
OS835.1	LD & TJ Taylor	I oppose the provision	Remove Scheduled Areas of Significant Conservation Value (ASCV C058) - Boulder Beach WWF Block, from 87 Seal Point Road Peninsula	Accept	Remove ASCV C058 (Boulder Beach WWF Block) from 87 Seal Point Road
OS951.5	Timothy George Morris	I support the provision	Move the boundary of Area of Significant Conservation Value (C057) at SEC 53 Sandymount Road, Sandfly Bay as indicated in map attached to the submission.	Reject	Do not amend boundaries of ASCV C057 (Sandfly Bay) as requested
OS1054.5	Timothy Morris (on behalf of RG and SM Morris Family Trust)	I support the provision	Move boundary of Area of Significant Conservation Value at Sandfly Bay (C057) as indicated in map attached to submission	Reject	Do not amend boundaries of ASCV C057 (Sandfly Bay) as requested

Submissions which request amendment to C104 (Edge of Blueskin Bay) to include the area along the Doctor's Point Road foreshore to the Waitati Railway Bridge as per the Operative Plan

Background

Figure 6a of Appendix 3, attached to this report, shows the extent of C104 in the operative plan as it extends along the area between the Doctor's Point Road foreshore to the Waitati Railway Bridge, and as notified (Figure 6b). The 2GP map shows C104 extending eastwards around the Waitati estuary and ending soon after the railway bridge, while the operative plan maps shows C104 extending along the coast to join up with CO87.

Submissions

Phil and Jillian Borrie (OS129.2) question why the Area of significant Conservation Value along the foreshore of Doctor's Point Road to the Waitati Railway bridge is no longer in place and request that it be reinstated for everyone to enjoy and appreciate. Penelope Margaret Hutchins (OS269.2) considers that Blueskin Bay is an area of high ecological importance and sensitivity and zoning of the surrounding land should recognise this. KiwiRail Holdings Limited (FS2162.18) supports this submission although states in page 2 of a further submission that:

"KiwiRail support the mapping of conservation areas, however wish to ensure the KiwiRail asset is not included within the conservation area therefore submits to ensure that the area to be mapped is clearly identified as being 'to' the railway bridge, not 'including' the railway bridge."

Recommendations

Under the 2GP regime, ASCVs are not applied to areas zoned 'Township and Residential' or 'Large Lot Residential 2 Zone' to enable appropriate development of these zones. ASCVs are subject to activity restrictions, e.g. restrictions on vegetation clearance, that are anticipated activities in areas zoned 'Township and Residential' or 'Large Lot Residential 2 Zone', such as the built areas of Doctors Point (Figure 6b of Appendix 3, attached to this report). I, therefore, recommend the submissions are rejected (OS129.2, OS269.2) and the extent of ASCV C104 remains as notified.

Submissions which request removal of ASCV C058 (Boulder Beach WWF Block) from 87 Seal Point Road

Background

Figure 7 of Appendix 3, attached to this document shows the extent of ASCV C058 as notified.

Submissions

Dunedin City Council (OS360.197) seeks to adjust the mapping for CO58 by removing it from 87 Seal Point Road because of a mapping error. Bruce Wayne Taylor (OS664.5) and LD & TJ Taylor (OS835.1) also seek to remove CO58 from 87 Seal point Rd because of an apparent error. As part of the Taylors submission there is a letter from Mr Craig Leach of the Department of Conservation, including maps which appears to confirm that there has been a mapping error. In this letter Mr Leach states:

"I can confirm that there appears to have been a mapping error in regard to the land shown on Map A, attached, labelled CO58. The Boulder

Beach ASCV area is represented by the conservation areas Boulder Beach; High cliff block and WWF Block, which are shown on the attached map B, green polygons. There is a small area of conservation land at the lower end of the area CO58, on the coastal side of the formed road, which forms part of this area, as shown on Map B.”

Refer to Mr Taylor’s submission for Map A and B from Mr Leach’s letter.

Recommendation –Amendment 1

I agree with Dunedin City Council, Bruce Wayne Taylor and LD & TJ Taylor that the part of ASCV C058 (Boulder Beach WWF Block) which is located on 87 Seal Point Road should be removed (shown on Figure 7 of Appendix 3, attached to this document). Mr Leach of the Department of Conservation has confirmed that this appears to be a mapping error. I also note that this site is privately owned and is located some distance from the sea and so it is unlikely to have the description and values of ASCV C058 (Boulder Beach WWF Block) as described in the 2GP ASCV schedule A1.2, which I have reproduced below:

“Coastal cliffs with rank pasture flax and *Hebe elliptica*. Major yellow eyed penguin breeding area, small number of seals.”

I, therefore, recommend the submissions are accepted (OS360.197, and others) and that the area of ASCV C058 that occurs on 87 Seal Point Road is removed from 2GP planning maps, as shown below.

Submissions which request amendment of ASCV C057 (Sandfly Bay)

Background

Figure 8 of Appendix 3, attached to this report shows the extent of ASCV C057 (Sandfly Bay), as notified.

Submissions

Timothy George Morris (OS951.5) and Timothy Morris (on behalf of RG and SM Morris Family Trust) (OS1054.5) seek to amend the mapping of the Area of Significant Conservation Value at Sandfly Bay (CO57) as shown on the map accompanying the submission, because the submitters consider the proposed mapping is inaccurate.

Recommendations

I have liaised with the Department of Conservation (DOC) with regards to the location of Public Conservation Land (PCL), which is managed by DOC. DOC has supplied to me a map which confirms that the area of ASCV C057 which Mr Morris seeks to be removed is part of Public Conservation Land. I have reproduced this map as Figure 8a of Appendix 3, attached to this document, with the relevant part of this PCL land raised by submitters shown by the red polygon in Figure 8b.

I consider that there is little or no difference in the visible attributes of the part of ASCV C057 which the submitter requests to be removed compared with the remainder of the ASCV; google earth imagery also suggests the area represents a single feature and this is reinforced by the evidence of Mr Mike Moore, landscape architect, in relation to the Sandfly Bay Outstanding Natural feature, that takes in the entire ASCV CO57, as notified (see section 5.15.7). In addition, I consider that the description and values of ASCV C057 (Sandfly Bay) as described in the ASCV

schedule A1.2 equally apply to the areas which the submitters request be removed. I have reproduced below the description and values of ASCV C057:

“Extensive sand dune area with large open sand below. Coastal Bay covered in lupin and other coastal shrubs. Sand blow rising from beach to ridge. Yellow-eyed and little blue penguin breeding area, fur seal/hooker sea lion haul out area, small sooty shearwater breeding area. Remnant pingao plants.”

Because of this I disagree with submitters (Timothy George Morris (OS951.5) and Timothy Morris (on behalf of RG and SM Morris Family Trust) (OS1054.5)) and consider that the mapping of ASCV C057 (Sandfly Bay) is accurate and I recommend the submissions are rejected, and that the boundary of the ASCV C057 (Sandfly Bay) is retained as notified.

Recommended amendment:

Amendment 1

Amend 2GP planning map by removing ASCV C058 (Boulder Beach WWF Block) from 87 Seal Point Road { *NatEnv360.197, NatEnv664.5 and NatEnv 835.1* }

5.15 Landscape Overlay Zones – Landscape Values and Mapping

5.15.1 A3.1 Outstanding Natural Features – Landscape Values

Sub pt #	Submitter Name	Support/Oppose/ Seek Amend	Summary Of Submission	Accept/Reject/ Accept in part	Staff Recommendation
OS103.6	The Institution of	I support the	Retain A3.1.17 Tairaroa Head Outstanding	Accept	Retain A3.1.17 as

	Professional Engineers NZ	provision	Natural Feature		notified
OS289.3	Chris Walker	I seek to have the above provision amended	Amend A3.1.20 (Landscape Values - Tunnel Beach) to acknowledge human impacts as follows: Amend ci to read: 'The naturalness has been hugely modified by gorse and other shrub species on the slopes above the cliffs'; Amend cii to read: 'Buildings, structures and earthworks and other evidence of human impact are visible, but the wild and scenic values are still retained'.	Reject	Do not amend A3.1.20 as requested
FS2267.117	Harboursides and Peninsula Preservation Coalition	I oppose the submission	Oppose OS289.3. Disallow submission and amend A3.1.20.2.c.i as follows: 'i.Naturalness is high - modified to an extent by exotic shrub species on the slopes above the cliffs; unmodified by permanent settlement elements that are irreversible.'	Reject	Do not amend A3.1.20.2.c.i as requested
OS901.43	Tussock Top Farm Ltd	I oppose the provision	Delete Appendix A3.1.14 (Saddle Hill Outstanding Natural Feature)	Reject	Retain A3.1.14 as notified
OS1071.120	Kati Huirapa Runaka ki Puketeraki and Te Runanga o Otakou	I seek to have the above provision amended	Amend A3.1.2.2 to delete references to Makereatu and refer to the feature only as Blackhead.	Accept	Amend A3.1.2.2 as shown below

Submissions relating to Taiaroa Head Outstanding Natural Feature

The Institution of Professional Engineers NZ (OS103.6) seeks to retain the Outstanding Natural Feature classification for Taiaroa Head.

Submissions relating to description of Tunnel Beach Outstanding Natural Feature

Chris Walker (OS289.3) seeks greater acknowledgement of human impact of the ONF at Tunnel Beach and suggests amendments, as shown above. This is opposed by HPPC (FS2267.117) who considers that the presence of exotic plants is less relevant than the lack of "permanent settlement elements". The submitter also suggests alternative wording to the description of the Tunnel Beach ONF.

Recommendations

As notified, A3.1.20 (Landscape Values - Tunnel Beach) 'ci' reads as follows "*Naturalness is high - modified to an extent by exotic shrub species on the slopes above the cliffs*"; and 'cii' reads "*Minimal influence of buildings, structures or earthworks which create high wild and scenic values. These are enhanced by the dramatic coastal landforms*".

In relation to the submission by Chris Walker (OS289.3) who wishes to include "hugely modified" in place of "modified to an extent" into the description of naturalness in A3.1.20 ci, I am not convinced "hugely modified" improves on the description, as notified. Google earth imagery of the ONF, from 2017, shows patches of gorse are localised (flowering at the time the image was taken) rather than extensive, and areas of indigenous vegetation are also evident. I, therefore, recommend no amendment is made to A3.1.20 ci., and that the submission is rejected (OS289.3). Further to this recommendation, in relation to HPPC (FS2267.117), I note that A3.1.20 'cii' makes implicit reference to "permanent settlement elements" and as such I recommend this submission, which seeks an amendment to the wording of A3.1.20 ci, is also rejected as the substance of the requested amendment is already captured in A3.1.20 cii as notified.

In relation to the second part of the Chris Walker submission (OS289.3) which seeks to amend 'cii' to read 'Buildings, structures and earthworks and other evidence of human impact are visible, but the wild and scenic values are still retained', again, I am not convinced this proposed wording improves on the description as notified, which in effect, describes the site in a similar way but uses different vocabulary. Again, I recommend the submission is also rejected (OS289.3).

Submissions relating to Saddle Hill Outstanding Natural Feature

Tussock Top Farm Ltd (OS901.43) seeks to remove the Appendix A3.1.14 which relates to the Saddle Hill ONF. No specific reason is given, but it can be inferred from the submission that landscape/natural character overlays (and presumably natural feature overlays) are not considered appropriate or justifiable where a quarry already exists.

Recommendations

Advice was sought from expert landscape architect Dr Marion Read on the merit, or not, of removing the Saddle Hill ONF from the 2GP, and with this the Appendix A3.1.14. At paragraph 14 of her evidence she states "It is the case that the Jaffray Hill quarry does degrade the natural character and aesthetic quality of Saddle Hill as a whole and this was acknowledged in my original assessment. I understand that approximately eleven vertical metres have been removed from the summit of Jaffray Hill. This leaves the feature permanently and irreparably modified. At this point in time, however, enough of the hill remains to ensure that the saddle retains its natural form and the hill overall, something close to its natural profile". At paragraph 15 of her evidence she details the landscape values as follows: "Saddle Hill is classified as regionally significant and highly vulnerable in the New Zealand Geopreservation Index. The eastern summit shows high natural character, high memorability and high aesthetic value. The hill, Saddle and Jaffray hills combined, has almost iconic status, particularly to residents of the Taieri, as defining landmark. It has high importance to Tangata Whenua being the reposed remains of the taniwha Matamata, who created the Taieri River. In addition it has high historical value having been noted by Captain James Cook during his 1769 voyage as 'a remarkable saddle hill'". At paragraph 16 she concludes "My opinion remains that the entire hill must be treated as one feature. To do otherwise would be to ignore the importance of the saddle itself, and to cut the taniwha in half. Further, it is well established that landscape classification areas do not need to have a completely consistent character and quality. I continue to consider that the entire hilltop feature is appropriately classified as an Outstanding Natural Feature." On the basis of this expert evidence I, therefore, recommend the submission is rejected and the overlay is retained, as notified, along

with the associated Appendix A3.1.14 (OS901.43).

Submissions relating to Blackhead (Makereatu) Outstanding Natural Feature

Kati Huirapa Runaka ki Puketeraki and Te Runanga o Otakou (OS1071.120) seek to remove reference to the name 'Makereatu' because it may be inaccurate, and the Maori name of Blackhead is unknown.

Recommendation

I recommend the submission is accepted (OS1071.120) and that A3.1.2.2 is amended to delete all reference to Makereatu, as shown below.

Recommended amendment:

Amend Appendix A3.1.2.2 as follows:

“Appendix A3.1.2.2 Values to be protected

The following features and characteristics have been identified as important to protect:

- a. Natural science values:
 - i. Blackhead Organ Pipes are listed in the Otago inventory of important geological sites and landforms for their highly legible formations expressive of their geological origins and erosive marine processes.
 - ii. Habitat for seals and marine birds.

- b. Cultural/historic values:
 - i. Blackhead is known as Makereatu, and was an important stone gathering site.” {NatEnv1071.120}

5.15.2 Outstanding Natural Feature Mapping Submissions

Sub pt #	Submitter Name	Support/Oppose/ Seek Amend	Summary Of Submission	Accept/Reject/ Accept in part	Staff Recommendation
OS289.5	Chris Walker	I seek to have the above provision amended	Remove Outstanding Natural Feature Overlay Zone from 281 Hillhead Road	Reject	Retain Tunnel Beach Natural Feature Overlay as notified
OS458.29	Saddle Views Estate Limited	I oppose the provision	Remove Saddle Hill Outstanding Natural Feature Overlay Zone from Saddle Hill quarries and properties.	Reject	Retain Saddle Hill Outstanding Natural Feature Overlay Zone as notified

Submissions to amend boundary of Tunnel Beach ONF

Chris Walker (OS289.5) seeks to remove the outstanding Tunnel Beach Natural Feature Overlay Zone from his property at 281 Hillhead Road and suggests moving the boundary of the overlay to the edge of the Council reserve because "beyond the cliffs the area is not outstanding and merely represents a modified and impacted landscape...". The submission states that when viewed from Tunnel Beach itself, the obvious extent of the landscape is the cliff tops.

Recommendation

Advice on the most appropriate position of the landward boundary for the Tunnel Beach ONF was sought from expert landscape architect Michael Moore. "Figure A2: Tunnel Beach ONF", and in particular, the top left map in Figure A2, of Mr Moore's evidence, and referred to in paragraph 16 of his evidence, shows the boundary as notified (opaque green polygon), as well as that requested by the submitters (yellow-dotted line).

The Tunnel Beach ONF is described in paragraph 17 of Mr Moore's evidence as "The sandstone cliff section of the coast [between Blackhead and St Clair] excluding the basaltic cliffs at either end. This coastline is characterised by spectacular caves, arches, stacks, and a few pocket beaches. The Tunnel Beach Sandstone Features have very high memorability and wild and scenic qualities and significant natural science, transient, shared and recognised and historic heritage values". As notified, the ONF boundary corresponds with the inland boundary of the coastal environment in this vicinity, and the boundary has been identified with reference to the marked change in slope from gentler undulating slopes above, to steeper coast facing slopes below (paragraph 18 of Mr Moore's evidence). It is the opinion of Mr Moore that it is appropriate to adopt a "broad approach" and to include the land to the coastal environment boundary because the character of the slopes between the cliff tops and the change in slope is of particular importance to the wild and scenic aesthetic values of this section of coast (paragraph 19 of Mr Moore's evidence). Mr Moore acknowledges that although the area above the cliffs is modified by the presence of exotic weeds and some tracking, the naturalness of these slopes is nevertheless moderate/high due to the minimal presence and visual impact of built elements, and the dominance of natural vegetation patterns (paragraph 19 of Mr Moore's evidence). Further to this, Mr Moore believes that the appropriate protection of this ONF requires that control be exercised over the coastal slopes above the cliffs, as well as the cliffs and beaches themselves; appropriate management of these slopes will be a key contributor to the protection of the values of this ONF from inappropriate subdivision, use and development (paragraph 19 of Mr Moore's evidence). Mr Moore concludes at paragraph 20 the "It is my conclusion that the boundary as currently identified in the 2GP, appropriately defines the ONF and provides for the protection of its values." On the basis of this expert evidence I, therefore, recommend the submission to amend to boundary to exclude 281 Hillhead Road (OS289.5) be rejected.

Submissions to amend boundary of Saddle Hill ONF

Saddle Views Estate Limited (OS458.29) seeks to remove the Saddle Hill Outstanding Natural Feature Overlay from Saddle Hill quarries and properties because the environment, including the Saddle Hill quarry and properties is already 'highly modified'.

Recommendation

Advice was sought from expert landscape architect Dr Marion Read on the merit, or not, of removing the Saddle Hill ONF from the Saddle Hill quarries and properties (OS458.29). As noted above in section 5.15.1, at paragraph 14 of Dr Read's evidence she states "It is the case that the Jaffray Hill quarry does degrade the natural character and aesthetic quality of Saddle Hill as a whole and this was acknowledged in my original assessment... At this point in time, however, enough of the hill remains to ensure that the saddle retains its natural form and the hill overall,

something close to its natural profile". Dr Read continues at paragraph 16 "My opinion remains that the entire hill must be treated as one feature. To do otherwise would be to ignore the importance of the saddle itself, and to cut the taniwha in half. I continue to consider that the entire hilltop feature is appropriately classified as an Outstanding Natural Feature". I agree with Dr Read's assessment of the landscape values of Saddle Hill, regardless of the existing quarry, and again recommend (on the basis of expert evidence) that the submission is rejected and that the overlay is retained as notified (OS458.29). This recommendation is consistent with that made in relation to similar a similar submission above in section 5.15.1 (OS901.43).

Recommended amendment:

None.

5.15.3 A3.2 Outstanding Natural Landscapes – Landscape Values

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/ Accept in part	Staff Recommendation
OS464.11	Christopher Dean Valentine	I seek to have the above provision amended	Amend Appendix A3.2.3.4 to clarify the method to be used to protect shelter belts	Reject	Retain A3.2.3.4 as notified

Submission

Christopher Dean Valentine (OS464.11) seeks that the appendix be amended to clarify methods for protecting shelter belts and requests that they are self-managed by landowners.

Recommendation

Appendix A3.2.3.4 lists key design elements to be required or encouraged in the Peninsula Coast ONL including "Preserve the traditional character and aesthetic of historic farming landscape, including protection of historic shelter belts and dry-stone walls". This appendix will be referred to as a guide for the assessment of applications for a number of different activities that trigger resource consent requirement in this ONL; for example subdivision, earthworks – large scale, and large buildings and structures. Appendix A3.2.3.4 does not direct a blanket protection of any existing shelter belt. However, when utilised as part of the assessment of any resource consent application, it provides design guidance that development activities should consider the preservation of historic shelter belts as part of the design of any development.

I do not consider that the guidance provided in Appendix A3.2.3.4 limits landowners being able to manage their own shelter belts. I do not recommend that this submission is accepted, as I consider that it is clear that this is design guidance only, to be used in the assessment of resource consent applications.

Recommended amendment:

None.

5.15.4 Outstanding Natural Landscape mapping submissions

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
OS318.2	Sally Dicey	I seek to have the above provision amended	Move the boundary of the Outstanding Natural Landscape Overlay Zone so that its southwestern extent ends further uphill along Centre Road (past the cluster of houses and small sections which characterize this part of the road).	Accept	Amend boundary of Peninsula Coast ONL Overlay as shown below
OS464.12	Christopher Dean Valentine	I seek to have the above provision amended	Amend the Peninsula Coast Outstanding Natural Landscape Overlay Zone boundary to remove the area below 44 Centre Road and align the western boundary with that in the operative Plan.	Accept in part	Amend boundary of Peninsula Coast ONL Overlay as shown below
OS484.3	Sally Stewart	I seek to have the above provision amended	Move the Peninsula Coast Outstanding Natural Landscape overlay from 11 Centre Road, Ocean Grove.	Accept	Amend boundary of Peninsula Coast ONL Overlay as shown below
FS2116.3	Dale Benson	I oppose the submission	Oppose OS484.3. Disallow submission and retain the Peninsula Coast Outstanding Natural Landscape overlay zone as proposed in the 2GP.	Reject	Amend boundary of Peninsula Coast ONL Overlay as shown below
FS2479.3	Lloyd McGinty	I oppose the submission	Oppose OS484.3. Disallow submission.	Reject	Amend boundary of Peninsula Coast ONL Overlay as shown below
OS569.1	Kumari Fernando	I seek to have the above provision amended	Remove the Peninsula Coast Outstanding Natural Landscape overlay from the area southwest of 44 Centre Road.	Accept in part	Amend boundary of Peninsula Coast ONL Overlay as shown below
OS802.1	Karen Valentine	I oppose the provision	Remove the Outstanding Natural Landscape overlay from the areas shown in the map	Accept in part	Amend boundary of Peninsula Coast ONL

			accompanying this submission, being areas to the west and east of the southern end of Centre Road.		Overlay as shown below
OS686.4	Clutha District Council	I support the provision	Retain the High Country Outstanding Natural Landscape Overlay Zone where it adjoins Clutha District near Mahinerangi	Accept	No amendment required
OS886.2	Barry James Williams	I oppose the provision	Remove High Country Outstanding Natural Landscape Overlay Zone (inferred not stated)	Reject	Do not remove High Country ONL overlay as requested
OS898.1	Lancaster Trust	I oppose the provision	Remove the "Outstanding Natural Landscape" overlay from 1553 Hindon Road, Hindon (Lambhill Station).	Reject	Retain High Country ONL as notified
OS905.4	Strath Taieri Community Board	I oppose the provision	Remove High Country Outstanding Natural Landscape Overlay Zone (inferred not stated).	Reject	Do not remove ONL overlay zone as requested
OS889.26	G & J Sommers Edgar	I oppose the provision	Remove all outstanding natural landscape overlay zones from the Rural Residential 1 and 2 Zones.	Reject	Do not remove ONL overlay zones as requested

Submissions to amend boundary of Peninsula Coast ONL to exclude 11 Centre Road (GRITZ overlay)

Sally Dicey (OS318.2) seeks to move the boundary of the Peninsula Coast Outstanding Natural Landscape Overlay Zone as shown above because the lower boundary includes a General Residential 1 Transition Zone as well as undersized lots and the area is "not particularly natural". Sally Stewart (OS484.3) seeks to remove 11 Centre Road from the overlay zone because it has a General Residential 1 Transition Overlay Zone (GRITZ) overlay and is surrounded by General Residential 1 zoning. This submission is opposed by Dale Benson (FS2116.3) who is concerned about intensification adversely affecting wildlife on Smaill's beach and Lloyd McGinty (FS2479.3) who expresses concern about drainage, stability and loss of rural character.

Recommendations - Amendment 1

Advice was sought from expert landscape architect Michael Moore on the appropriate position of the Peninsula Coast ONL in the vicinity of 11 Centre Road, and the significance of the GRITZ overlay. Map A4: 'Centre Road Peninsula Coast ONL' of the evidence of Michael Moore, shows the ONL boundary as notified (as an opaque green polygon) and the boundary proposed by Sally Stewart (OS484.3) and Sally Dicey (OS318.2) (the solid yellow line of Figure A4). Figure A4 also shows that 11 Centre Road is subject to a GRITZ. In relation to the issue of whether ONL overlays are compatible with GRITZ areas, Mr Moore states at paragraph 35 of his evidence, "I believe it is clear that they are not, as built form will overwhelm the natural landscape character". It is the opinion of Mr Moore that either the transitional zone extent, or the ONL extent, should be amended to ensure that there is no conflict and in his opinion the amended ONL boundary, shown by the yellow line in Figure A4 of his evidence,

would be appropriate in this regard. On the basis of the expert evidence, I recommend that both submissions are accepted in part, and that the boundary of the Peninsula Coast ONL is amended to match the solid yellow line in the top left of Figure A4 of Mr Moore's evidence, and as shown below (OS318.2, OS484.3).

Submissions to amend the southern boundary of Peninsula Coast ONL

Christopher Dean Valentine (OS464.12) and Kumari Fernando (OS569.1) seek to amend the boundary of the ONL to remove the land below 44 Centre Road and align the western boundary with that in the operative plan. The submitters refer to supporting documents for the overlay zone which do not identify the area as outstanding and the area is rural urban in nature. Karen Valentine (OS802.1) seeks to remove the overlay zone from areas to the west and east of the southern end of Centre Road because the change has not been identified in the supporting documents and the submitter believes that the overlay would "have a disproportionate effect to what is reasonable land and residential management of small land blocks".

Recommendations

The first issue raised by submitters (OS464.12, and others) is whether the landscape values of the southern part of Centre Road are consistent with ONL status. A second and related issue is whether the boundary proposed in the notified 2GP is appropriately located in terms of landscape protection. Advice was sought on ONL values of the southern boundary of the overlay from expert landscape architect Michael Moore. At paragraph 33 of Mr Moore's evidence he states: "The area in question is the end of a gentle spur landform, terminating in low cliffs at the coast. This spur separates two smaller scale landscapes i.e. those of Tomahawk, which, by the coast, is predominantly urban in character, and Smaills Beach, which is predominantly rural. At higher levels on this spur and further back from the coast, the outstanding natural landscape values are strongly expressed, in particular the open rural character in which the eroded volcanic physical origins, the brisk coastal climate, and the historic dairy farming heritage landscape is highly coherent. At this spur-end area however, these values are modified by the adjacent urban development, the presence of a significant number of houses and a less coherent vegetation pattern associated both with the coastal influence and the small lots and associated greater variety in land management regimes." In Mr Moore's assessment, noted at paragraph 38 of his evidence, it would be appropriate to amend the ONL boundary in this area as shown below, and as indicated by the solid yellow line in Figure A4 of his evidence, and as supported by other submitters (OS318.2, OS484.3).

Further to this point, Mr Moore provides the following rationale for recommending the exclusion of only the Tomohawk side of the spur: "On the northwestern (Tomahawk) side of the spur, to reflect the transition from the area more influenced by surrounding built development, to one in which larger scale rural character and a highly coherent landscape pattern is expressed" and "on the southeastern (Smaills Beach) side, to include essentially the whole visual catchment of this valley system" (paragraph 34 of his evidence). I agree with Mr Moore's assessment that the western side of Centre Road (i.e. the Tomahawk side of the spur) is clearly part of the wider built environment when compared to the more rural outlook of the Smaills Beach side of the spur, and I agree with his conclusions that amendment to the ONL boundary on the Tomahawk side of the spur is warranted to better reflect the existing character, but that protection of the ONL values on the Smaills Beach side of the spur is best served by retaining the areas in this catchment within the ONL as notified (paragraph 38 of his evidence). On the basis of this expert evidence I, therefore, recommend the submissions that seek of exclude the Smaills Beach side of the spur from the Peninsula Coast ONL overlay (OS464.12, OS569.1, and OS802.1) be rejected, and recommend the Peninsula Coast ONL is retained as notified over the Smaills Beach side of the spur, and as illustrated in Figure A4 of Mr Moore's evidence, and shown below.

With regards to issues raised by Karen Valentine (OS802.1) on whether ONL status places inappropriately onerous burdens on small lots, Mr Moore notes "...that throughout the Peninsula Coast ONL there are numerous small lots and that this area is not unique in this regard" (paragraph 36 of his evidence). Further to this point, Mr Moore does not consider that the boundary as currently shown, or the recommendation to exclude to GRITZ area on the Tomahawk side of the spur (namely 11 Centre Road), is inconsistent with any background landscape reports. On the basis of this expert evidence I, therefore, recommend the submission point is rejected (OS802.1).

Submissions in support of the High Country ONL

David Campbell on behalf of Clutha District Council (OS686.4) has submitted in support of the High Country ONL where it adjoins the Clutha District near Mahinerangi. This is because it aligns with the landscape study undertaken for Clutha District.

Submissions to remove the High Country ONL from the Strath Taieri/Middlemarch area

Barry James Williams (OS886.2) and Strath Taieri Community Board (OS905.4) seek to remove High Country Outstanding Natural Landscape Overlay Zone from the Strath Taieri/Middlemarch area. This is inferred from the submissions, which indicate that the submitters do not agree with the overlay.

Recommendation

The Williams and Strath Taieri Community Board submissions (OS886.2, OS905.4) to remove the High Country ONL overlay over the Strath Taieri/Middlemarch area are not consistent with Section 6 (b) of the RMA which instructs Councils, as a matter of national importance, to provide for "the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development". In order to provide for the protection of, in this case, outstanding natural landscapes, Councils must firstly identify where these landscapes are located, hence the importance of the Highcountry outstanding natural landscape overlay in the notified 2GP. The approach taken by the DCC to map ONLs is also consistent with Policy 3.2.3 of the proposed Otago Regional Policy Statement-decisions version. I, therefore, recommend these submissions, given their inconsistency with Section 6(b) of the RMA and the proposed RPS, are rejected and recommend no change is made to the extent of the High Country ONL.

Request to amend High Country ONL boundary to exclude 1553 Hindon Road

Lancaster Trust (OS898.1) seeks the deletion of the ONL overlay from 1553 Hindon Road, Hindon (Lambhill Station). The reasons given are that no justification for this overlay on this property can be found in the supporting documentation, or the Section 32 report, and that the costs of the ONL outweigh the benefits to landowners.

Recommendation

The Lancaster Trust submission (OS898.1) has implications for the extent of the High Country ONL at its south-eastern extent, where it encompasses the Taieri Gorge, upstream of Hindon. Advice was sought from expert landscape architect Michael Moore on the whether it is appropriate to exclude 1553 Hindon Road from the proposed High Country ONL. Figure A3 of Mr Moore's evidence shows the current ONL

boundary (as an opaque green polygon) and the area that the submitter seeks to have removed (in particular the area east of the Taieri Railway which is shown as the black line within the green polygon).

The area east of the Taieri Railway is located within the 'Strath Taieri Hills Outstanding Landscape Area (OLA)' in the operative Plan. In accordance with recommendations outlined in the Dunedin Landscape Management Area Review, the extent of the ONL in the vicinity of the Railway has been reduced in the notified 2GP from that included within the Strath Taieri Hills OLA. Whilst areas to either side of the Taieri Gorge have been removed from the ONL, the gorge itself is still included. Mr Moore, at paragraph 25 of his evidence, is of the opinion that inclusion of the gorge is appropriate because for the following reasons:

1. The Taieri River Gorge is included in the inventory and maps of important geological sites and landforms in the Otago Region (Hayward and Kenny, 1998) as an excellent example of a large, deeply incised, meandering river gorge, of high scenic and aesthetic value;
2. The gorge is highly expressive of its formative processes and is a visually dramatic and memorable landscape. Naturalness values are modified by the presence of exotic weeds and the presence of the railway but natural landform coherence is high. It has attributes of remoteness and wildness based on the presence of the river, the steep rocky landforms and the minimal presence of built elements (other than the railway);
3. The gorge has very high shared and recognized values as a scenic corridor and the area included in the ONL is the most natural and scenic part of the gorge. It is noted as an outstanding natural feature and landscape (ONFL) in the Otago Regional Plan: Water;
4. The Taieri River has significance to tangata whenua as indicated by the wahi tupuna notation in the 2GP; and
5. The gorge has historic heritage values due to the presence of the railway and the associated structures, dating from the early 1890's (paragraph 25 of Mr Moore's evidence).

On the basis of Mr Moore's evidence pertaining to the area of interest to the Lancaster Trust (OS898.1), I agree with the conclusion reached that "ONL overlay status over part of the Lancaster Trust property [namely 1553 Hindon Road, Hindon] as presently mapped in the 2GP is appropriate and provides for sustainable management of the landscape values of this part of the Taieri Gorge" (paragraph 27 of Mr Moore's evidence), and recommend that no amendment is made to the notified boundary of the High Country ONL to exclude 1553 Hindon Road (OS898.1).

In terms of the submitters concerns that the "costs of the ONL outweigh the benefits" (OS898.1) I note that no further information is provided by the submitter, and that Mr Moore has asserted (at paragraph 27) that the mapped boundary in the notified 2GP "provides for the sustainable management of the landscape values..."; I, therefore, also recommend the submission point relating to cost versus benefit of the ONL be rejected.

Submissions relating to all ONL overlays in Rural Residential Zone

G & J Sommers Edgar (OS889.26) seeks to remove all outstanding natural landscape overlays from rural residential zones because the submitter considers it to be inappropriate to have such overlays on rural residential land.

Recommendations

Advice was sought from expert landscape architect Michael Moore on the whether it is appropriate to exclude rural residential zones from all

outstanding natural landscape overlays. At paragraph 75 of Mr Moore's evidence he states "It is my opinion that the two are not automatically mutually exclusive and that in some circumstances landscape overlays could provide an appropriate tool to promote integration of rural residential subdivision and development with the landscape". I agree with Mr Moore's view, a view he also discusses in relation to a specific property within an SNL overlay in section 5.15.6 below. On the basis of this expert evidence I, therefore, recommend the submission is rejected (OS889.26).

Recommended Amendments:

Amendment 1

Amend the south western boundary of Peninsula Coast ONL to exclude the General Residential 1 Transition Overlay Zone Priority 1 area including 11 Centre Road (as per the solid yellow line Figure A4 of Michael Moore's evidence). {NatEnv 318.2, NatEnv 484.3}

5.15.5 A3.3. Significant Natural Landscapes – Landscape Values

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
OS360.6	Dunedin City Council	I seek to have the above provision amended	Amend Appendix A3.3.8.4 (Key design elements to be required or encouraged - Quarries and mining activity) as follows: Delete all wording under 'key design elements' and replace with: 'a. Any quarries and mining activity should be designed with an awareness of the visual quality of the setting. Wherever possible activities should be sited away from prominent viewing points, visible quarry surface activity should be reduced as much as possible and the visual prominence of sites should be mitigated on an ongoing basis with appropriate planting and restorative earthworks.'	Accept	Amend Appendix A3.3.8.4 as shown below
OS1071.118	Kati Huirapa Runaka ki	I seek to have the above provision	Amend A3.3.4.2 to correct the spelling of 'Maugatua to Maungatua'	Accept	Amend A3.3.4.2 as shown below

	Puketeraki and Te Runanga o Otakou	amended			
<p><u>Submissions to correct drafting errors</u></p> <p>Kati Huirapa Runaka ki Puketeraki and Te Runanga o Otakou (OS1071.118) seeks to correct the spelling of Maungatua in A3.3.4.2.</p> <p>Dunedin City Council (OS360.6) seeks to amend A3.3.8 Silver Peaks Significant Natural Landscape to replace the notified wording of A3.3.8.4 “Key design elements to be required or encouraged”, as it relates to quarries and mining activity, with the wording as shown above. The notified wording mistakenly repeats the wording from the “Principal threats to values” entry for quarries and mining activity (A3.3.8.3). The requested wording provides guidance on how to address these threats.</p> <p><u>Recommendation</u></p> <p>I recommend accepting both submissions, and making the amendments as shown below.</p> <p><u>Recommended amendment:</u></p> <p><i>Amend A3.3.4.2 Values to be protected as follows:</i></p> <p>“a. Natural science values:</p> <p>i. Prominent natural landform: the interior Maungatua Range...” {NatEnv 1071.118}</p> <p><i>Amend Appendix A3.3.8.4 Key design elements to be required or encouraged Quarries and mining activity as follows:</i></p> <p>“a. Removal of significant landform features by quarrying and mining activity. Inappropriate siting and scale of quarries and other excavations such that they become visually dominant focal points.</p> <p><u>a. Any quarries and mining activity should be designed with an awareness of the visual quality of the setting.</u></p> <p><u>b. Wherever possible activities should be sited away from prominent viewing points.</u></p> <p><u>c. Visible quarry surface activity should be reduced as much as possible and the visual prominence of sites should be mitigated on an ongoing basis with appropriate planting and restorative earthworks.” {NatEnv 360.6}</u></p>					

5.15.6 Significant Natural Landscape Mapping Submissions

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/ Accept in part	Staff Recommendation
OS9.1	Stephen Waldron	I seek to have the	Align boundary of Silverpeaks Significant		Amend Silverpeaks

		above provision amended	Natural Landscape Overlay Zone to outside boundary of property at 432 Steep Hill Rd, Merton.	Accept	SNL boundary as shown below
OS388.1	Robert Andrew Van Turnhout	I oppose the provision	Remove 506 Steep Hill Road from Silverpeaks Significant Natural Landscape Overlay Zone	Accept in part	Amend Silverpeaks SNL boundary as shown below
OS469.1	Silverpeaks Station Limited	I seek to have the above provision amended	Move the western boundary of the Silverpeaks Significant Natural Landscape Overlay Zone so that it lies along the boundary of Silverpeaks Station and the DOC managed Silver Peaks Scenic Reserve.	Reject	Do not amend the boundary of the Silverpeaks SNL as requested
OS48.1	Rose Laing	I oppose the provision	Remove Flagstaff - Mt Cargill Significant Natural Landscape Overlay Zone from property at 6 Brick Hill Rd, Sawyers Bay	Reject	Do not amend the boundary of the Flagstaff - Mt Cargill SNL as requested
OS73.1	David Holdsworth	I seek to have the above provision amended	Move Flagstaff - Mt Cargill Significant Natural Landscape Overlay Zone boundary to include lower reaches of Fergusons Creek and east side of Waitati Valley Road	Reject	Do not amend the boundary of the Flagstaff - Mt Cargill SNL as requested
OS96.2	Nigel Harwood	I oppose the provision	Move the northwestern boundary of the Flagstaff - Mt Cargill Significant Natural Landscape Overlay Zone to south of Green Road.	Accept	Amend Flagstaff - Mt Cargill SNL boundary as shown below
FS2351.1	Danny Baillie	I support the submission	Support OS96.2. Allow submission and move the boundary of the Flagstaff-Mt Cargill Significant Natural Landscape Overlay Zone as requested by submitter.	Accept	Amend Flagstaff - Mt Cargill SNL boundary as shown below
OS108.2	Peter Raffills	I oppose the provision	Remove North West Peninsula Significant Natural Landscape Overlay Zone from 656, 657, 658, 659	Accept in part	Amend North West Peninsula SNL boundary as shown

			Portobello Road		below
OS180.2	Shane Carter	I seek to have the above provision amended	Remove Significant Natural Landscape Overlay Zone from 191 Norwood St, Normanby	Accept in part	Amend Flagstaff - Mt Cargill SNL boundary as shown below
OS251.2	Barbara and Donald McCabe	I seek to have the above provision amended	Remove Flagstaff-Mt Cargill Significant Natural Landscape Overlay Zone from 122 Campbells Road and surrounding sites	Reject	Do not amend the boundary of the Flagstaff - Mt Cargill SNL as requested
OS291.2	Murray Soal	I seek to have the above provision amended	Remove Flagstaff-Mt Cargill Significant Natural Landscape Overlay Zone from 427 Waitati Valley Road (inferred not stated)	Accept	Amend Flagstaff - Mt Cargill SNL boundary as shown below
OS298.2	Graeme & Marie Bennett	I seek to have the above provision amended	Move the boundary of the Flagstaff-Mt Cargill SNL overlay on 128D Doctors Point Road to the 110m contour, with the exception of the area in the southwestern corner of the property as shown on plan attached to this submission.	Reject	Do not amend the boundary of the Flagstaff - Mt Cargill SNL as requested
OS360.112	Dunedin City Council	I seek to have the above provision amended	Remove Flagstaff-Mt Cargill Significant Natural Landscape Overlay Zone from Lot 18 BLK II DP 164 at 8 Mark Street, Ravensbourne.	Accept	Amend Flagstaff - Mt Cargill SNL boundary as shown below
OS360.116	Dunedin City Council	I seek to have the above provision amended	Remove 2 Mark Street, Ravensbourne from the Significant Natural Landscape Overlay Zone.	Accept	Amend Flagstaff - Mt Cargill SNL boundary as shown below
OS360.118	Dunedin City Council	I seek to have the above provision amended	Remove 3 Albert Road and 27-35 Bradley Street, Osborne from the Significant Natural Landscape Overlay	Accept	Amend Flagstaff - Mt Cargill SNL boundary as shown

			Zone.		below
OS371.1	Margaret and Jeffery Kilpatrick	I oppose the provision	Amend Flagstaff-Mt Cargill SNL boundary at 198 Upper Junction Road	Reject	Do not amend the boundary of the Flagstaff - Mt Cargill SNL as requested
OS399.1	Graham and Nothburga Prime	I seek to have the above provision amended	Amend the area contained in the Significant Natural Landscape overlay as currently presented so to restrict it to areas and sites that have a natural geological or geographical feature or a cultural feature of significance.	Accept in part	Amend Flagstaff - Mt Cargill SNL boundary as shown below
FS2322.1	Bruce Mclennan	I support the submission	Support OS399.1. Allow submission and remove SNL from 549 Mount Cargill Road.	Accept in part	Amend Flagstaff - Mt Cargill SNL boundary as shown below
OS399.2	Graham and Nothburga Prime	I seek to have the above provision amended	Move the boundary of the Hill Slopes Rural Zone and the Coastal Rural Zone so that it corresponds with the proposed boundary of the Flagstaff-Mt Cargill Significant Natural Landscape in the area of Pigeon Flat, between Mt Cargill and Waitati Valley Road.	Reject	Do not amend boundary of Hill Slopes and Coastal rural zones as requested by submitter.
FS2322.2	Bruce Mclennan	I support the submission	Support OS399.2. Allow submission, remove coastal rural zone and revert to current Rural Zoning in operative plan.	Reject	Do not amend boundary of Hill Slopes and Coastal rural zones as requested by submitter.
OS717.27	Robyn and Stephan Smith, Rick and Jill Clarke, Alan	I seek to have the above provision amended	Change the zoning of 8 and 55 O'Connell Road, and 302 and 324 Pigeon Flat Road so that the sites are entirely within the Hill Slopes Rural Zone, rather	Accept in part	Amend zoning of 8 O'Connell Road so that it is entirely in the Hill Slopes

	Brown, Carrowmore Properties Ltd (on behalf of the "Pigeon Flat Road Group")		than having land in the Coastal Rural Zone.		Rural Zone; amend 324 Pigeon Flat Road and 55 O'Connell Road so that they are entirely in the Coastal Rural Zone.
OS461.4	Bruce Mark Norrish	I seek to have the above provision amended	Remove Flagstaff-Mt Cargill Significant Natural Landscape Overlay Zone from 171 Pigeon Flat Road	Accept	Amend Flagstaff-Mt Cargill SNL boundary as shown below
OS505.2	Christopher Kilpatrick	I seek to have the above provision amended	Remove Flagstaff-Mt Cargill Significant Natural Landscape Overlay Zone from 140 Upper Junction Road (inferred not stated)	Reject	Do not amend the boundary of the Flagstaff - Mt Cargill SNL as requested
OS550.1	Bevan Palmer	I seek to have the above provision amended	Move the Flagstaff-Mt Cargill Significant Natural Landscape overlay from 22A Weka Street St Leonards.	Reject	Do not amend the boundary of the Flagstaff - Mt Cargill SNL as requested
OS595.1	Rachel Ozanne	I seek to have the above provision amended	Enlarge the area of Seacliff Significant Natural Landscape Zone to encompass the portion of Porteous Hill, Warrington shown on the plan accompanying this submission.	Reject	Retain Seacliff SNL boundary as notified
FS2160.7	Geraldine Tait	I support the submission	Support OS595.1. Allow submission	Reject	Retain Seacliff SNL boundary as notified
FS2229.13	Blueskin Resilient Communities Trust	I oppose the submission	Oppose OS595.1. Disallow submission.	Reject	Retain Seacliff SNL boundary as notified
OS632.3	Bruce Bohm	I seek to have the above provision	Remove Mt Cargill Significant Natural Landscape Overlay Zone at 452 Waitati	Accept	Amend Flagstaff-Mt Cargill SNL

		amended	Valley Road		boundary as shown below
OS368.2	Craig Horne	I oppose the provision	Remove the Significant Natural Landscape Overlay Zone from the area adjoining and contained between Riccarton Road East, Main South Road-SH1 and Hollands Drive (refer to map in submission).	Reject	Retain Saddle Hill SNL as notified
OS610.1	John Buchan	I oppose the provision	Remove the Significant Natural Landscape Overlay Zone from the area adjoining and contained between Riccarton Road East, Main South Road-SH1 and Hollands Drive (refer to attached map).	Reject	Retain Saddle Hill SNL as notified
OS693.1	Blue Grass Limited	I oppose the provision	Remove the Significant Natural Landscape Overlay Zone from the area adjoining and contained between Riccarton Road East, Main South Road-SH1 and Hollands Drive (refer to attached map).	Reject	Retain Saddle Hill SNL as notified
OS813.1	Saddle Views Estate Limited	I oppose the provision	Remove the Significant Natural Landscape Overlay Zone from the area adjoining and contained between Riccarton Road East, Main South Road-SH1 and Hollands Drive (refer to maps attached to submission).	Reject	Retain Saddle Hill SNL as notified
OS660.1	Kimberly John Taylor	I oppose the provision	Remove the Significant Natural Landscape Overlay Zone from the area adjoining and contained between Riccarton Road East, Main South Road-SH1 and Hollands Drive (refer to map in submission).	Reject	Retain Saddle Hill SNL as notified
OS666.1	Chris Kelliher	I oppose the provision	Remove the Significant Natural Landscape Overlay Zone from the area	Reject	Retain Saddle Hill SNL as notified

			adjoining and contained between Riccarton Road East, Main South Road-SH1 and Hollands Drive (refer to attached map).		
OS816.1	Mainland Property 2004 Limited	I oppose the provision	Remove the Significant Natural Landscape Overlay Zone from the area adjoining and contained between Riccarton Road East, Main South Road-SH1 and Hollands Drive (refer maps attached to submission).	Reject	Retain Saddle Hill SNL as notified
OS680.2	Liz McLennan	I seek to have the above provision amended	Move the boundary of the Significant Natural Landscape overlay at 121 Hall Road Sawyers Bay so that it matches the landscape boundary in the operative Plan	Reject	Do not amend the boundary of the Flagstaff - Mt Cargill SNL as requested
OS686.1	Clutha District Council	I seek to have the above provision amended	Amend the Maungatua Significant Natural Landscape Overlay Zone boundary where it adjoins the Clutha District boundary	Reject	Retain Maungatua SNL boundary as notified
OS732.1	Amy Popplewell	I seek to have the above provision amended	Move the boundary of the Flagstaff-Mt Cargill Significant Natural Landscape Overlay Zone in the west harbour to match the boundary in the operative Plan	Accept in part	Amend Flagstaff-Mt Cargill SNL boundary as shown below
OS809.2	Brian W Wilson	I seek to have the above provision amended	Remove Heyward Coast Significant Natural Landscape Overlay Zone from land at 853 Aramoana Road (inferred not stated)	Reject	Retain Heyward Coast SNL boundary as notified
OS874.53	Blackhead Quarries Ltd	I oppose the provision	Remove the SNL Overlay Zone from 386 Mount Cargill Road, Waitati.	Reject	Do not amend the boundary of the Flagstaff - Mt Cargill SNL as requested
OS889.1	G & J Sommers	I oppose the	Remove the Flagstaff-Mt Cargill	Reject	Do not amend the

	Edgar	provision	Significant Natural Landscape Overlay Zone and associated provisions from the Rural Residential 1 zone in the Blueskin Road and Mount Cargill Road location.		boundary of the Flagstaff - Mt Cargill SNL as requested
OS889.2	G & J Sommers Edgar	I oppose the provision	Remove all significant natural landscape overlay zones from the Rural Residential 1 and 2 Zones.	Reject	Do not remove all SNL overlays as requested
FS2022.2	Candida Savage	I support the submission	Support OS889.2. Allow submission and remove all significant natural landscape overlay zones from the Rural Residential 1 and 2 zones.	Reject	Do not remove all SNL overlays as requested
FS2057.1	Glynny Kiesel	I oppose the submission	Oppose OS889.2 Disallow submission and do not remove all significant natural landscape overlay zones from the Rural Residential 1 and 2 Zones.	Accept	Retain SNL overlays over the Rural Residential 1 and 2 Zones as notified
FS2373.2	Howard Saunders	I support the submission	Support OS889.2 (in part). Allow submission and remove all significant natural landscape overlay zones from the Rural Residential 2 Zone, or change the maximum height for building residential houses in a significant natural landscape from 5m to 8m.	Reject	Do not remove all SNL overlays as requested
OS901.40	Tussock Top Farm Ltd	I oppose the provision	Remove the 'Significant Natural Landscape' Overlay Zone and associated provisions as they apply to existing quarry at 332 Saddle Hill Road, Saddle Hill.	Reject	Do not remove SNL overlay as requested
OS458.55	Saddle Views Estate Limited	I oppose the provision	Remove the Saddle Hill Significant Natural Landscape overlay zone.	Reject	Do not remove the Saddle Hill SNL as requested
OS994.4	Irene Mosley	I seek to have the above provision amended	Review boundaries of Saddle Hill Significant Natural Landscape Overlay Zone	Reject	Retain Saddle Hill SNL as notified

OS1052.6	Scroggs Hill Farm Limited	I seek to have the above provision amended	Amend the Saddle Hill Significant Natural Landscape Overlay Zone at 252 Scroggs Hill Road so that the landscape area boundaries are the same as in the operative Plan.	Reject	Retain Saddle Hill SNL as notified
OS965.2	Philip and Shakuntala Cunningham	I oppose the provision	Remove North West Peninsula Significant Natural Landscape overlay zone from 457 Highcliff Road, Highcliff.	Accept in part	Amend North West Peninsula boundary as shown below
OS992.2	David Middleton	I seek to have the above provision amended	Remove the Significant Natural Landscape overlay zone from 147 St Leonards Drive, St Leonards.	Reject	Do not amend the boundary of the Flagstaff - Mt Cargill SNL as requested
OS999.2	Gavin and Karen Middleton	I seek to have the above provision amended	Either; remove the Significant Natural Landscape Overlay Zone from 147 St Leonards Drive, Dunedin, or amend rules or definition so other activities (earthworks, planting trees, establishing residential activity etc) are permitted within the Significant Natural Landscape Overlay Zone.	Reject	Do not amend the boundary of the Flagstaff - Mt Cargill SNL as requested
OS1026.1	Antonie Vandervis	I oppose the provision	Remove the Significant Natural Landscape Overlay Zone from 69 O'Connell Road.	Accept	Amend the Flagstaff-Mt Cargill SNL boundary as shown below
OS1030.4	Stephen Gregory Johnston	I seek to have the above provision amended	Remove the Significant Natural Landscape Overlay Zone from 55 Patmos Avenue.	Reject	Do not amend the boundary of the Flagstaff - Mt Cargill SNL as requested
OS1067.1	Shane Johnson and Sharee Watts	I oppose the provision	Remove Flagstaff-Mt Cargill Significant Natural Landscape Overlay Zone from 571 Mt Cargill Road	Accept	Amend Flagstaff-Mt Cargill SNL boundary as shown below

OS1070.16	Blueskin Resilient Communities Trust	I seek to have the above provision amended	Remove the Significant Natural Landscape Overlay Zone from the Plan, or move the Seacliff Significant Natural Landscape Overlay Zone boundary in the vicinity of Porteous Hill as per the attached map	Reject	Retain Seacliff SNL as notified
FS2160.12	Geraldine Tait	I oppose the submission	Oppose OS1070.16. Disallow submission and keep the area within the vicinity of Porteous Hill within the Seacliff Significant Natural Landscape Overlay Zone.	Accept	Retain Seacliff SNL as notified
FS2438.6	Simon Ryan	I oppose the submission	Oppose OS1070.16. Disallow submission.	Accept	Retain Seacliff SNL as notified

Submissions to correct mapping errors

Dunedin City Council (OS360.112, OS360.116, OS360.118) seek to remove part of the Overlay because of mapping errors, as outlined above.

Recommendations - Amendments 1,2 and 3

The three DCC submissions seek to correct mapping errors that relate to two Ravensbourne properties and one Osborne property. I agree that these errors need to be addressed and recommend the submissions are accepted and the Flagstaff-Mt Cargill SNL overlay is amended, as shown below.

Submissions relating to Saddle Hill SNL boundary

There are 8 submissions seeking to remove or adjust/review the boundaries of Saddle Hill Significant Natural Landscape Overlay in relation to specific properties. To enable rural residential development submitters Craig Horne (OS368.2), John Buchan (OS610.1), Kimberly John Taylor (OS660.1), Chris Kelliher (OS666.1), Blue Grass Limited (OS693.1), Saddle Views Estate Limited (OS813.1) and Mainland Property 2004 Limited (OS816.1) seek to move the boundary to the change in landform above their properties on the lower slopes of Saddle Hill.

Irene Mosley (OS994.4) seeks a review of the overlay because the "areas along the side of Saddle Hill, including my own land marked as of natural significance are predominantly pine trees, gorse and possums".

Recommendations

Advice was sought from expert landscape architect Dr Marion Read on the merit, or not, of moving the Saddle Hill ONL boundary to accommodate submitters requests. At paragraphs 20-21 of her evidence Dr Read states "The submissions make the claim that the

boundary they propose is located at a change in landform, more accurately described as a change in gradient. It is the case that the land above their proposed line is somewhat steeper than that below it. The line proposed could not be described as following the change in gradient, however, but more accurately following a mix of cadastral boundaries and the northern edge of a pine plantation (noting that there is likely a relationship between the steepness of the slope and the location of this plantation). Consequently the boundary they propose tacks up and down the slope. Changes in topography do not, in and of themselves, delineate changes in landscape character or quality. Arguably the land above the line proposed by the submitters extending up to, approximately, Saddle Hill Road, is of a different character and quality to that below or above. This is because of the presence of extensive exotic tree planting comprising the pine plantation (about half of which has recently been felled) and exotic amenity trees planted in a grid pattern on the hillside. This area does not provide high visual amenity and does tend to degrade the quality of the landscape both up and down slope from it. It is, however, a relatively small area within the larger landscape, not a landscape in its own right, and the dominant characteristics and quality of the overall SNL are maintained". At paragraph 22 Dr read then concludes "In my opinion the submitters have not provided any cogent landscape based argument to justify the proposed alteration to the boundary of the proposed SNL. Locating it as they request would diminish the coherence and quality of the unit overall. I continue to consider that the boundary of the SNL in the vicinity of submitters' properties is appropriately located on the maps notified." On the basis of this expert evidence I, therefore, recommend that the submissions are rejected (Craig Horne (OS368.2), John Buchan (OS610.1), Kimberly John Taylor (OS660.1), Chris Kelliher (OS666.1), Blue Grass Limited (OS693.1), Saddle Views Estate Limited (OS813.1) and Mainland Property 2004 Limited (OS816.1)), and no amendments are made to the location of the SNL boundary.

In relation to the submission of Irene Mosley (OS994.4), Dr Read notes at paragraph 27 of her evidence "I am interpreting this submission to mean that the submitter considers that the stands of kowhai should be included within the SNL, or at least, they should be included in preference to areas dominated by exotic vegetation." The submitter's property and its relationship with the SNL are illustrated in Figure 4 of Dr Reads evidence, and at paragraph 30 of her evidence Dr Read states "I am aware of the scattered stands of mature kowhai which are present along the Taieri face of the coastal hill range, including a large patch close to her property. The upper reaches of this stand are incorporated into the SNL as notified. It is also the case that kowhai, *Sophora microphylla* in this location, are listed in 10A.2 of the 2GP as an 'important native tree'. Rule 10.3.2.4 [of the operative Plan] reads: 'In the rural, rural residential and recreation zones, indigenous vegetation clearance must not occur where the following are present:...ii one or more mature examples (greater than 15 years old) of the important native tree species listed in Appendix 10A.' I consider that, although exceptions are allowed, this rule is a more appropriate mechanism to provide for the protection of these trees when located outside of the SNL."

At paragraph 31 of her evidence Dr Read concludes "Regarding the 'pine trees, gorse and possums', it is well established that landscape classification areas do not need to have a completely consistent character and quality. That is, the location of the boundaries of areas cannot be either entirely precise, nor exclude every small area which is of a differing character or quality. I continue to consider that the boundaries of the SNL are appropriately located as notified and that the area as a whole has a character and quality which is consistent over the broader area." I agree with the Dr Read's assessment of the appropriateness of Saddle Hill SNL boundary in the vicinity of the Mosley property and on the basis of this expert evidence, I recommend that the submission is rejected (OS994.4), and that no amendments to the boundary are made.

Submissions relating to the Saddle Hill SNL in the vicinity of Scroggs Hill

Scroggs Hill Farm Limited (OS1052.6) seek that the overlay is reduced and the boundaries remain the same as in the operative District Plan. The submitter notes that the 'Significant Natural Landscape zoning is 'huge' and, by implication, considers that it should be limited to the summit of Scroggs Hill.

Recommendations

Advice was sought from expert landscape architect Dr Marion Read on the merit, or not, of amending the boundary of the Saddle Hill SNL in the vicinity of Scroggs Hill. In relation to amending the boundary to match the LCA in the operative plan (OS1052.6), Dr Read states at paragraph 25 of her evidence "The SNL of the 2GP is of similar extent to the Saddle Hill Landscape Conservation Area as it is currently determined in the operative District Plan and this can be seen by reference to the map attached to this evidence as Appendix 2. The alteration to the boundaries of the LCA, as notified, better reflect the actual character and quality of the landscape, and some areas that were included in the LCA have been excluded from the SNL as a consequence. Scroggs Hill is a notable feature of the coastal hills landscape, and important for the visual amenity of the Taieri, in particular. It is a granite plug, of similar origin as Saddle Hill and Jaffray Hill. It does not, however, have the cultural and historical importance that those hills have, nor does it have the high natural character evident on Saddle Hill, in particular. Consequently, in my opinion, it does not warrant classification as an Outstanding Natural Feature. Its character and quality is consistent with the surrounding landscape and is more appropriately subsumed within the SNL, as notified". I agree with the Dr Read's assessment of the appropriateness of Saddle Hill SNL boundary in the vicinity of Scroggs Hill as notified; although the SNL extends further from the summit of Scroggs Hill in an easterly direction than the LCA of the operative plan, the SNL better characterises the landscape character of this area. On the basis of the expert evidence I, therefore, recommend the submission (OS1052.6) is rejected and that the easterly slopes of Scroggs Hill remain within the Saddle Hill SNL.

Submissions to remove Saddle Hill SNL from the 2GP

Saddle Views Estate Limited (OS458.55) and Tussock Top Farm Ltd (OS901.40) seek to remove the overlay because the environment, including the Saddle Hill quarry and properties is 'highly modified', in their view.

Recommendations

In relation to Tussock Top Farm Ltd (OS901.40) and their property at 332 Saddle Hill Road, Dr Read states at paragraph 28 of her evidence "The property comprises an area of 11.8464ha and is located on the northern side of Saddle Hill Road. It is located on the western slopes of Jaffray Hill and is the location of a dwelling and a gravel quarry. The majority of the site is open pasture with an area of pines located in its lowest corner. As with the property at 275 Saddle Hill Road [OS458.55], it is completely subsumed by the surrounding SNL and from a landscape perspective I see no reasons to exclude the properties from the SNL".

In relation to both submissions, Dr Read concludes at paragraph 33, that "Having considered the submissions relating to the boundaries and extent of the Saddle Hill Significant Natural Landscape, no changes to those boundaries are recommended". I agree with the Dr Read's assessment of the appropriateness of Saddle Hill SNL boundary as notified, which effectively completely encapsulates both properties, as shown in Figures 2 and 3 of Dr Read's evidence. On the basis of this expert evidence I, therefore, recommend the submissions (OS458.55 and OS901.40) are rejected and that both 275 and 332 Saddle Hill Road remain within the SNL as notified.

Submissions relating to the Waitati area of the Flagstaff-Mt Cargill SNL

Submissions to extend boundary

David Holdsworth (OS73.1) seeks to extend the overlay zone to include native forest remnants at the bottom of Fergusons Creek and on the east side of Waitati Valley Road down its length. The reasons given are to protect and enhance native forest relics in Waitati Valley and to improve the range of the SNL zone in the Waitati Valley area.

Recommendations

Advice was sought from expert landscape architect Michael Moore on the appropriateness, or not, of including the lower parts of Waitati Valley into the Flagstaff-Mt Cargill SNL (OS73.1). At paragraph 72 of his evidence, Mr Moore states "whilst I agree that there are forest areas within the lower parts of Waitati Valley that are worthy of protection, I am not sure that the SNL, which takes a broader, contextual approach, is the appropriate vehicle to achieve this. I do not believe that the lower, visually recessive valley area, which is also at least moderately modified by rural land use, is legitimately part of the SNL". I note that the 2GP provides ASCV criteria which have been designed to assess any forest remnants occurring over the Dunedin city, and any fauna within, for their value and worthiness of protection. I consider that assessing these fragments against ASCV criteria, as part of a future plan change, would be a more appropriate approach to secure their protection, and I agree with Mr Moore's assessment that the lower Waitati Valley does not reach SNL status and in doing so recommend (on the basis of the expert evidence) that the submission (OS73.1) be rejected.

Submissions to exclude rural residential areas from the SNL

Nigel Harwood (OS96.2) seeks amendment to the boundary of the SNL in the Blueskin Road area to the southern side of Green Road. The reason given is that there are enough existing buildings and features that do not comply with the new plan in this area to make the application of the SNL rules unfair to those who have not yet built. This submission is supported in the further submission of Danny Baillie (FS2351.1) on similar grounds.

G & J Sommers Edgar (OS889.2) seeks to remove all Significant Natural Landscape overlays from rural residential zones because the submitter considers it to be inappropriate to have such overlays on rural residential land; in particular the submitter considers the Flagstaff-Mt Cargill Significant Natural Landscape Overlay and its provisions to be 'overly onerous' (see OS889.1). OS889.2 is supported by Candida Savage (FS2022.2) who seeks to allow the submission in order to simplify resource consent processes. Glynn Kiesel (FS2057.1) opposes removing overlays from rural residential zones as "the approach into Dunedin from the north is one of the more beautiful approaches into a city" and needs to be preserved. Howard Saunders (FS2373.2) supports OS889.2 (in part) with regard to removing the overlay from the Rural Residential 2 Zone, or alternatively seeks to change the maximum height for residential houses in an SNL to 8m to allow a house to be built on a sloping site.

Recommendation – Amendment 4

The submissions of Nigel Harwood (OS96.2) and G & J Sommers Edgar (OS889.1 and OS889.2) raise the issue of whether SNL overlays

are compatible with areas of rural-residential zoning. Advice was also sought from expert landscape architect Michael Moore on this point, and at paragraph 75 of his evidence, he states "It is my opinion that the two are not automatically mutually exclusive and that in some circumstances landscape overlays could provide an appropriate tool to promote integration of rural residential subdivision and development with the landscape." He goes on to then say, specifically in relation to the submission of Nigel Harwood (OS96.2), that "In this instance however [meaning in the vicinity of Blueskin Road], subdivision has already occurred, the development pattern is already in place and considerable built development has already taken place. The resulting landscape is not one that is a particularly good fit with SNL values as Figure B4.3 illustrates. A significant change in the landscape character occurs at Green Road and I believe that this is the appropriate position for the boundary". I agree with Mr Moore that rural-residential zoning and SNL overlays need not be exclusive of each other and in doing so recommend the submission of G & J Sommers Edgar (OS889.2) be rejected. I also agree with Mr Moore in relation to the change in landscape character that occurs at Green Road, and in doing so recommend (on the basis of the expert evidence) that submissions (OS96.2 and others) are accepted and that the Flagstaff-Mt Cargill SNL boundary is amended to exclude the built environment below Green Road as shown below, and shown on Figure B4:3 of Mr Moore's evidence.

I note that the aspect of Howard Saunders' further submission (FS2373.2) that relates to the maximum height for houses in SNLs is addressed in section 5.11.4 of this report.

Submissions to raise the lowest extent to the Flagstaff-Mt Cargill SNL

Murray Soal (OS291.2) seeks to have the SNL maps changed 'to allow land use'. It is inferred that this means removal of the Flagstaff – Mt Cargill SNL overlay from 427 Waitati Valley Road. The reasons given relate to unreasonable restrictions on the use of land.

Antonie Vandervis (OS1026.1) seeks the removal of the SNL overlay from 69 O'Connell Road, Pigeon Flat. The reasons cited are that the property is not able to be viewed by the general public and the overlay will seriously impact on economic return from the property. Shane Johnston and Sharee Watts (OS1067.1) seek that the proposed SNL in the vicinity of 517 Mt Cargill Road should be as per the LCA in the operative Dunedin City District Plan. The reasons given appear to relate mainly to objections to associated SNL provisions and restrictions on use of the land.

Recommendation –Amendments 5,6

Advice was also sought from expert landscape architect Michael Moore on the appropriateness of removing 427 Waitati Valley Road from the Flagstaff-Mt Cargill SNL. At paragraph 76 of Mr Moore's evidence, he notes that "Murray Soal's property at 427 Waitati Valley Road is largely below the 300m contour and has only moderate levels of visual prominence generally. In common with other properties in this area, it includes regenerating bush in gully areas that create natural corridors linking with the valley floor and the Waitati River. Whilst these have landscape value, mapping them requires a considerable level of detail and given the visually recessive nature of the area, protection mechanisms other than SNL overlays are likely to be more appropriate". I agree with Mr Moore's assessment of the landscape values of 427 Waitati Valley Road, and as shown on Figure B5:2 of Mr Moore's evidence, and recommend (on the basis of the expert evidence) that the submission is accepted, and that the boundary of the Flagstaff-Mt Cargill SNL is lifted above 427 Waitati Valley Road to the 300m contour, as shown below (OS291.2).

Advice was also sought from Michael Moore regarding the boundary of the Flagstaff-Mt Cargill SNL at 69 O'Connell Road and 517 Mt Cargill Road. At paragraph 82 of his evidence Mr Moore notes that 69 O'Connell Road is located at the head of the Wetherstons Creek Valley and as noted for the submissions by Murray Soal (OS291.2) "I believe that it is appropriate to amend the SNL boundary to exclude land below the 300m contour in this vicinity on the basis that visual prominence is low and natural character values somewhat variable" (also refer to Figure B5:1). The submission of Sharee Watts and Shane Johnston (OS1067.1) refers to a property on the eastern side of the Wetherstons Creek valley, and likewise, Mr Moore notes at paragraph 83 that "whilst there are clearly natural character values associated with indigenous bush cover, this area is visually recessive...and it is my recommendation that the SNL overlay is removed from areas below the 300m contour in this vicinity". I agree with Mr Moore that the boundary of the Flagstaff-Mt Cargill SNL in the vicinity of both 69 O'Connell Road and 517 Mt Cargill Road could be amended to better fit the landscape character of the area, and be elevated to the 300m contour line; on the basis of this expert evidence I, therefore, recommend both submissions are accepted and that an amendment to the Flagstaff-Mt Cargill SNL boundary is made as shown below, and on Figure B5:1 of Mr Moore's evidence (OS1026.1, OS1067.1).

Submissions to amend Flagstaff-Mt Cargill SNL boundary to match Environment Court ruling RMA 1032/99

Bruce Norrish (OS461.4) seeks amendment of the SNL boundary to be consistent with the Environment Court ruling RMA 1032/99 that would then remove the overlay from 171 Pigeon Flat Road. This ruling informed the boundary of the Flagstaff Mt Cargill Landscape Conservation Area in the vicinity of 171 Pigeon Flat Road for the operative Dunedin City District Plan.

Recommendation – Amendment 7

Advice was sought from expert landscape architect Michael Moore regarding the boundary of the Flagstaff-Mt Cargill SNL and the relevance of the Environment Court ruling RMA 1032/99. The SNL boundary as notified (green polygon) and Operative District Plan LCA boundary (yellow lines) in the vicinity of 171 Pigeon Flat Road are shown in Figure B1 of Mr Moore's evidence. At paragraph 78, Mr Moore states "Mr Norrish's submission refers to a 2002 Environment Court ruling which determined the LCA line. It is my understanding that this ruling does not constrain review of the new landscape overlay under the 2GP. The operative plan LCA line adopts the 420m contour and by way of background, the court's decision outlines that this was based on the following principles: 1. That the knoll and the ridge in the area of the site should be protected; 2. This should include not only the ridge line itself but a suitable area below that ridgeline to give context to the land form; 3. That the lower lying land above Pigeon Flat Road to the east of Mr Norrish's site is not necessary to protect the visual amenity issues on the ridge; and 4. A line at the bottom of the escarpment below the knoll carried on a contour line across the site or a contour line carried from the corner of Pigeon Flat Road as it turns on the knoll, to the north and carried across the site, would both be capable of providing protection for the ridgeline while minimizing unnecessary impact on the Norrish property" (at paragraph 78 of Mr Moore's evidence). I agree with Mr Moore's assessment of the relevance of Environment Court ruling RMA 1032/99, in that applies principally to the operative Plan, and that it can also sensibly be used to guide the SNL boundary in notified 2GP.

In relation 171 Pigeon Flat Road, at paragraph 79 Mr Moore states "...having reviewed the proposed boundary in this area, I consider that the line as currently proposed in the 2GP is unjustifiably inclusive of land that has little natural character value or wider visual prominence (other than from State Highway 1). It is my assessment that the 300m contour represents an appropriate boundary to

adopt, as when viewed in broad context, it generally represents a change in character from more to less developed and a change in visual prominence from lower to higher, with increasing elevation. Figure B5.3 illustrates this. I believe that this line is more appropriate, in terms of reflecting landscape character and protecting landscape values at least, than one based on the 420m contour (which is also shown in Figure B5.3 for comparison)." On the basis of this expert evidence I, therefore, recommend that the submission is accepted (OS461.4) and that the boundary proposed in the notified 2GP is adjusted uphill in the vicinity of 171 Pigeon Flat Road to the 300m contour as shown in Figure B1 of Mr Moore's evidence, and as shown below. I further note that this recommendation is consistent with my recommendation to raise the boundary of the Flagstaff-Mt Cargill ONL in the vicinity of 427 Waitati Valley Road, 69 O'Connell Road and 517 Mt Cargill Road (submissions OS291.2, OS1026.1 and OS1067.1, respectively), also shown on Figure B1 of Mr Moore's evidence.

Submissions to amend Flagstaff-Mt Cargill SNL boundary to coincide with CO94 QEII covenant

Bruce Bohm (OS632.3) seeks amendment to the boundary of the SNL in the vicinity of 452 Waitati Valley Road so that it coincides with the adjacent CO94 QEII covenant. The reason given is that although the area included within 452 Waitati Valley Road is a visually prominent hill top (also the edge of Pigeon Flat), it is predominantly covered in 20 year old exotic trees, has two obtrusive power line corridors crossing the area and does not (currently or potentially) contribute to any amenity value.

Recommendation – Amendment 8

Advice was sought from expert landscape architect Michael Moore regarding the boundary of the Flagstaff-Mt Cargill SNL at 452 Waitati Valley Road. At paragraph 80 of his evidence, Mr Moore notes that the property is located below a secondary ridgeline (as viewed from the north) on north facing slopes on the south-eastern side of Waitati Valley and the ridgeline is in fact, the edge of the Pigeon Flat plateau area. The property has moderately high visual prominence as viewed from the north but is within the containment of the higher hills to the south, and has variable natural character values as illustrated in Figure B5.2 of his evidence. Mr Moore concludes, at paragraph 80 after having reviewed the SNL boundary "it is my recommendation that this area is excluded from the SNL altogether". I agree with Mr Moore's assessment; it is clear from Figure B5:2 of Mr Moore's evidence that there is a break in the landscape pattern above the property and I, therefore, recommend (on the basis of the expert evidence) that the submission is accepted (OS632.3) and that the boundary of the Flagstaff-Mt Cargill SNL is amended to exclude 452 Waitati Valley Road as shown below.

Submissions to amend Flagstaff-Mt Cargill SNL boundary to remove Mt Kettle Quarry at 386 Mt Cargill Road

Blackhead Quarries Ltd (OS874.53) seeks the removal of the Flagstaff Mt Cargill SNL overlay as it relates to Mt Kettle Quarry at 386 Mt Cargill Road. The reasons given include: that the proposed plan does not provide the appropriate level of protection for existing quarries, and that the landscape overlays are not appropriate or justifiable where the quarry exists.

Recommendations

Advice was sought from expert landscape architect Michael Moore regarding the boundary of the Flagstaff-Mt Cargill SNL at 386 Mt Cargill Road. Mt Kettle Quarry is located on the upper western slopes of Mt Cutten; the quarry can be seen in the view shown in Figure B5.1 of Mr Moore's evidence. At paragraph 81 of his evidence, Mr Moore notes "The quarry clearly modifies the natural character values

of the upper slopes of Mt Cutten but is located at the core (the upper hill slopes and ridgelines) of the SNL. Given its highly prominent location and the natural character values associated with the major hill tops and ridgelines generally, it is my recommendation that the SNL overlay should cover this property and that no exclusion should apply. The practical outcome of this would be that landscape values will be appropriately considered alongside other considerations in the development and management of this quarry." I agree with Mr Moore's assessment of the landscape values in and around the existing quarry and in particular that the quarry is well inside the proposed SNL boundary as notified, and also the boundary of the operative LCA (see Figure B5.1). I, therefore, recommend (on the basis of this expert evidence) that the submission be rejected (OS874.53) and that no change is made to the SNL boundary in the vicinity of 386 Mt Cargill Road.

Submission to raise the SNL to 110m contour at 128D Doctors Point Road

Graeme and Marie Bennett (OS298.2) seek amendment to the SNL boundary at 128D Doctors Point Road from the 100m contour (as presently located) to the 110m contour. The reasons given are that this would better reflect the change in character from the more settled / built lower slopes to the more natural / unbuilt upper slopes, it would allow better use of the lower slopes should they be subdivided, and it would align the landscape zone with the existing residential developments in nearby Thornicroft Road.

Recommendations

Advice was sought from expert landscape architect Michael Moore regarding the boundary of the Flagstaff-Mt Cargill SNL at 128D Doctors Point Road. At paragraph 77 of Mr Moore's evidence he states that the land above the existing built development to the north of 128D Doctors Point Road is steep, and as illustrated in Figure B4.2 of his evidence, quite visually prominent. Mr Moore notes that "The SNL boundary in this area has been identified to reflect the existing landscape pattern to a large extent, and to promote retention of an adequately bold rural landscape context to the built development around the southern shore of Blueskin Bay. I can see no justification in terms of landscape character, to adjust the line upward". I agree with Mr Moore's assessment and on the basis of his evidence and after viewing Figure B4:2, recommend the submission is rejected (OS298.2) to allow appropriate landscape values to be protected.

Submissions relating to the west harbour area of the Flagstaff-Mt Cargill SNL

Submissions to exclude rural residential areas from the SNL

Rose Laing (OS48.1) seeks the removal of the SNL from the Rural Residential 1 zoned area in the Brick Hill Road/Strawberry Lane area. The reasons cited are that subdivision consent has been granted in this area and restrictions associated with the SNL overlay could affect site desirability. Bevan Palmer (OS550.1) also seeks the removal of the SNL overlay from 22A Weka Street, St Leonards. The reasons given are that the property is zoned rural residential, that the appropriate boundary for the overlay is the rural residential boundary, and that the overlay zone will have a negative effect on enjoyment and use of the property.

Identical submissions from David Middleton (OS992.2) and Gavin and Karen Middleton (OS999.2) seek the removal of the SNL overlay from 147 St Leonards Drive, St Leonards or alternatively a change to SNL provisions to remove restrictions on land use activities. The

reasons given are that the property is partially zoned Rural-residential 1 and will act as a bridge between the Rural-residential 1 area on North Road and the Rural-residential area on the Dunedin Port Chalmers Road.

Recommendations

Advice was sought from expert landscape architect Michael Moore regarding the appropriateness of the Flagstaff-Mt Cargill SNL covering areas around Brick Hill Road, Strawberry Lane, 22A Weka Street and 147 St Leonards Drive, that are currently all or partly zoned rural residential in the notified 2GP. At paragraphs 91-92 of Mr Moore's evidence, he notes "on the West Harbour side of the Flagstaff Mt Cargill SNL, the overlay has been mapped to include the summits, higher slopes and linking ridgelines of Signal Hill, Martins Hill, Mt Holmes, Mt Cutten and Mihiwaka. The lower boundary has been drawn to reflect the general change in character from more settled / built lower slopes, to more natural / unbuilt upper slopes, and largely adopts the 100m contour as indicative of this character change. Figures B6 and B7 illustrates the proposed SNL boundary in the West Harbour and urban Dunedin facing areas of the SNL, and identifies the properties that are the subject of the submissions. The boundary of the Flagstaff Mt Cargill LCA as per the operative District Plan is also shown for reference. Given the potential for landscape change associated with Rural-residential subdivision and development in this area, the location of the proposed 2GP Rural-residential zones are also shown. Figure B8 shows photographs of the area". At paragraph 96 Mr Moore states "... where rural residential subdivision and development has not yet taken place, an SNL overlay is a useful tool to ensure landscape values are appropriately considered when development proposals are submitted and are appropriate". I agree with Mr Moore's assessment that the rural residential zones and SNL overlays are not necessarily mutually exclusive.

Mr Moore makes a specific comment, at paragraph 96, regarding the submission of Bevan Palmer (OS550.1) as follows: "Figures B8.1 and B8.2 illustrate the property at 22A Weka Street as well as the proposed SNL boundary. The Rural-residential zone boundary as proposed in the 2GP coincides with the upper boundary of this property. This submission raises an issue of wider relevance in this part of the proposed SNL, which is the extent to which SNL overlays, which seek to conserve natural / rural character values, are compatible with rural-residential zoning. My general comment about this is that in situations such as this, where rural residential subdivision and development has not yet taken place, an SNL overlay is a useful tool to ensure landscape values are appropriately considered when development proposals are submitted and are appropriate. My comment specific to this property, is that it is unfortunate that the rural-residential zone extends onto the steeper, more visually prominent part of the site (above the existing house) because of the potential effect of Rural-residential development on the characteristic pattern of more rural / natural upper and mid-slope areas. In this situation, I believe that it is appropriate to have the overlay covering the site generally, and very important that it covers the upper part of the property in particular. I believe that the SNL boundary as currently proposed should be retained." On the basis of this expert evidence I, therefore, recommend the submission is rejected (OS550.1) to allow landscape values to also be protected in the vicinity of 22A Weka Street.

At paragraph 93, Mr Moore states in response to Rose Laing's submission (OS48.1), that "the SNL boundary (following the 100m contour) encompasses the top of a spur form that grades gently to the north and more steeply to the south, as illustrated in Figure B8.3. Upper Junction Road runs up this spur and there are already a number of buildings present both above and below the boundary line (although mainly below). A case could be made to exclude this area from the SNL given the low elevation of the spur (being just above the 100m contour), and the degree of existing built development. On the other hand, especially as viewed from the south (see

Figure B8.2), the spur top is reasonably visually sensitive and is seen as the top of rural bush covered slopes. On balance it is my opinion that retaining the boundary as currently shown [in the notified 2GP] is appropriate and that the SNL overlay in this location would facilitate the sustainable management of the landscape values". I agree with Mr Moore's balanced assessment and in doing so recommend (on the basis of this expert evidence) the submission be rejected (OS48.1).

The submissions of David Middleton (OS992.2) and Gavin and Karen Middleton (OS999.2) relate to 147 St Leonards Drive, illustrated in Figures B8.1 and B8.2 of Mr Moore's evidence, along with the proposed SNL boundary as notified. The lower part of this property (below the SNL boundary line) is zoned Rural-residential in the 2GP. There is a flatter, broad spur top area above the 100m contour with an open pastoral character and which has less visual prominence than typical at this level on these slopes. At paragraph 99 Mr Moore states that it is in his opinion "there is no reason to deviate from the proposed SNL boundary in this instance. The proposed boundary has been identified with regard to the character and pattern of the western hill slopes of the harbour generally, and applies here equally. Despite there being a more visually recessive area present within this property, above the 100m contour, this area is still visible from external viewpoints and SNL provisions would still provide a useful tool to ensure sustainable management of the west harbour landscape". On the basis of this expert evidence I, therefore, recommend that both submissions are rejected (OS992.2 and OS999.2) to better provide for the protection of landscape values in the vicinity of 147 St Leonards Drive.

This recommendation is consistent with that made for the submission of Nigel Harwood (OS96.2) and the further submission of Danny Baillie (FS2351.1), as shown above.

Submissions to raise the Flagstaff-Mt Cargill SNL boundary at 198 Upper Junction Road

Margaret and Jeffery Kilpatrick (OS371.1) seek that, for subdivisions in the rural residential zone, landscape building platforms should not need to be identified. The submitters consider that the Significant Natural Landscape that covers 198 Upper Junction Road is too low, impacting on community growth in this area. They note that six dwellings have already been established in this area, and consider that these dwellings have not had a lot of impact on the natural environment.

Recommendations

In relation to the Kilpatricks' submission that landscape building platforms should not need to be identified in the rural residential zone, I note that there is no performance standard in the plan that requires these building platforms to be identified at the time of subdivision, although the identification of these building platforms may be a condition of subdivision consent, if this is considered necessary to maintain landscape values. For further discussion of 2GP provisions for landscape building platforms, see section 5.11.5 of this report.

Advice was sought from expert landscape architect Michael Moore regarding the boundary of the SNL in the vicinity of 198 Upper Junction Road. At paragraph 94 of his evidence Mr Moore states "The location of this property is shown in Figures B7 and B8.2 and the area in question is essentially the south side of a spur running down toward Roseneath. The SNL currently includes spur top areas above steeper partly bush covered slopes. The SNL boundary has been drawn taking an overall approach, to reflect the general change in character from more settled / built lower slopes, to more natural / unbuilt upper slopes, mainly adopting the 100m contour as

indicative of this character change. As discussed above in relation to Rose Laing's submission, I believe it is appropriate to include this moderately visually sensitive spur top area within the SNL." I agree with Mr Moore's assessment of the SNL in this location, and recommend (on the basis of the expert evidence) that the submission is rejected (OS371.1) and no amendments are made to the Flagstaff-Mt Cargill SNL boundary, as notified, at 198 Upper Junction Road.

Submissions to retain the Flagstaff-Mt Cargill SNL as per the operative Plan

Christopher Kilpatrick (OS505.2) seeks that the SNL boundary in the vicinity of 140 Upper Junction Road should remain consistent with the boundary of the Flagstaff Mt Cargill LCA in the operative Dunedin City Plan. The reason given is that the SNL puts too many restrictions on his property. Liz McLennan (OS680.2) also seeks to have the proposed SNL boundary in the vicinity of 121 Hall Road amended to where the Flagstaff Mt Cargill LCA boundary is currently located in the operative Plan. The reasons given relate to erosion of property rights, costs for consents and limitations on activities. Amy Popplewell (OS732.1) seeks that the proposed west harbour SNL boundary line is amended to where the Flagstaff Mt Cargill LCA boundary is currently located in the operative Plan. No reasons are provided in the written submission.

Recommendations

Advice was sought from expert landscape architect Michael Moore regarding the extent of the SNL as notified, versus the LCA in the operative plan. Figures B8.1 and B8.2 illustrate the location of both these boundaries and at paragraph 95 of Mr Moore's evidence he notes "The LCA boundary does not follow a contour but instead, follows property boundaries. In the vicinity of 140 Upper Junction Road it runs between approximately the 185 and 210m contours. In comparison, the SNL boundary follows the 100m contour. The landscape in this vicinity is characterised by gentle spur and gully topography covered by largely pastoral grassland with exotic shelter trees and areas of regenerating scrub, much of it native. These are features that contribute positively to the values of the Otago Harbour landscape. The property is located at mid-slope level and is moderately – highly visually prominent from viewpoints around the harbour. It is my assessment that the proposed SNL boundary is more appropriate than the operative District Plan LCA boundary". I agree with Mr Moore's assessment and in doing so recommend (on the basis of this expert evidence) the submission is rejected (OS505.2) and that the Flagstaff-Mt Cargill SNL boundary is retained at the 100m contour in the vicinity of 140 Upper Junction Road, as notified.

Liz McLennan's submission relates to 121 Hall Road, shown in Figure B6 of Mr Moore's evidence. This submission also seeks to have the SNL boundary relocated to match the LCA boundary in the operative District Plan. The approximate locations of both the SNL and LCA lines are illustrated in Figure B8.3 of Mr Moore's evidence. At paragraph 97 Mr Moore states "The area in question is a relatively visually prominent spur with an open rural character that contributes significantly to the wider landscape of Sawyers Bay and the West Harbour generally. The LCA line excludes the open pastoral land whereas the proposed SNL line includes this above the 100m contour. In my assessment it is appropriate to include the mid-slope rural land in the SNL given its contribution to the landscape values, and that the proposed SNL boundary is more appropriate than the current LCA boundary". I agree with Mr Moore's assessment and in doing so recommend (on the basis of this expert evidence) the submission is rejected (OS680.2) and that the Flagstaff-Mt Cargill SNL boundary is retained as notified in the vicinity of 121 Hall Road.

Amy Popplewell's submission requires a comparison the merits of the proposed SNL boundary against those of the current LCA boundary generally. At paragraph 98, Mr Moore states "The SNL boundary adopts the 100m contour whereas the LCA boundary follows property boundary lines, and ranges in elevation but is mostly above 200m. Figures B8.1 – B8.3 provide visual comparisons of the two boundary lines in various areas. Both the SNL and LCA protect the ridgelines and upper slopes, which are the most visually sensitive parts of the landscape. It is my assessment however, that the LCA boundary is insufficiently protective of the mid-slope areas which are also visually prominent from harbourside roads and settlements, to protect the landscape values adequately. I believe that the 100m contour or thereabouts, is generally appropriate in that it delineates the more densely settled lower slope areas (typically characterised by residential development or scattered higher density rural housing set in areas of bush) from less settled rural land (typically characterised by areas of pasture and bushland). The proposal to zone many of the mid-slope areas rural-residential only makes it more important that the SNL zone extends to lower levels, in order to appropriately protect the landscape values". I agree with Mr Moore's overall assessment of the lowest extent of the Flagstaff-Mt Cargill SNL boundary, and in doing recommend (on the basis of this expert evidence) that the submission is accepted in part (OS732.1), and that the Flagstaff-Mt Cargill SNL boundary is retained as notified, except where this report recommends amendments.

Submissions relating to the North-east valley / Leith valley areas of the Flagstaff-Mt Cargill SNL

Submissions to remove the Flagstaff-Mt Cargill SNL overlay from specific properties

Shane Carter (OS180.2) seeks the removal of the SNL overlay from 191 Norwood Street, Normanby. The reasons given are the property is a mix of pasture, gorse, and various plantations of *Macrocarpa*, Pine and *Eucalyptus* trees, it is near the bottom of the valley and not visually prominent, and has no distinctive natural landforms or areas of indigenous vegetation. Barbara and Donald McCabe (OS251.2) seek the removal of the SNL overlay from the area of 122 Campbells Road, Pine Hill, and surrounding sites. The reasons noted are that whilst it is a pleasant semi-rural landscape, it isn't in its natural state and the terrain modifications and built structures seem at odds with SNL status. Stephen Gregory Johnston (OS1030.4) seeks the removal of the small area of SNL overlay at 55 Patmos Avenue. No reasons are provided pertaining to this aspect of the submission.

Recommendation – Amendment 9

Advice was sought from expert landscape architect Michael Moore regarding the appropriateness of including 191 Norwood Street, 122 Campbells Road, and 55 Patmos Avenue into the Flagstaff-Mt Cargill SNL. At paragraph 103 of his evidence, Mr Moore notes "The part of the Flagstaff-Mt Cargill SNL orientating toward urban Dunedin has been mapped to include the summits, higher slopes and linking ridgelines of Flagstaff, Swampy Summit, Mt Cargill and Signal Hill. The lower boundary has been drawn to reflect the general change in character from more settled / built lower slopes, to more natural / unbuilt upper slopes. The rationale for the boundary as currently mapped in the 2GP is given in my August 2013 report and is as follows:

- North of Three Mile Hill Road, the 360m contour has been adopted.
- Northwest of Wakari Road, cadastral lines that generally reflect a change to steeper slopes have been adopted.
- Around Glenleith, cadastral lines generally reflecting the change in character to unbuilt land have been adopted.
- Between Glenleith and Pine Hill the 200m contour has been adopted.
- Around Pine Hill cadastral lines generally reflecting the change in character from residential to rural have been adopted.

- On the northwestern side of North-east Valley the 100m contour has been adopted.
- On the southeastern side of North-east Valley the 160m contour line has been adopted but rises adjacent to Opoho to avoid residential areas.
- Adjacent to Logan Park and the Logan Point quarry, from north- south, the boundary follows a watercourse to the 40m contour, rises to avoid the lower quarry and lowers again the 40m contour above State Highway 88." (at paragraph 99)

Figures B6 and B10 of Mr Moore's evidence, illustrate the proposed SNL boundary in the city facing area of the SNL, and identifies the properties that are the subject of these submissions (B6). The boundary of the Flagstaff Mt Cargill LCA is also shown for reference in Figure B6. The submission of Shane Carter is in relation to 191 Norwood Street, which is adjacent to Bethunes Gully near the head of North-east Valley (see Figure B9). Mr Moore, at paragraph 105, states "I believe that there is some validity to his assertions. The valley divides into a number of headwaters at this point and much of 191 Norwood Street has a recessive aspect when viewed from lower parts of North-east Valley. I agree too that the character of the property is such that natural landscape values are not of great significance. This property is near the point where the proposed SNL boundary changes from adopting the 100m contour to the 160m contour, and an alternative whereby adoption of the 160m contour was extended further westward would be an acceptable alternative in my opinion. To the southwest of this property the SNL boundary (at the 100m contour) encompasses an area of indigenous bushland which I believe is appropriately included, along with the adjacent more visually prominent part of 191 Norwood St. Figure B6 illustrates my recommendation for modification to the boundary." I agree with Mr Moore's assessment that the boundary of the Flagstaff-Mt Cargill SNL boundary in the vicinity of 191 Norwood Street could be amended without compromising landscape protection in this area, and in doing so recommend (on the basis of this expert evidence) that the submission is accepted (OS180.2) and that the Flagstaff-Mt Cargill SNL boundary is amended as shown below, and in Figure B6 of Mr Moore's evidence.

With regards the submission of Barbara and Donald McCabe, the area around and including 122 Campbells Road is illustrated in Figure B10.2 of Mr Moore's evidence. At paragraph 107, Mr Moore states "this area is part of the rural landscape context to urban Dunedin and in particular, North-east Valley and Opoho. It is highly visually prominent and has natural character values associated with coherent natural landform and areas of regenerating bush. In my assessment, the SNL overlay in this area is appropriate." I agree with Mr Moore's assessment that Flagstaff-Mt Cargill SNL is appropriately placed to include 122 Campbells Road to allow for appropriate protection of landscape values in this area and in doing so recommend (on the basis of this expert evidence) the submission be rejected (OS251.2) and that the Flagstaff-Mt Cargill SNL is retained as notified in this area.

The Stephen Johnston submission (OS1030.4) relates to a small area between the motorway and the 200m contour, as illustrated in Figure B10.3 of Mr Moore's evidence. Mr Moore notes at paragraph 108 that "The SNL boundary in this area has adopted the 200m contour and in this vicinity this demarcation has more to do with levels of visual prominence in the wider context, rather than natural / rural character attributes. The slopes below 200m have strongly expressed rural and natural character attributes based on a coherent landform pattern, minimal built form and the presence of regenerating native bush. In my assessment there is no particular justification for removal of the SNL from 55 Patmos Road. If anything, given the visual prominence of this area from residential viewpoints in the Glenleith area, combined with the rural / natural character attributes, it may have been more appropriate that the boundary was drawn lower. On the other hand, it could be argued that the state highway forms a more meaningful boundary in this particular location given the narrowness of the land between the proposed boundary and the motorway. Overall, it is my conclusion that retaining the boundary

as shown currently and following the 200m contour, is the best fit with the mapping rationale, and should have little impact on land use". I agree with Mr Moore's assessment that the Flagstaff-Mt Cargill SNL is appropriately placed to include a small part of 55 Patmos Road, and in doing so recommend (on the basis of this expert evidence) that the submission be rejected (OS1030.4) and that the Flagstaff-Mt Cargill SNL is retained as notified in this area.

Submissions relating to the Flagstaff–Mt Cargill SNL as a whole

Graham and Nothburga Prime (OS399.1) seek that the boundaries of the overlay be redrawn to remove 'excessive impositions' on the working rural landscape and refer to their own property which has the overlay boundary dividing two paddocks.

Bruce Mclennan (FS2322.1) supports this submission and with reference to the SNL overlay on 549 Mt Cargill Road, states that the current LCA boundary in the operative Plan (following the 300m contour) is a fairer representation of the land, than that proposed in the 2GP. The reason given is that the landscape is much modified with areas of regenerating scrub.

Recommendations – Amendment 10

Advice was sought from expert landscape architect, Michael Moore on the rationale of the boundary of the Flagstaff-Mt Cargill SNL overlay and in particular, if the overlay appropriately covers features and how the land looks. At paragraph 111 of his evidence, Mr Moore states "Identifying landscapes involves more than identifying natural or cultural features of significance and takes a more comprehensive view of an area, with consideration of biophysical elements, patterns and processes, associative meanings and values, and sensory or perceptual qualities. As outlined in my report dated August 2013, the boundaries of the Flagstaff Mt Cargill SNL have been drawn to include not only the areas with high natural and cultural values but also the areas that are visually prominent from the adjacent urban areas and the northern approach to Dunedin City, and which contribute to wider amenity values". At paragraph 112 Mr Moore further elaborates as follows "The areas included, when considered overall, have at least moderate natural character when considered on a spectrum from pristine to cityscapes, and farmed landscapes are legitimately included. I believe that there is general acceptance that the visually prominent hilltops and ridgelines and areas under indigenous vegetation cover are worthy of inclusion. Judgement calls, which are not always straightforward, are required when deciding how far downslope from the hilltops to come in defining the boundaries. The rationale for the boundary lines has been discussed above and in some cases adjustments have been recommended".

With regard to the submission of Graham and Nothburga Prime, Mr Moore concludes at paragraph 113 "I do not accept that the SNL should be as narrowly defined as they [the submitters] (OS399.1) seem to suggest. However, on review of the boundaries, I have recommended some refinement in a number of places, to exclude areas where justification for inclusion on natural character or visual amenity contribution grounds was not considered sufficiently robust". I agree with Mr Moore's view, and note that in response to a number of submissions relating to boundary adjustments and/or property exclusions, to the Flagstaff-Mt Cargill SNL, Mr Moore has considered carefully the merits of each and at times has supported submissions and recommended adjustments to the boundary as a result, as shown below.

The further submission of Bruce Mclennan makes reference to the property at 549 Mt Cargill Road which encompasses much of

Wetherston Hill (see Figure B1 of Mr Moore's evidence). At paragraph 114 of his evidence, Mr Moore notes "I have reviewed the proposed boundary line in this area and recommended an upward amendment from the 120m contour to the 150m contour to more appropriately exclude areas that have lower visual prominence. Although parts of Wetherston Hill are covered in exotic scrub, in general, it has moderate – high natural character values based on its distinctive landform, the presence of large areas of regenerating native bush and a coherent natural vegetation pattern. It is also a visually prominent feature within the wider landscape. For these reasons, I believe that the land above the 150m contour is worthy of inclusion." I agree with Mr Moore's assessment, and recommend (on the basis of this expert evidence) that the further submission is accepted in part (FS2322.1), and that the Flagstaff-Mt Cargill SNL boundary is adjusted to run along the 150m contour line as shown in Figure B1 of Mr Moore's evidence, and as shown below. Further to this, I note that this recommendation is consistent with my response to the submission of Shane Johnston and Sharee Watts (OS1067.1) which relates to a boundary adjustment in the vicinity of 549 Mt Cargill Road.

Submissions to move the boundary of the Hill Slopes Rural Zone and the Coastal Rural Zone to correspond with the proposed boundary of the Flagstaff Mt Cargill SNL and to change the zoning of 8 and 55 O'Connell Road, and 302 and 324 Pigeon Flat Road so that they are entirely within the Hill Slopes Rural Zone

Graham and Nothburga Prime (OS399.2) seek to move the boundary of the Hill Slopes Rural Zone and the Coastal Rural Zone so that it corresponds with the proposed boundary of the Flagstaff-Mt Cargill SNL in the area of Pigeon Flat between Mt Cargill and Waitati Valley Road. The submitter considers that "moving the Hill slope boundary from O'Connell road to correspond with the SNL boundary would bring consistency with the rest of the boundary and more accurately reflect the topography down to the SNL boundary". This is supported by Bruce McLennan (FS2322.2) who considers that it is 'far-fetched' to include any of the land in the Coastal Rural Zone.

I note that these submissions were deferred from the Rural hearing awaiting the review of the boundaries of the SNL being undertaken for the Natural Environment hearing.

Robyn and Stephan Smith, Rick and Jill Clarke, Alan Brown, Carrowmore Properties Ltd (on behalf of the "Pigeon Flat Road Group") (OS717.27) seek to change the zoning of 8 and 55 O'Connell Road, and 302 and 324 Pigeon Flat Road so that the sites are entirely within the Hill Slopes Rural Zone, rather than having land in the Coastal Rural Zone. The submitter considers that the Coastal zoning is an 'anomaly' and Hill Slopes zoning is "more consistent with the character and nature" of the land.

This submission was also transferred from the Rural hearing because the area subject to the submission corresponds with the area raised in the submission by Graham and Nothburga Prime.

Recommendations – Amendments 15, 16

In relation to the location of the SNL boundary as a whole Mr Moore reviewed the boundary and is of the opinion that "some modification to the boundary as currently drawn, is required". Mr Moore states that, "in general, I believe that the currently boundary extends too low to be adequately justified in a number of areas." Mr Moore has recommended amendments to either the 300m contour or nearby road lines where more appropriate between State Highway 1 and O'Connell Road. The reasons given are "that there is a large

amount of farm land that is not particularly visually prominent in the Pigeon Flat area" and "the 300m contour generally reflects a change in character to steeper more bush covered land in this section and the land above is visually prominent".

On the basis of the amendments to the boundary of the SNL as recommended by Mr Moore I have recommended adjusting the boundary uphill, as shown in Figure B5:3 of his evidence. The effect that this recommendation has is that the redrawn boundary SNL would roughly align with the boundary between the two different rural zones. However, the request by Graham and Nothburga Prime instead requests that the boundary of the Hill Slopes Rural Zone be adjusted to where the notified SNL boundary is, which would "more accurately reflect the topography."

Examining the properties included in the Pigeon Flat Road Group submission, a small part of 55 O'Connell Rd, Pt Sec 21 Blk XII (0.5996 ha) and Sec 6 SO 440642 (3.96ha) on the lower side of O'Connell Road is within the Hill Slopes Rural Zone, with the remainder of the property (approximately 55ha) being in the Coastal Rural Zone. The majority of 8 O'Connell Rd (27ha property total) is located within the Hill Slopes Rural Zone (spans both sides of the road), with approximately 9ha in the Coastal Rural Zone. 302 Pigeon Flat Road is entirely within the Coastal Rural Zone and 324 Pigeon Flat Rd is a 97.5ha property which only has a small 2ha corner of PT SEC 23 BLK III SO 1266 NORTH HARBOUR & BLUESKIN SD zoned as Hill Slopes Rural Zone.

As noted in the Rural section 42A report, the general area that is subject to the submission was mapped in the Rural Character Assessment report (Forest Environments Ltd) as the Waikouaiti Coast and Hills Character Area. The Coastal Rural Zone is a broad category which is characterised by small-medium properties, coastal as well as adjacent hills, landscape and biodiversity values and development pressures. I do not agree with the submitters that the Coastal rural zoning in the Pigeon Flat area is an 'anomaly' and I do not consider it appropriate to amend the boundary of the Hill Slopes Rural Zone as requested by Graham and Nothburga Prime. I also do not consider that the zoning of 302 Pigeon Flat Road, currently entirely within the Coastal Rural zone, should be changed from Coastal Rural zone to Hill Slopes rural zone as requested by the Pigeon Flat Road Group.

With regard to the split zoning of the other properties included in the Pigeon Flat Road Group submission, rural zone boundaries were mapped at a broad level and in some cases the large size of rural sites meant that split zoning could not be always avoided without creating zoning that is inappropriate in terms of the Plan's objectives. The Plan Overview section 42A report clarified how 2GP provisions affected by split zoning are to be managed, and this was further discussed in the Rural Zones Section 42A report (pp. 372-375) in relation to rural zone rules. However, in some cases where there is only a very small area of a site in a different zone it makes sense to adjust the boundary so that the site is entirely in one zone. If the Panel is of a mind to amend the split zoning for the three properties which are partly in two zones, I recommend that 8 O'Connell Road be amended so that the entire property is in the Hill Slopes Rural Zone, while 324 Pigeon Flat Road and 55 O'Connell Road be amended so that the entire properties are in the Coastal Rural Zone.

I note that the submissions relate to other points addressed in the Rural Zones Section 42 report, to allow for smaller minimum site sizes for subdivision in the Coastal Rural Zone, or to align the Coastal and Hill Slopes density and subdivision standards. See that report for discussion of the rationale for the differences in standards between the two different rural zones and the importance of not undermining the function of the rural zones by allowing smaller sites intended for rural residential use to be created.

Submission related to the Heyward Coast SNL

Brian W Wilson (OS809.2) seeks to have the SNL overlay removed from 853 Aramoana Road (inferred not stated). The reason given is that it is intended to remove some of the regrowth native bush.

Recommendations

Advice was sought from expert landscape architect, Michael Moore on the rationale for the Heyward Coast SNL including 853 Aramoana Road. Figure C1 of Mr Moore's graphic supplement to his evidence illustrates the location of 853 Aramoana Road in relation to the boundary of the Heyward Coast SNL, and shows that the property encompasses a substantial portion of the hill slopes defining the outer harbour landscape, extending from near sea level to the summit ridgeline in some places. At paragraph 116 of Mr Moore's evidence he states "The landscape in this area is highly expressive of the valued landscape characteristics of the SNL including highly coherent volcanic landforms and high naturalness values based on the presence of native bush and vegetation patterns that reinforce landform character" and at paragraph 117 "It is my assessment that the parts of the property at 853 Aramoana Road that are within the mapped overlay form a core part of the SNL in this area, and that it is appropriate to retain the overlay". I agree with Mr Moore that 853 Aramoana Road makes up a key part of this particular SNL, and this includes the values associated with the native bush growing on the property. I, therefore, recommend (on the basis of the expert evidence) the submission (OS809.2) be rejected and that the Heyward Coast SNL boundary in the vicinity of 853 Aramoana Road is retained as notified.

Submission related to the Maungatua SNL

David Campbell on behalf of Clutha District Council (OS686.1) seeks that the boundaries of the SNL, where it adjoins the Clutha District, are reviewed. The reason given is that the Clutha District Plan does not contain SNL areas.

Recommendations

Advice was sought from expert landscape architect, Michael Moore on the rationale for the boundary placement of the Maungatua SNL where it abuts the Clutha District boundary. Figure C2 of Mr Moore's evidence shows the Maungatua SNL where it meets the Clutha District boundary, within the mid-reaches of the Waipori Valley. This submission raises the issue of the desirability of consistency of management either side of the common boundary between Dunedin City and Clutha District, and implies that because Clutha District does not have SNL areas, it may be inappropriate that the Maungatua SNL extends to the CDC boundary. This would logically entail removal of the Waipori River catchment (but not Mill Creek) from the overlay. At paragraph 120 Mr Moore states "... as far as the landscape character and values are concerned, my assessment is as follows: 1. The DCC / CDC boundary cuts through the middle of an area that is experienced as a single landscape entity (i.e. the Waipori Valley); 2. The Waipori Valley, both sides of the boundary, has natural character values of significance, based on the well-defined valley / gorge landform and the large swathe of indigenous vegetation cover; 3. Overall, the landscape values in the Waipori Valley area, whilst high, are modified in places by the influence of dams and other electric power station infrastructure, the visibility of forestry and the regenerating as opposed to remnant character of much of the bush. This precludes ONF or ONL status in my assessment; and 4. The landscape values are however, such that an SNL landscape overlay to protect them is appropriate". At paragraph 121 of his evidence, Mr Moore concludes "It is clearly important that

there is consistency of management across boundaries. In this case however, based on my assessment, and insofar as landscape character and values are concerned, rather than exclude the Waipori Valley from the SNL within Dunedin City, it may be more appropriate that Clutha District Council consider a similar overlay on the other side of the boundary". I agree with Mr Moore's assessment that the landscape with the Waipori Valley meets SNL standard on both sides of the Clutha/DCC boundary, and as such recommend (on the basis of the expert evidence) the submission (OS686.1) be rejected and that the SNL overlay remains on the DCC side of the boundary to help to ensure the sustainable management of landscapes in this area.

Submissions relating to the North West Peninsula SNL

The submission of Peter Murray Raffills (OS108.2) can be interpreted to mean that he seeks removal of the SNL overlay from 656, 657, 658 and 659 Portobello Road. The reasons given are to create employment and amenity. Philip and Shakuntala Cunningham (OS965.2) seek to have the SNL overlay removed from 457 Highcliff Road. They also seek a change in zoning from Rural Residential 2 and Rural (with a General Residential 1 Transition (priority 2) overlay) to Large Lot Residential. The reasons provided relevant to the SNL are that the land has similar topographical features to the adjoining Residential zoned land to the west and little in common with adjacent land that is zoned Rural Hill Slopes and Rural Residential 2.

Recommendations – Amendments 11,12

Advice was sought from expert landscape architect, Michael Moore on the extent of the North West Peninsula SNL in the vicinity of Portobello Road and Highcliff Road. The land in the vicinity of 656, 657, 658 and 659 Portobello Road along with the SNL overlay boundary in the notified 2GP is shown in Figure C3 of Mr Moore's evidence. As illustrated, these properties are on the periphery of a small node of built development surrounding King George Street. At paragraph 124, Mr Moore notes "The SNL boundary in this vicinity has been drawn to avoid the settlement but to extend to mean high water springs around Grassy Point in recognition of its high visual prominence. The landform on the western side of this settlement rises and visually contains it. In my assessment it is appropriate that this containing landform is included in the SNL. I consider however, that some adjustment to the boundary is appropriate to exclude the existing buildings and lower lying land within 657 and 658 Portobello Road, as illustrated in Figure C3." I agree with Mr Moore that slight amendments to the boundary are justified around 657-658 Portobello Road and in doing so recommend (on the basis of the expert evidence) that the submission (OS108.2) is accepted in part, and that the North West Peninsula SNL boundary is amended as shown below, and in Figure C3 of Mr Moore's evidence.

With regard to the submission of Philip and Shakuntala Cunningham, the SNL overlay is currently mapped to cover a very small portion of 457 Highcliff Road (Figure C4 of Mr Moore's evidence). At paragraph 125 of his evidence, Mr Moore notes that the boundary mapping in this area was intended to reflect the change in character from a patchwork of housing, scrub, woodlots and pasture (to the west) to generally open pasture covered slopes (to the east). Further in the same paragraph he concludes "In my assessment, and as illustrated in Figure C4, it would be appropriate to amend the boundary in this area to follow the Highcliff Road boundaries of 457 and 453 Highcliff Road and the eastern boundaries of 453 Portobello Road and 311 Portobello Road." I agree with Mr Moore's assessment and by doing so recommend (on the basis of the expert evidence) that the submission is accepted in part (OS965.2) and recommend that the North West Peninsula SNL boundary is adjusted in the vicinity of 457 Highcliff as shown in Figure C4, and as shown below.

Submissions relating to the Seacliff SNL

Submissions to include Porteous Hill, Warrington

The submission of Rachel Ozanne (OS595.1) seeks that the SNL should be expanded to encompass the entirety of Porteous Hill, Warrington. The reasons given are that it was identified as a 'significant landscape feature' documented in previous Dunedin City Council consultation documents; it is clearly visible from Blueskin Bay and has all the values as described for the Seacliff SNL overlay. Geraldine Tait (FS2160.7) supports the submission of Rachel Ozanne on the basis that Porteous Hill is a very prominent feature viewed from the whole of Blueskin Bay, the local communities, the sea, the Heyward Coast and the northern transport corridor, and because local people value the rural landscape.

Blueskin Resilient Communities Trust (FS2229.13) opposes the submission of Rachel Ozanne. The reasons given are that SNLs should not be provided for in the 2GP but if they are; they should be consistent with the currently mapped Coastal Landscape Preservation Area in the Operative District Plan. The Blueskin Resilient Communities Trust (OS1070.16) seeks the removal of SNL overlays from the Plan or amendment of the boundary of the Seacliff SNL so that it applies to the coastal flanks only and not the Porteous Hill summit – as per the Coastal Landscape Preservation Area in the Operative District Plan. The reasons cited are that SNLs are not a category of landscape recognized in the RMA and that amendment as proposed would be consistent with the Operative District Plan. Simon Ryan (FS2438.6) opposes the submission of BRCT on the basis that: 1. SNLs (or comparable overlays) are widespread in resource management plans throughout the country and are an appropriate and effective tool for the recognition and protection of landscape values; 2. The changes sought are an attempt to avoid coverage of the site of BRCT's proposed wind farm; 3. The changes sought are not evidenced by any legitimate resource management reason and have no foundation in terms of landscape values; 4. Both the coastal flanks and Porteous Hill summit areas have significant landscape values as outlined in Appendix A3 of the 2GP. Geraldine Tait (FS2160.12) also opposes the BRCT submission for similar reasons.

Recommendations

Advice was sought from expert landscape architect, Michael Moore on the appropriateness, or not of including the entirety of Porteous Hill, Warrington into the Seacliff SNL. Rachel Ozanne's submission refers to consultation Council undertook in relation to 'Significant Natural Features (SNF's)' in 2009, in which Porteous Hill, including areas generally above the 200m contour was discussed as a potential candidate for protection. This was on the basis of recommendations in the Dunedin LMA Review. Subsequent to this, Council undertook a comprehensive assessment of all the suggested potential significant landscape features and identified those considered to have outstanding values in terms of section 6(b) of the RMA, those considered significant in terms of section 7 (c) and (f) of the RMA, and 'other' features. This assessment identified Porteous Hill as an 'other feature' and concluded that whilst it had visual amenity values as an important part of the setting for Blueskin Bay, it was most appropriately managed as a visual amenity landscape (now SNL) (at paragraph 134 of Mr Moore's evidence). Figure C5 of Mr Moore's evidence illustrates the extent of the Seacliff SNL and the Coastal Environment Mapped Area. It also shows the extent of the operative plan NCCLPA for comparison.

At paragraph 136 of Mr Moore's evidence he states "As currently shown, the Seacliff SNL largely coincides with the area covered by the North Coast Coastal Landscape Preservation Area (NCCLPA) in the operative plan but also includes the summits and higher slopes

(generally above 300m) of the two most significant hills in the area, Porteous Hill and Hammond Hill. The significant values supporting SNL status associated with the summit areas of Porteous Hill are its visual prominence, open rural character and moderate – highly coherent natural landform. I believe that the boundary is appropriate for the following reasons: 1. The prime rationale for the SNL is to recognize the rural amenity values of the wider coastal hinterland and includes mainly coast facing slopes accordingly; and 2. The summits and higher slopes of the two most significant hills are included as these are visually prominent and are contiguous with the coast facing slopes. It is my conclusion that the boundary of the Seacliff SNL in the vicinity of Porteous Hill as delineated in the 2GP is appropriate." I agree with Mr Moore that the Seacliff SNL boundary as notified appropriately reflects the landscape values of the area and this includes Porteous Hill as notified. I, therefore, recommend (on the basis of the expert evidence) that the submission (OS595.1) is rejected and that no change is made to the extent of the Seacliff SNL as notified.

Submissions to remove all SNL overlays from the 2GP

Blueskin Resilient Communities Trust (OS1070.16) seeks to remove Significant Natural Landscape overlays from the 2GP because they are 'not recognised' by the RMA and are 'overly restrictive'. Alternatively the submitter seeks to adjust the boundary of the Seacliff Significant Natural Landscape overlay so that it is consistent with the Operative District Plan. This submission is opposed by Geraldine Tait (FS2160.12) for the reasons given above and Simon Ryan (FS2438.6) who considers that SNLs are an 'appropriate and effective' tool.

Recommendations

Advice was also sought from expert landscape architect, Michael Moore on the status of SNLs, generally, under the RMA. At paragraph 134 of Mr Moore's evidence he states that the RMA basis for SNLs is "Section 7 (c), the maintenance and enhancement of amenity values' and (f) maintenance and enhancement of the quality of the environment. Landscape overlays (often termed visual amenity landscapes) are reasonably common in District Plans throughout New Zealand and have been recognized by the Environment Court. The Seacliff SNL has a different basis to that underpinning the North Coast Coastal Landscape Preservation Area (NCCLPA) in the operative Dunedin City District Plan. The NCCLPA basis is RMA section 6(a) the preservation of the natural character of the coastal environment. In the 2GP the coastal environment has been more tightly defined in response to the guidance provided in the NZ Coastal Policy Statement. Figure C5 illustrates the extent of the Seacliff SNL and the Coastal Environment Mapped Area. It also shows the extent of the operative plan NCCLPA for comparison." I agree with Mr Moore that SNLs (or the alternative term, amenity landscapes, as per Section 7(c) of the RMA), are an important tool under the RMA to ensure landscapes are well managed by Districts and in doing so recommend (on the basis of the expert evidence) the submission (OS1070.16) is rejected and that the SNL layers are retained within the 2GP as notified.

Submissions relating to the Silverpeaks SNL

Stephen Waldron (OS9.1) seeks to have the SNL moved back to the boundary of the property at 432 Steep Hill Road, Merton. The reasons given are that the overlay will affect harvesting of a pine forest and because the boundary line crosses access tracks several times, creating 'difficulties'. Robert Andrew Van Turnhout (OS388.1) also seeks the removal of the SNL from the property at 506 Steep Hill Road and to have the boundary line redrawn at the Department of Conservation land boundary. The reasons given are that: 1. The

proposed SNL provisions will require that resource consents are needed for activities such as removing seedling manuka, planting forestry and maintenance of farm tracks; 2. Adjacent forestry blocks on similar land are exempt from these provisions; 3. It is considered more appropriate that the SNL boundaries coincide with the reserve boundaries as discussed in the background assessment report; and 4. The land is mainly lower than 400m and not visible to the public. Silverpeaks Station Limited (OS469.1) seeks the realignment of the boundary of the SNL in the vicinity of Silverpeaks Station to coincide with the boundary of the Station and the adjoining Department of Conservation Land. See submission Table, or paragraph 135 of Mr Moore's evidence, for the full list of reasons.

Recommendations-Amendments 13,14

Advice was also sought from expert landscape architect, Michael Moore on the SNL boundary in the three areas raised by submitters. As regards the SNL boundary at 432 Steep Hill Road, Mr Moore notes at paragraph 140 of his evidence "that the original mapping intention was that the boundary in this area should follow the Waikouaiti River South Branch. Figure C6 shows that the boundaries as currently shown in the 2GP map are not sufficiently accurate and should be adjusted to avoid encroachment onto the 432 Steep Hill Road property". At paragraph 143 he concludes "I believe it is appropriate to amend the SNL boundary in the vicinity of 432 Steep Hill Road". I agree with Mr Moore and in doing so recommend (on the basis of the expert evidence) that the submission (OS9.1) is accepted and that the Silverpeaks SNL boundary is amended to follow the boundary of 432 Steep Hill Road, as shown below, and as indicated in Figure C6 of Mr Moore's evidence.

The submission of R A Van Turnhout relates to whether the Silverpeaks SNL should extend beyond the boundary of the Silverpeaks Scenic Reserve at its northern end. Figure C7 of Mr Moore's evidence illustrates the location of 506 Steep Hill Road in relation to the SNL boundary, and at paragraph 141 he notes "In general, north of the Silverpeaks Reserve, the elevation of the hills reduces and the bush cover becomes less. Figure C8.1 illustrates the character of the landscape in the upper Mount Misery Creek catchment and shows that it is typified by high rugged, tussock covered hills with some native scrub and gorse cover as well as some significant native bush areas. In my assessment it is appropriate that the SNL boundary is located to include the higher country and contiguous areas of bush cover and to exclude lower more modified areas. Having reassessed this area I believe it is appropriate to amend the boundary as shown in Figure C7 accordingly. This amendment has a fairly minor impact on the area included within the property at 506 Steep Hill Road but I believe is more appropriate overall." At paragraph 144 Mr Moore concludes that "With regard to the submission of R A Van Turnhout, it is my recommendation that the boundary at the northern end of the SNL is amended as discussed, but not to the extent requested." I agree with Mr Moore and in doing so recommend (on the basis of the expert evidence) that the submission is accepted in part (OS388.1) and that the Silverpeaks SNL boundary is amended as shown in Figure C7 of Mr Moore's evidence, and as shown below.

The submission of Silverpeaks Station Limited (OS469.1) relates to whether the Silverpeaks SNL should extend beyond the boundary of the Silverpeaks Scenic Reserve within the headwaters of the Christmas Creek catchment. Again, Figure C7 illustrates the boundaries of the Silverpeaks Station in relation to the SNL boundary. At paragraph 142 of Mr Moore's evidence he states "Having reassessed the area, it is my opinion that the boundaries as proposed are appropriate. Whilst natural character values are somewhat reduced outside the reserve by the effects of grazing (and some tracking), they are still high, based on coherent natural landform (reinforced by naturalistic vegetation patterns), the presence of indigenous vegetation, and particularly in the south, rugged rocky outcrop topography. Figures C8.2 and C8.3 illustrate views of the areas in question. This area forms the immediate context to the reserve and is visible from the main tramping track through the area [Figure C8.2]. It also forms the focus of the main view down-valley from

Jubilee Hut". At paragraph 141 Mr Moore concludes "I consider that the boundary as currently proposed within the Christmas Creek catchment is appropriate". I agree with Mr Moore's assessment of the merits of extending the SNL beyond the Scenic Reserve boundary, and in doing so recommend (on the basis of the expert evidence) the submission (OS469.1) be rejected and that no changes are made in this instance.

Recommended amendments:

Amendments 1,2,3

1. Remove Flagstaff-Mt Cargill Significant Natural Landscape Overlay Zone from Lot 18 BLK II DP 164 at 8 Mark Street, Ravensbourne. *{NatEnv360.112}*
2. Remove 2 Mark Street, Ravensbourne from the Significant Natural Landscape Overlay Zone. *{NatEnv360.116}*
3. Remove 3 Albert Road and 27-35 Bradley Street, Osborne from the Significant Natural Landscape Overlay Zone. *{NatEnv360.1182}*

Amendments 4,5,6,7,8,9,10

4. Amend the Flagstaff-Mt Cargill SNL boundary to exclude the built environment below Green Road as shown in Figure B4.3 of Mr Moore's evidence. *{NatEnv 96.2}*
5. Amend the Flagstaff-Mt Cargill SNL boundary above 427 Waitati Valley Road to the 300m contour as shown on Figure B5:1 of Mr Moore's evidence. *{NatEnv 291.2}*
6. Amend the Flagstaff-Mt Cargill SNL boundary in the vicinity of both 69 O'Connell Road and 517 Mt Cargill Road to the 300m contour line and as shown in Figure B3:1 of Mr Moore's evidence. *{NatEnv 1026.1, NatEnv 1067.1}*
7. Amend the Flagstaff-Mt Cargill SNL boundary in the vicinity of 171 Pigeon Flat Road as shown in Figure B3:2 of Mr Moore's evidence. *{NatEnv 461.4}*
8. Amend the Flagstaff-Mt Cargill SNL boundary in the vicinity of 452 Waitati Valley Road as shown in Figure B3:2 of Mr Moore's evidence. *{NatEnv 632.3}*
9. Amend the Flagstaff-Mt Cargill SNL boundary in the vicinity of 191 Norwood Street and as shown in Figure B4 of Mr Moore's evidence. *{NatEnv 180.2}*
10. Amend the Flagstaff-Mt Cargill SNL boundary in the vicinity 549 Mt Cargill Road to run along the 150m contour line as shown in Figure B1 of Mr Moore's evidence. *{NatEnv 399.1}*

Amendments 11,12

11. Amend the boundary of the North West Peninsula SNL boundary around 657-658 Portobello Road as shown in Figure C3. *{NatEnv108.2}*
12. Amend the boundary of the North West Peninsula SNL boundary in the vicinity of 457 Highcliff as shown in Figure C4. *{NatEnv965.2}*

Amendments 13,14

13. Amend the Silverpeaks SNL boundary to follow the boundary of 432 Steep Hill Road as shown in Figure C6 of Mr Moore's evidence. *{NatEnv9.1}*
14. Amend the Silverpeaks SNL boundary as shown by solid green lines in Figure C7 of Mr Moore's evidence *{NatEnv388.1}*

Amendments 15,16

15. Amend zoning of 8 O'Connell Road so that it is entirely in the Hill Slopes Rural Zone. {NatEnv717.27}
16. Amend zoning of 324 Pigeon Flat Road and 55 O'Connell Road so that they are entirely in the Coastal Rural Zone. {NatEnv717.27}

5.15.7 Submissions requesting changes to mapping of more than one type of landscape overlay zone

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
OS140.1	Peter Macmillan	I seek to have the above provision amended	Move the boundary of the Saddle Hill Significant Natural Landscape and Saddle Hill Outstanding Natural Feature around 185,177,175,187 Saddle Hill Road to approximately the 350m contour.	Reject	Retain Saddle Hill SNL and ONF boundaries as notified
OS355.19	Robert George & Sharron Margaret Morris	I seek to have the above provision amended	Amend boundaries of Sandfly Bay Outstanding Natural Feature as per Figure 3 in submission	Reject	Retain Sandfly Bay ONF boundary as notified
OS951.13	Timothy George Morris	I seek to have the above provision amended	Amend boundaries of Peninsula Coast Outstanding Natural Landscape and Sandfly Bay Outstanding Natural Feature overlay zones as shown in Figure 3 of the submission	Reject	Retain Peninsula Coast ONL and Sandfly Bay ONF boundaries as notified
OS1054.13	Timothy Morris (on behalf of RG and SM Morris Family Trust)	I seek to have the above provision amended	Amend boundaries of Peninsula Coast Outstanding Natural Landscape and Sandfly Bay Outstanding Natural Feature overlay zones as shown in Figure 3 of the submission	Reject	Retain Peninsula Coast ONL and Sandfly Bay ONF boundaries as notified

Submissions to amend Saddle Hill ONF and SNL boundary

Peter Macmillan (OS140.1) seeks to move the boundary between the Saddle Hill Significant Natural Landscape and Outstanding Natural Feature overlays for the addresses shown above so that the submitter's property is wholly in the Significant Natural Landscape overlay allowing for development on the property.

Recommendation

Advice was sought from expert landscape architect Dr Marion Read on the merit, or not, of amending the boundaries of the Saddle Hill SNL and ONF as requested by submitter (OS140.1) to around the 350m contour (350m contour agreed during a follow-up phone conversation with submitter). At paragraph 10 of Dr Read's evidence she states "Submitter 140 accepts the identification of Saddle Hill as an Outstanding Natural Feature but challenges the location of the northern boundary of the feature. He wishes to see the boundary moved to the south so as to exclude a plateau area from the feature." The area in question is identified on Figure 1 of Dr Read's evidence which shows the Saddle Hill ONF in relation to the Macmillan property. At paragraphs 11-12 Dr Read notes "The landforms immediately adjacent to both of the volcanic peaks are much more hummocky than distant views would suggest. It appears that these pillowy landforms are landslide debris from the higher slopes. The area Mr Macmillan refers to as a plateau is one of these pillowy landforms which surround the peaks. It is clad, in the main, in pasture and is the location of Mr Macmillan's home. It does have lower natural character than the upper reaches of Saddle Hill as a result. The slopes dropping from the plateau area are much steeper than the slopes rising from it. Because of this the plateau has a stronger connection to the peak than to the slopes below. For this reason I consider that the boundary, as notified, is drawn in the appropriate location." I agree with the Dr Read's assessment of the appropriateness of Saddle Hill ONF and SNL boundary in the vicinity of the Macmillan property and in doing so recommend (on the basis of the expert evidence) the submission is rejected (OS140.1) and the ONF and SNL boundaries remain as notified, and not altered to match the 350m contour.

Submissions to amend Sandfly Bay ONF boundary

Robert George & Sharron Margaret Morris (OS355.19), Timothy George Morris (OS951.13) and Timothy Morris (on behalf of RG and SM Morris Family Trust) (OS1054.13) seek to amend the boundaries of the Peninsula Coast Outstanding Natural Landscape and the Sandfly Bay Outstanding Natural Feature overlay because they consider that rules associated with the provisions are 'overly onerous'. The submitters also consider that the mapping of the landscape overlays "has not been based on appropriate consultation" and that the mapping is "based on work that is too high level and inaccurate", and too subjective. Alternative boundaries are proposed.

Recommendation

Advice on the most appropriate position of the landward boundary for the Sandfly Bay ONF was sought from landscape expert Michael Moore, and Figure A1: Sandfly Bay ONF of his evidence, and referred to in paragraph 10 of his evidence, shows the boundary as notified (opaque green polygon), as well as that requested by the submitters (red line). The Sandfly Bay ONF has been described as a "transgressive dune system extending from Sandfly Beach over the ridge to Hoopers Inlet", and the mapping of the ONF with the boundaries as notified, were based on a photographic record obtained by a low level helicopter flyover, as well as perusal of Council aerial photographs; the boundary was primarily identified by coastal geomorphologists (paragraph 11 of Mr Moore's evidence). Mr Moore is of the opinion that the mapping methods have "provided a level of accuracy that is appropriate for District Plan maps" (paragraph 11 of his evidence).

Mr Moore also sought advice on the position of the landward boundary of the Sandfly Bay ONF from Coastal geomorphologist, Dr Teresa Konlechner, who was involved in mapping this feature for the 2GP. Dr Konlechner advised as follows: "The inland boundary of the Sandfly Bay dune system can be determined by the transition from a sandy substrate (identifying dunal landforms) to a non-sandy substrate (identifying non-dunal landforms). Areas of sand can be identified in both the photographic record obtained from the helicopter flight and recent satellite imagery that extend beyond the alternative boundaries proposed in the submissions. In several places dunal landforms characteristic of

transgressive dunes can also be identified; namely parabolic dunes with distinct depositional lobes, trailing arms and slip faces. Such landforms can only be formed by the transport and deposition of wind-blown sand. Overall, while the boundaries as drawn in the 2GP maps could be tweaked slightly to more precisely follow the boundaries of the dune system (in the order of \pm 10-50m here or there), based on the data we have to hand I feel they appropriately identify the inland limit of wind-blown sand, and hence the dunal system" (paragraph 12 of Mr Moore's evidence). Mr Moore concludes that "In light of these comments, I believe that the proposed boundaries appropriately reflect the extent of this geomorphological feature" and "it is my conclusion that the boundary as currently identified in the 2GP, appropriately defines the ONF and provides for the protection of its values"; at paragraphs 13 and 14 of Mr Moore's evidence, respectively.

I agree with the conclusion of Mr Moore that the boundary, as notified, appropriately defines the Sandfly Bay ONF and note the observation of Dr Konlechner that the actual dune boundary, in the upper right corner of the dune system, should probably have been extended landward to better take in the feature in its entirety (paragraph 12 of Mr Moore's evidence), and that "the boundaries as drawn in the 2GP maps could be tweaked slightly to more precisely follow the boundaries of the dune system (in the order of \pm 10-50m here or there)" but "based on the data we have to hand I feel they appropriately identify the inland limit of wind-blown sand, and hence the dunal system" (paragraph 12 of Mr Moore's evidence).

In terms of submitter concerns relating to adequate consultation (OS355.19, and others), I note that section 2.2.1 of this report describes the landowner consultation that occurred prior to notification, and further to this, I note Mr Moore consulted with a dune system specialist (Dr Konlechner) when forming his views in relation to the submission points raised. I recommend (on the basis of the expert evidence) all submissions relating to boundary adjustments of the Sandfly Bay ONF be rejected (OS355.19, and others).

Recommended amendment:

None

5.15.8 Proposed new landscape overlay zones

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
OS447.126	Harboursides and Peninsula Preservation Coalition	I seek to have the above provision amended	Add new Otago Peninsula Outstanding Natural Landscape Overlay Zone to cover the Peninsula from the Peninsula ridge high points inland to the harbour, extending from Ivanhoe Road to Taiaroa Head	Reject	Do not add a new Otago Peninsula ONL overlay as requested
FS2202.17	Clifton Trust	I oppose the submission	Oppose OS447.126. Disallow submission and do not add a new Otago Peninsula Outstanding Natural Landscape Overlay Zone as requested by submitter.	Accept	Do not add a new Otago Peninsula ONL overlay as requested

FS2353.1	Robert Charles Duffy	I oppose the submission	Oppose OS447.126 (in part). Disallow submission to add new Otago Peninsula Outstanding Natural Landscape Overlay Zone with respect to properties at 100 Connell Street, 295 Highcliff Road and 60 Irvine Road.	Accept	Do not add a new Otago Peninsula ONL overlay as requested
FS2373.38	Howard Saunders	I oppose the submission	Oppose OS447.126. Disallow submission to add new Otago Peninsula Outstanding Natural Landscape Overlay Zone.	Accept	Do not add a new Otago Peninsula ONL overlay as requested
OS447.127	Harboursides and Peninsula Preservation Coalition	I seek to have the above provision amended	Add new Western Harbour Outstanding Natural Landscape Overlay Zone extending along the west harbour summits from Signal Hill to Heyward Point	Accept in part	Amend Heyward Coast ONL boundary to include part of notified Heyward Coast SNL, as shown below
OS447.128	Harboursides and Peninsula Preservation Coalition	I seek to have the above provision amended	Add new Taieri Slopes Significant Natural Landscape Overlay Zone including all land above 75m elevation encircling the Taieri Plains	Reject	Do not add a new Taieri Slopes SNL overlay as requested

Submissions requesting new Otago Peninsula and Western Harbour ONL's

HPPC (OS447.126) seeks to add a new landscape overlay zone for Otago Peninsula as described in detail in the submission, and summarised above; this overlay is proposed to be additional to the Peninsula Coast ONL but would cover much of the area identified in the 2GP as "Significant Natural Landscape" (the North West Peninsula SNL). The submitter considers that the 'Otago Harbour surrounds' should be classified as outstanding because of the area's exceptional values. Clifton Trust (FS2202.17) opposes the addition of a new landscape overlay zone for Otago Peninsula because the submitter considers that the proposed 2GP zones provide adequate protection. Robert Charles Duffy (FS2353.1) opposes the submission in part specifically in regard to his property and the effects of an overlay on development potential. Howard Saunders (FS2373.38) opposes the submission of HPPC because it "...shows no consideration for past development of zoning and landscape overlay zones".

HPPC (OS447.127) also seeks to add a new Western Harbour overlay zone as described in detail in their submission.

Recommendations – Amendment 1

Advice was sought from expert landscape architect Michael Moore on the appropriateness, or not, of either including two new ONL's into the 2GP, or alternatively, changing the status of existing notified SNL overlays, to ONL, including requisite boundary adjustments. Figure A5 of Mr Moore's evidence shows both of the additional ONLs proposed by the Harboursides and Peninsula Preservation Coalition, as well as the area that is currently mapped as SNL, ONL and ONF in the 2GP. Figure A6 highlights the proposed Otago Peninsula ONL boundary in relation to the

properties noted in the Duffy submission, as well as the boundaries proposed in the 2GP for the North-west peninsula SNL.

In relation to the issue of whether the areas that are currently included in the 2GP as SNLs should be upgraded to ONLs, and if so, whether the current overlay boundaries should be adjusted to conform with those suggested in the HPPC submission, Mr Moore notes, at paragraph 45 of his evidence, that the 2GP in its current form provides for landscape protection of the areas in question through the Heyward Coast ONL overlay and SNL overlays including a portion of the Flagstaff-Mt Cargill SNL; the Heyward Coast SNL, and the North-west Peninsula SNL. There are also ONF overlays over the Aramoana Salt Marsh, Heyward Point – Aramoana Cliffs, Mt Holmes Organ Pipes, Harbour Cone, Taiaroa Head, Goat Island / Rakiriri and Quarantine Island / Kamau Taurua (Figure A5 of Mr Moore's evidence). Mr Moore further comments, at paragraph 46, that "ONL's are determined through an assessment process that identifies whether the values overall equate to the landscape being considered 'conspicuous, eminent, especially because of excellence' or 'remarkable', and he then refers to relevant case-law to support this statement. Mr Moore further submits that through case law, assessment factors referred to as the 'Amended Pigeon Bay criteria' have become established as relevant factors when evaluating landscape significance. As outlined in the NZ Institute of Landscape Architects Best Practice Guidelines, these can be grouped under three broad categories: 1. Biophysical elements, patterns and processes; 2. Associative meanings and values including spiritual, cultural or social associations; and 3. Sensory or perceptual qualities." The various 2GP overlays for the areas proposed by submitters as ONL's are based on and are consistent with, the LMA Review of 2007, the Dunedin City Assessment of current Landscape Conservation Areas for District Plan Review, and the Coastal Environment assessment report. These reports include the appropriate evaluations of landscape values against the Amended Pigeon Bay Factors (paragraph 47 of Mr Moore's evidence). Mr Moore provides detail of his assessment of the area proposed as ONL in the submission, in Appendices A - C of his evidence.

The proposed Otago Peninsula ONL would cover the peninsula from the main ridge to the Otago Harbour (excluding urban areas), extending from Taiaroa Head to Ivanhoe Road. Mr Moore considers that the HPPC submission suggests a mapping rationale which appears to be largely based on the visual catchment of the Otago Harbour, although the area included also incorporates the Heyward Coast which orientates northward toward the open sea. This is a different mapping approach from that informing the current 2GP overlays, and one which emphasizes the experience of the harbour as an entity, at least from internal viewpoints (paragraph 48 of Mr Moore's evidence).

Mr Moore states that "that whilst landscape values are high, they are not outstanding, and that SNL rather than ONL status is appropriate. The area has high cultural and historic association values and significant scenic qualities associated with rural character and landform coherence, but it is gentler, less dramatic and more domesticated than the ocean coast facing side of the peninsula, and has less significant natural character and wild and scenic values" (paragraph 50 of Mr Moore's evidence). Mr Moore further states, at paragraph 54, "I believe that the values of the areas suggested as additional ONL's do not generally reach the standard whereby ONL status is justified", and goes on to say "I note that some of the factors cited in support of ONL status for this area by HPPC (OS447.126), including high visibility from population centres and economic importance to the tourism industry, are not directly relevant to the overall judgement of the inherent qualities of this area that is required, although they do contribute to the shared and recognized evaluation (paragraph 54 of Mr Moore's evidence).

I agree with Mr Moore's assessment of the area and that it falls short of the Amended Pigeon Bay Factors required to move it from SNL to ONL status (given the 2GP assessment as 'SNL' is consistent with all existing reports on the landscape values of the area) and therefore recommend (on the basis of the expert evidence) the HPPC submission is rejected (OS447.126). In relation to the appropriate position for the western extent of this landscape overlay, Mr Moore states that "the proposed boundary of the North-west peninsula SNL has been mapped to reflect a

change in character from a patchwork of housing, scrub, woodlots and pasture (to the west) to generally open pasture covered slopes (to the east). In my opinion this is an appropriate location as the natural / rural character and landform coherence of the area west of this is significantly modified as Figure A6 illustrates" (paragraph 51 of Mr Moore's evidence). I agree with Mr Moore's assessment that the western boundary of the existing SNL overlay is in the appropriate location and recommend (on the basis of the expert evidence) that no change is made to the North-west peninsula SNL western boundary (OS447.126).

With regard to the further submission of Robert Charles Duffy (FS2353.1), Mr Moore is of the opinion that ONL (or SNL) status is not appropriate over the properties at 100 Connell Street, 295 Highcliff Road and 60 Irvine Road, most of which are subject to a GRITZ overlay (as per Figure A6 of Mr Moore's graphic supplement), and he agrees that the landscape is adequately protected over these properties by the existing proposed overlay zones (paragraph 55 of Mr Moore's evidence). I agree with Mr Moore's assessment of these properties, and that ONL (or SNL) status is not appropriate, and I, therefore, recommend that the submission is accepted and that no change is made to the boundary of the existing North-west Peninsula SNL or the Peninsula Coast ONL boundary (FS2353.1).

In relation to the further submission of Howard Saunders (FS2373.38) that the HPPC submission has no merit, Mr Moore disagrees at paragraph 56 of his evidence, and considers that previous zoning does not preclude the possibility of changes, but in the end reiterates his view that "in this instance ... SNL status as proposed in the 2GP is more appropriate than ONL status", for this area.

In relation to the proposed new West Harbour ONL, at paragraph 48 of his evidence Mr Moore notes that the proposed West Harbour ONL (OS447.127) will have implications as to the appropriate status of adjacent areas e.g. those parts of Mt Cargill not within the harbour catchment. Mr Moore provides detail of his assessment of the area proposed as ONL in the submission, in Appendices A - C of his evidence, and notes that for clarity, he has assessed the proposed Western Harbour ONL in two parts to recognize that the Heyward Coast is a different visual compartment, and has a substantially different character, than the harbourside area of the proposed West Harbour ONL (paragraph 49 of his evidence).

At paragraph 52, Mr Moore summarises his assessment of the first part of proposed west Harbour ONL as follows: "My assessment of the harbourside portion of the proposed West Harbour ONL also leads me to the conclusion that SNL rather than ONL status is most appropriate. There are significant natural and cultural values, and whilst parts of it have high aesthetic values, other parts are significantly modified and have more moderate aesthetic qualities. Overall, I believe that the area is too modified and variable in quality to qualify as an ONL". On the basis of Mr Moore's assessment that the majority of the first part of the proposed west Harbour ONL does not meet the standard/criteria required to be classed as ONL, I recommend the submission is accepted in part (OS447.127).

With regard to the second part of proposed west Harbour ONL, at paragraph 53 Mr Moore states "The Heyward Coast portion of the proposed West Harbour ONL is not so straight-forward in my assessment. This area is a rural, coastal landscape with high naturalness values, high scenic qualities and which is highly expressive of its volcanic geology. It also has significant cultural and social values. Apart from its aspect, this area has many similarities with the Peninsula Coast landscape. As assessed in the Coastal Assessment report and mapped in the 2GP, the coastal section from Potato Point to the Aramoana Cliffs is certainly outstanding in my assessment. The landscape is more modified with lesser landscape values overall back from the coast and particularly within the more domesticated Purakaunui catchment. Overall, I believe that the current 2GP mapping which has the coastal section from Potato Point – Aramoana Cliffs as ONL and the remainder SNL, is supportable. I note

however that whilst the area currently mapped ONL has the most significant values, I am not sure that making a distinction between the coastal environment and the adjacent hinterland (to the east of the Purakaunui Road spur only) makes much sense in terms of landscape experience and believe that this entire area (as shown in Figure A7) could reasonably be considered outstanding". I agree with Mr Moore's assessment of the Heyward Coast part of the proposed west Harbour ONL to be worthy of ONL recognition, thereby recommending the submission is accepted in part (OS447.127). I further recommend an amendment to the Heyward Coast ONL boundary, as indicated below, to take in the area demarcated by a solid red line on Figure A7 of Mr Moore's evidence.

Submission relating to a proposed additional SNL – Taieri Slopes

Craig Werner of Harboursides and Peninsula Preservation Coalition (OS447.128) seeks the addition of a new Taieri Slopes SNL to include all land above 75m encircling the Taieri Plain. The reasons given are that this area exhibits values of high significance and the rural hills contribute significant amenity to the population living on the Taieri Plains.

Recommendations

Advice was also sought from expert landscape architect, Michael Moore on the merits of the proposed Taieri Slopes SNL. At paragraph 147 of his evidence, Mr Moore states "As I understand the HPPC submission, the land proposed to be included in the Taieri Slopes SNL is as shown in Figure C9, and is intended to encompass all the summits, ridgelines and slopes above 75m surrounding the Taieri Plain. Figure C9 also shows the extent of the proposed 2GP Maungatua and Saddle Hill SNLs, as well as the locations of the Landscape Conservation Areas in the Operative District Plan. The key issue raised by this submission is whether more comprehensive protection of the hill framework surrounding the plain is appropriate." Figure C10 illustrates the character of various parts of the proposed SNL, and at paragraph 148 Mr Moore states "I am in full agreement with the submitter that these hills have high visibility from the Taieri Plain and the visual sensitivity that accompanies this. On the other hand, whilst the area included contains some features and areas of biophysical and cultural significance, overall, the hill country involved is not particularly memorable and has only modest naturalness attributes. I believe that it lacks the scale, naturalness and cultural significance of the Maungatua Range or the memorability and cultural significance of Saddle Hill. Whilst I believe that visual contribution to the amenity of wider areas is a valid consideration in identifying SNL's, I do not believe that the intrinsic values of the hill country concerned sufficiently reinforce this". At paragraph 149 Mr Moore concludes "...it is my overall assessment that whilst the area suggested is visually prominent, its landscape values are of only moderate significance overall and SNL status is difficult to adequately justify." I agree with Mr Moore's assessment of the landscape values of the proposed new SNL and in doing so recommend (on the basis of the expert evidence) the submission (OS447.128) be rejected and that no additional SNL overlay is included into the 2GP.

Recommended amendment:

Amendment 1

Amend the Heyward Coast ONL boundary, as indicated in Figure A7 of Michael Moore's evidence, to take in the area demarcated by a solid red line. {NatEnv 447.127}

Consequential amendment

Amend the Heyward Coast SNL boundary to align with the amended Heyward Coast ONL boundary. {NatEnv 447.127}

5.16 Natural Coastal Character Overlay Zones – Natural Character of the Coast Values and Mapping

5.16.1 Outstanding Natural Coastal Character Mapping Submissions

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
OS382.2	Timothy David Deans Ritchie	I seek to have the above provision amended	Amend the boundary of the Highcliff - Pudneys Cliff Outstanding Natural Coastal Character overlay from 478 Tomahawk Road, as shown on the aerial photo and photo accompanying this submission.	Reject	Retain Highcliff - Pudneys Cliff ONCC as notified
<p><u>Submissions</u> Timothy David Deans Ritchie (OS382.2) seeks amendment of the boundary of the ONCC overlay boundary at 478 Tomahawk Road to correspond with the visually prominent / visually recessive boundary within the Peninsula Coast Outstanding Landscape Area in the Operative District Plan, or to follow a fence line demarcating steep from more level ground. The key reasons given are that: 1. areas of outstanding natural coastal character must be correctly identified to avoid undue restrictions on land use; and 2. the currently mapped ONCC overlay contains a large area that does not meet the description of the overlay (section A5.1.1.1), makes no practical visual sense and appears to be derived from the location of the Karetai Track.</p> <p><u>Recommendations</u> Advice was sought from expert Landscape Architect Michael Moore on the merits, or not, of including 478 Tomahawk Road within the Highcliff - Pudneys Cliff Outstanding Natural Coastal Character (ONCC) overlay. 478 Tomahawk Road is located on the headland at the eastern end of Smaills Beach, known as Maori Head. Both ONCC and NCC overlays extend onto the property as illustrated in Figure D1 of Mr Moore's evidence. At paragraph 152 Mr Moore notes "Coastal overlays are based on the Coastal Environment of Otago Natural Character and Outstanding Natural Features and Landscape Assessment, Dunedin City Section Report. This assessment identified the inland extent of the coastal environment as well as natural character units along the coast. The Highcliff – Pudneys Cliff unit, which was assessed as having high and outstanding natural character covers the rocky, cliffed coastline between Smaills Beach and Boulder Beach, and covers a large portion of the property. The Smaills Beach / Tomahawk unit, which was assessed as having medium natural character covers the beaches and dunes at Smaills and Tomahawk beaches, and extends into a small part of the property adjacent to Smaills Beach". At paragraph 153 Mr Moore adds "The inland boundary of the coastal overlays in this area corresponds to the mapped extent of the coastal environment. The rationale for this is outlined in the 2015 report and based on the guidance provided in Policy 1 of the New Zealand Coastal Policy Statement 2010. As outlined in the 2015 report, in the case of cliffed or hilly areas the coastal environment has been defined with regard to: 1. Significant changes in slope defining land adjacent to the coast with coastal aspect and / or; 2. The extent of landforms which are primarily a product of coastal processes and / or; 3. Areas that are visually prominent in wider coastal views (e.g. headlands). The key factor in defining the boundary in this area is visual prominence and the contribution of the headland to wider coastal natural character, landscape and visual qualities and amenity values. In my assessment, this inland line of the coastal environment is appropriately sited".</p>					

At paragraph 154 Mr Moore states "I agree with the submitter that the character of the area included within the ONCC at 478 Tomahawk Road is not completely consistent with the character and values description outlined in section A5.1.1 of the 2GP, but note that this is not surprising as overlay descriptions relate to the natural character units as a whole and there will often be discrepancies when considering portions of an area only. This part of the Highcliff – Pudneys Cliff ONCC is perhaps the most modified, and I have considered whether it would be appropriate to adjust the boundary between the Highcliff – Pudneys Cliff ONCC overlay and the Smalls Beach / Tomahawk NCC overlay to reflect the greater modification (whilst retaining the area within the identified coastal environment). Whilst this makes some sense in terms of the character of the property, it is not a good fit in terms of the structure of the Plan and the descriptions of the coastal overlays in Appendix A5". Mr Moore concludes "It is my conclusion that the extent of the Highcliff – Pudneys Cliff ONCC overlay as mapped in this area, appropriately includes a visually significant headland. Whilst the part of the overlay within 478 Tomahawk Road is more modified than typical of the ONCC overlay generally, to reflect this (e.g. by identifying another natural character unit) would require mapping at a finer grain and a level of detail not currently provided for in the Plan" (at paragraph 155 of Mr Moore's evidence). I agree with Mr Moore that although a case could be made to amend the boundary of the Highcliff - Pudneys Cliff ONCC, or perhaps even define a new NCC unit, the headland that makes up a large part of this property has visual prominence that makes it a good fit with an ONCC overlay criteria, as defined in Appendix A5 of the 2GP, and I, therefore, recommend (on the basis of the expert evidence) that the submission be rejected and that no change is made to the extent of both the Highcliff - Pudneys Cliff ONCC and Smalls-Tomahawk NCC overlays (OS382.2).

Recommended amendment:

None.

5.16.2 A5.2. High Natural Coastal Character Values

Sub pt #	Submitter Name	Support/Oppose/ Seek Amend	Summary Of Submission	Accept/Reject/ Accept in part	Staff Recommendation
OS289.4	Chris Walker	I seek to have the above provision amended	Amend A5.2.5 (Natural Coastal Character Values - Tunnel Beach) to better reflect human impacts	Reject	Retain A5.2.5 as notified
FS2267.118	Harboursides and Peninsula Preservation Coalition	I oppose the submission	Oppose OS289.4. Disallow submission.	Accept	Retain A5.2.5 as notified

Submissions

Chris Walker (OS289.4) seeks to amend A5.2.5 (High Natural Coastal Character Values - Tunnel Beach) to acknowledge human impact. See associated submission point above in section 5.15.1. This is opposed by HPPC (FS2267.118), based on the view that the reflection of human impact is adequate.

Recommendation

Appendix A5.2.5, as notified, contains a description of the Tunnel Beach sites as follows: "...The only notable earthworks are the track down to Tunnel Beach, and a dewatering system close to the St Clair cliffs. Dwellings at the inland boundary diminish the undomesticated wildness to a degree..." and "...Highly natural coast with naturalness diminishing towards the landward boundary of the area due to the almost complete replacement of the indigenous vegetation with pasture." Further to this description, Appendix A5.2.5 lists threat to the natural coastal character values as follows: "... Buildings, structures or earthworks that detract from the natural character...." I agree with HPPC (FS2267.118) that the description of Tunnel Beach, as notified, already acknowledges human impact at the site; namely earthworks, pasture land that has replaced indigenous vegetation, dwellings at the inland boundary, and the dewatering system, and in doing so recommend the submission is rejected (OS289.4).

Recommended amendment:

None.

5.16.3 High Natural Coastal Character Mapping Submissions

Sub pt #	Submitter Name	Support/Oppose/ Seek Amend	Summary Of Submission	Accept/Reject/ Accept in part	Staff Recommendation
OS289.6	Chris Walker	I oppose the provision	Remove High Natural Coastal Character Overlay Zone from 281 Hillhead Road	Reject	Retain Tunnel Beach HNCC overlay as notified
OS355.16	Robert George & Sharron Margaret Morris	I seek to have the above provision amended	Amend boundaries of Sandfly Bay High Natural Coastal Character Overlay Zone as per Figure 2 of submission	Reject	Retain Sandfly Bay HNCC overlay as notified
OS809.1	Brian W Wilson	I seek to have the above provision amended	Remove High Natural Coastal Character Overlay Zone from part of 860 Aramoana Road as indicated (inferred not stated)	Reject	Retain Aramoana Salt Marsh HNCC overlay as notified
FS2379.8	Department of Conservation	I oppose the submission	Oppose OS809.1. Disallow submission and retain High Natural Coastal Character Overlay Zone as proposed in the 2GP.	Accept	Retain Aramoana Salt Marsh HNCC overlay as notified
FS2482.3	Forest and Bird NZ	I oppose the submission	Oppose OS809.1. Disallow submission.	Accept	Retain Aramoana Salt Marsh HNCC overlay as notified

OS874.5	Blackhead Quarries Ltd	I oppose the provision	Remove the HNCC Overlay Zone from 333 Blackhead Road	Reject	Retain Tunnel Beach HNCC overlay as notified
OS951.10	Timothy George Morris	I seek to have the above provision amended	Amend boundaries of Sandfly Bay High Natural Coastal Character Overlay Zone as per Figure 2 of submission	Reject	Retain Sandfly Bay HNCC overlay as notified
OS1054.10	Timothy Morris (on behalf of RG and SM Morris Family Trust)	I seek to have the above provision amended	Amend boundaries of Sandfly Bay High Natural Coastal Character Overlay Zone as per Figure 2 of submission	Reject	Retain Sandfly Bay HNCC overlay as notified

Submissions relating to the Aramoana Salt Marsh HNCC overlay

Brian W Wilson (OS809.1) seeks to remove the HNCC from part of 860 Aramoana Road as shown on the map provided with the submission because it is rural land, used for grazing (inferred not stated). This submission is opposed by Department of Conservation (FS2379.8) who notes that the land is part of the Aramoana Ecological Area under the Conservation Act 1987 and "any vegetation clearance would require separate authorisation..." Forest and Bird (FS2482.3) also opposes removing the overlay zone from the area because of the area's high natural character.

Recommendations

Advice was sought from expert landscape architect Michael Moore on the merits, or not, of including 860 Aramoana Road into the Aramoana Salt Marsh HNCC overlay. The property in question is the Aramoana Conservation Reserve and as Figure D3 shows, is entirely covered by the proposed Aramoana Salt Marsh HNCC overlay. At paragraph 160 of his evidence Mr Moore states "The western part of the reserve, adjacent to Aramoana Road has been modified to varying degrees by drainage and agricultural land use and it is my assumption that this is the part of the site that Mr Wilson seeks to have removed from the HNCC overlay". In paragraph 165 Mr Moore notes "The Aramoana Salt Marsh HNCC overlay is based on the mapped natural character units and assessments in the Coastal Environment of Otago Natural Character and Outstanding Natural Features and Landscapes Assessment, Dunedin City Section Report. The Aramoana Saltmarsh unit encompasses tidal flats, saltmarsh and relict transgressive dunes, and as illustrated in Figure D3, includes both unmodified saltmarsh as well as areas of historic saltmarsh now impacted by agricultural land use. The "high" natural character rating reflects an assessment of the unit overall, and the report states that the unit was assessed as "having high natural character largely on the basis of its significant ecological values" and that it "has a degree of modification ... that precludes outstanding status". At paragraph 166 Mr Moore continues "Finer grained mapping and assessment could have differentiated between the largely unmodified saltmarsh and the more modified areas and may have refined the area identified as HNCC (or ONCC). Had this been the case however, I believe it would still be appropriate that a coastal overlay or mapped area of some form apply to the more modified part of the unit, as this area is still within the coastal environment. In this case, I do not believe that the current extent of the HNCC overlay is inappropriate because it is a single geomorphological entity and the assessment has taken account of the modification". At paragraph 167, Mr Moore concludes "It is my conclusion that the extent of the HNCC overlay at 860 Aramoana Road is appropriate". I agree with Mr Moore that 860 Aramoana Road forms part of a continuous 'geomorphological entity' that is encompassed within the Aramoana Salt Marsh HNCC overlay and in doing so recommend (on the basis of the expert evidence) that the submission (OS809.1) be rejected and that no amendment is made to the extent of the Aramoana Salt Marsh HNCC overlay, as notified.

Submissions relating to the Sandfly Bay HNCC overlay

Robert George & Sharron Margaret Morris (OS355.16), Timothy George Morris (OS951.10) and Timothy Morris on behalf of RG and SM Morris Family Trust (OS1054.10) seek to amend the boundaries of the Sandfly Bay HNCC as shown on the map provided with the submissions because "mapping of what DCC refer to HNCC has not been based on appropriate consultation."

Recommendations

Advice was sought from expert landscape Architect Michael Moore on the merits of amending the boundary of the Sandfly Bay HNCC overlay as requested by submitters. Figure D4 of Mr Moore's evidence illustrates the boundary as currently proposed in the 2GP, as well as that requested by the submitters. At paragraph 170 Mr Moore notes "The boundary of the HNCC overlay coincides with both that of the coastal environment and the Sandfly Bay ONF. The reason for this is that it follows the extent of the transgressive dune system which is clearly a product of coastal processes. This definition is consistent with the guidance on the extent of the coastal environment in Policy 1 of the New Zealand Coastal Policy Statement 2010. The geomorphological rationale for mapping this dune system has already been discussed in addressing this submission in terms of the Sandfly Bay ONF (see 5.17.2 above). As discussed there, based on the advice of Coastal geomorphologist Dr Teresa Konlechner, I believe that the HNCC is appropriately mapped". Mr Moore then concludes "It is my conclusion that the boundary as currently identified in the 2GP, appropriately defines the extent of the HNCC overlay in this area" (at paragraph 171). I agree with Mr Moore that the Sandfly Bay HNCC as notified is appropriate in extent and in doing so recommend (on the basis of the expert evidence) that the submissions (OS355.16, OS1054.10) be rejected and that no amendment is made to the extent of the Sandfly Bay HNCC overlay as notified. In terms of submitters concerns relating to adequate consultation (OS951.10, and others), I note that section 2.2.1 of this report describes the landowner consultation that occurred prior to notification.

Submissions relating to the Tunnel Beach HNCC overlay

Chris Walker (OS289.6) seeks to remove the High Natural Coastal Character Overlay Zone (HNCC) from the submitter's property at 281 Hillhead Road. The Tunnel Beach HNCC lies over part of the property. The submitter considers that the beach and cliffs are what gives the area its natural character with the property being, "a modified and impacted landscape...", and requests that the boundary of the overlay zone should be along the edge of the Council reserve.

Blackhead Quarries Ltd (OS874.5) seek to remove the HNCC overlay zone from the very small area of 333 Blackhead Road it overlays. The submitter does not consider that the overlay is appropriate on a property where a quarry exists (see submitter's opposition to other overlays).

Recommendations

Advice was sought from expert landscape Architect Michael Moore on the appropriateness of including both 281 Hillhead Road and 333 Blackhead Road into the Tunnel Beach HNCC overlay. Figure D5 of Mr Moore's evidence illustrates the HNCC overlay boundary and the location of both 281 Hillhead Road and 333 Blackhead Road. The boundary change in the vicinity of 281 Hillhead Road as suggested by Chris Walker is also indicated. At paragraph 175 of his evidence Mr Moore states "The Tunnel Beach HNCC overlay corresponds to the Tunnel Beach Natural Character Unit as identified in the Coastal Environment of Otago, Dunedin City Section report. The inland boundary corresponds with the mapped extent of the coastal environment. For most of this unit, this has been identified with reference to the marked change in slope from gentler

undulating slopes above, to steeper coast facing slopes below. At the Blackhead end where the topography is lower, the boundary rationale is the top of the low coastal ridge. The boundary to east and west along the coast has a largely geological basis and reflects the extent of the sandstone cliff section along the coast". In Mr Moore's view, the issues raised in the submission of Chris Walker are: 1. Is the coastal environment correctly defined and/or 2. Is it appropriate to generalize natural character evaluations over an area the size of the Tunnel Beach Natural Character Unit? At paragraph 176 Mr Moore states "In my assessment, inclusion of the steeper coast facing slopes above the cliffs within the mapped coastal environment is appropriate because this is the area experienced as the coastal landscape from within (e.g. the Tunnel Beach headland – see Figure D5), and because it is consistent with the guidance provided in Policy 1 of the New Zealand Coastal Policy Statement 2010, particularly in relation to the inclusion of "(f) elements and features that contribute to the natural character, landscape, visual qualities or amenity values". A boundary corresponding with the reserve boundary as suggested would make no sense in terms of landform or vegetation character. With regard to the second issue, I believe that there is a generally consistent character along the length of the sandstone cliff section and that the "high" natural character evaluation (as opposed to "outstanding"), has taken into account, the modified nature of the vegetation cover" (at paragraph 178). Mr Moore concludes at paragraph 174 "it is my conclusion that the HNCC overlay boundary as currently identified in the 2GP is appropriate". I agree with Mr Moore's assessment of the Tunnel Beach HNCC overlay as it pertains to 281 Hillend Road and in doing so recommend (on the basis of the expert evidence) that the submission (OS289.6) be rejected and that no changes are made to the extent of the Tunnel Beach HNCC overlay, as notified.

With regards the submission of Blackhead Quarries, Mr Moore notes at paragraph 177 that "the overlap of the HNCC overlay on 333 Blackhead Road is minimal and that the area included within the overlay is confined to the clifftops, cliffs and beach – all areas with natural character. The already highly modified part of the property i.e. the exotic woodlot and areas of modified landforms are excluded. Considering section 6(a) of the RMA and Policy 6 (1) (h) and (i) of the [New Zealand Coastal Policy Statement] NZCPS, I do not believe that it is inappropriate to provide for the protection of areas of remaining natural character on quarry sites". Mr Moore concludes at paragraph 179 "... with reference to the Blackhead Quarries submission, I believe that the boundary as currently shown appropriately includes the areas with natural character significance". Again, I agree with Mr Moore's assessment of the Tunnel Beach HNCC overlay as it pertains to 333 Blackhead Road and in doing so recommend (on the basis of the expert evidence) that the submission (OS874.5) be rejected and that no changes are made to the extent of the Tunnel Beach HNCC overlay as notified.

Recommended amendment:

None.

5.16.4 A5.3. Natural Coastal Character Values

Sub pt #	Submitter Name	Support/Oppose/ Seek Amend	Summary Of Submission	Accept/Reject/ Accept in part	Staff Recommendation
OS220.3	Hilary Newby	I seek to have the above provision amended	Amend A5.3.3.2 so that the following values are recognised. Cockle harvesting; Seabirds other than wading birds; Nationally	Accept in part	Amend A5.3.3.2 as shown below
OS233.3	Gerald Fraser				

OS415.8	Fitzgerald Stephanie McConnon		significant nursery ground for flatfish; Significant habitat for shellfish (including cockles); Tidal flats of international significance; Natural coastal character and recreational amenity.		
OS678.9	Benedict Hugo Fernando Stewart				
OS745.7	Diana Margaret Struthers				
OS781.2	Philip Merrifield Borrie				
OS787.1	Louise Borrie				
OS963.4	Jeanette Trotman				
OS970.4	Clive Trotman				
OS983.3	Catherine Fitzgerald				

Discussion:

Background

Appendix A5.3.3.2, as notified for Blueskin Bay, reads

"A5.3.3.2 Values

- a. Tidal estuary with conspicuous flood-tide sand delta.
- b. Isolated patches of salt marsh.
- c. Important feeding area for wading birds, including trans-equatorial migrants. Commercial cockle harvesting.
- d. The area is identified as a wāhi tūpuna, with kai moana values. See Appendix A4.14 and A4.18."

Submissions

Ten submitters, as shown above, seek to amend A5.3.3.2 to recognise the following values for Blueskin Bay: cockle harvesting, seabirds other than wading birds, nationally significant nursery ground for flatfish, significant habitat for shellfish (including cockles), tidal flats of international significance, natural coastal character and recreational amenity. The submitters consider that "The current list of values is factually insufficient to provide a context for assessment of impacts from proposed developments. The additions better reflect the values recognised by the Otago

Regional Council and others."

Recommendations

The proposed Otago RPS makes little reference to Blueskin Bay, except in Schedule 1B where it recognises "The kaimoana resources of the coast from Karitāne to Okahau/Blueskin Bay and Pūrākaunui, and the kai awa of the Waikouaiti River and estuary are treasured and well utilised mahika kai for Kāti Huirapa Rūnaka ki Puketeraki". That said, I agree with the submitters that the Blueskin Bay contains important tidal flats, habitat for seabirds and shellfish, nursery areas for flatfish, and provides for recreation. I, therefore, recommend the submissions are accepted in part and that Appendix A5.3.3.2 is amended as shown below.

Recommended amendment:

Amend Appendix A5.3.3.2 as follows:

"A5.3.3.2 Values

- a. Tidal estuary with conspicuous flood-tide sand delta and tidal flats. {Nat Env220.3, and others}
- b. Isolated patches of salt marsh.
- c. Important feeding area for seabirds, wading birds, including trans-equatorial migrants. Commercial cockle harvesting and recreational amenity. {Nat Env220.3 and others}
- d. Important nursery ground for flatfish, and habitat for shellfish (including cockles). {Nat Env220.3, and others}
- e. The area is identified as a wāhi tūpuna, with kai moana values. See Appendix A4.14 and A4.18."

5.16.5 Natural Coastal Character Mapping Submissions

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
OS165.2	John Kaiser	I seek to have the above provision amended	Move the eastern boundary of the Blueskin Bay Natural Coastal Character Overlay Zone to include 135 and 145 Doctor's Point Road.	Reject	Retain Blueskin Bay NCC overlay as notified
OS170.2	Wendy Harrex	I seek to have the above provision amended	Move the Natural Coastal Character Overlay Zone boundary to include any Township and Settlement Zones in Blueskin Bay.	Reject	Retain Blueskin Bay NCC overlay as notified
OS273.5	Murray Johnston	I seek to have the above provision amended	Include 135 and 145 Doctors Point Road (Opeke) in the Blueskin Natural Coastal Character Overlay Zone	Reject	Retain Blueskin Bay NCC overlay as notified
OS281.10	Ron and Rowena	I oppose the	Remove natural coastal character overlay	Reject	Retain Blueskin Bay

	Park	provision	zone from Rural Residential 2 Zones		NCC overlay as notified
FS2371.3	Malgosia Szukiel	I oppose the submission	Oppose OS281.10. Disallow submission and do not remove the natural coastal character overlay zone from Rural Residential 2 Zones.	Accept	No amendment required
FS2435.3	Bronislaw and Eleonora Szukiel	I oppose the submission	Oppose OS281.10. Disallow submission and retain natural coastal character overlay zone.	Accept	No amendment required
OS281.9	Ron and Rowena Park	I oppose the provision	Remove Blueskin Bay Natural Coastal Character Overlay Zone from 6 Park Road, Warrington	Reject	Retain Blueskin Bay NCC overlay as notified
FS2371.2	Malgosia Szukiel	I oppose the submission	Oppose OS281.9. Disallow submission and retain the Blueskin Bay Natural Coastal Character Overlay Zone for 6 Park Road, Warrington as proposed in the 2GP.	Accept	No amendment required
OS360.169	Dunedin City Council	I seek to have the above provision amended	Remove Natural Coastal Character Overlay Zone from 787, 969, 967, 955, 953, 945, 939, 937, 931, 929 and 915 Taieri Mouth Road, Brighton.	Accept	Amend Taieri Mouth NCC boundary as shown below
FS2052.3	Te Ewi Mihaka	I support the submission	Support 360.169. Allow submission to remove Natural Coastal Character Overlay Zone from 787, 969, 967, 955, 953, 945, 939, 937, 931, 929 and 915 Taieri Mouth Road, Brighton.	Accept	Amend Taieri Mouth NCC boundary as shown below
OS382.1	Timothy David Deans Ritchie	I seek to have the above provision amended	Remove the Smailles Beach-Tomahawk Natural Coastal Character overlay from the portion of 478 Tomahawk Road Ocean Grove east of Tomahawk Creek.	Reject	Retain Smailles Beach-Tomahawk NCC overlay as notified
OS874.52	Blackhead Quarries Ltd	I oppose the provision	Remove the NCC Overlay Zone from 333 Blackhead Road	Accept	Amend Island Park NCC boundary as shown below
OS914.3	Mark Thom	I seek to have the	Remove Natural Coastal Character Overlay	Accept in part	Amend Blueskin Bay

		above provision amended	Zone from 13 McLachlan Street, Waitati		NCC boundary as shown below
OS323.1	William Rangi Haweia Ellison	I oppose the provision	Remove significant landscape classification from land at Waikouaiti block XII Sub 81, Sec 1B and Waikouaiti block XII Sub 81, Sec 1A	Accept in part	Amend Waikouaiti Estuary NCC boundary as shown below

Submissions relating to extension of the Blueskin Bay NCC overlay

John Kaiser (OS165.2) seeks to include 135 and 145 Doctor's Point Road in the Blueskin Bay Natural Coastal Character (NCC) Overlay Zone because he considers the property to have 'excellent' coastal character values (see photo attached to submission). Murray Johnston (OS273.5) also seeks to apply the Blueskin Bay NCC overlay to the same property because of its high amenity value. Both submitters also oppose the proposed 2GP zoning of the property as Township and Settlement (these aspects of their submissions are addressed in the Urban Land Supply Section 42A Report – Part 2). Wendy Harrex (OS170.2) seeks to extend the overlay zone to coastal Blueskin Bay Township and Settlement zoned properties to "protect, maintain and enhance the existing values of Blueskin Bay".

Recommendations

Advice was also sought from expert landscape architect, Michael Moore on the merits of extending the notified Blueskin Bay NCC overlay to include 135 and 145 Doctors Point Road. The layer as notified and the properties in question are shown in Figure E1 of Mr Moore's evidence, and at paragraphs 184, Mr Moore notes "It is my understanding that NCC overlays (and the Coastal Environment Mapped areas) apply only where the underlying zoning is Rural, Rural-residential or Recreation in the 2GP. 135 and 145 Doctors Point Road are zoned Rural in the Operative District Plan but Township and Settlement in the 2GP. Had the decision been to apply coastal overlays more widely, they would only apply within the coastal environment. This was mapped in the Coastal Environment of Otago, Dunedin City Section report and was located to correspond to the top of the distinctive coastal scarp form more or less as illustrated in Figure E1 Given the generally low elevation and subdued terrain of these properties it would be difficult to justify their more general inclusion within the coastal environment". Mr Moore concludes at paragraph 187 "... it is my conclusion that were coastal overlays to apply to areas zoned Township and Settlement, they would only be appropriate within the coastal environment i.e. to the top of the coastal scarp". I agree with Mr Moore's comments on the application of NCC overlays in the 2GP and I, therefore, agree also with his conclusion relating to 135 and 145 Doctors Point Road, and in doing so recommend (on the basis of the expert evidence) the submissions relating to extending the overlay to include areas zoned "Township and Settlement" in the 2GP are rejected (OS165.2, OS273.5 and OS170.2) and that no amendments are made to the extent of the Blueskin Bay NCC overlay.

Submissions relating to excluding Rural Residential 2 zones from the Blueskin Bay NCC overlay

Ron and Rowena Park (OS281.10) seek to remove the Natural Coastal Character Overlay Zone from Rural Residential 2 zones along the Blueskin Bay coastline. The submitters consider it to be 'inconsistent' to apply a NCC overlay over some parts of the bay and not others. The submitters question why the overlay applies on Rural Residential 2 land but not adjacent Township and Settlement land when the coastal landscape has already been modified. In particular the submitters (OS281.9) seek to remove the overlay from their own property at 6 Park St, Warrington.

There is also a request by the same submitters to change the zoning of their property to Township and Settlement, which is addressed in the

Urban Land Supply section 42A report – Part 2. The submission to remove the NCC overlay from Rural Residential 2 zones (including from 6 Park Street) is opposed by Malgosia Szukiel (FS2371.3, FS2371.2), who considers it to be important to protect coastline in areas near Township and Settlement zones "to balance the over-urbanization that has already occurred" and Bronislaw and Eleonora Szukiel (FS2435.3) who wish to "protect the remaining coastal land from further development".

Mark Thom (OS914.3) seeks to remove the NCC overlay from his property at 13 McLachlan St, Waitati because the land is 'developed pasture', not 'natural coastal character.'

Recommendations – Amendment 1

Advice was also sought from expert landscape architect, Michael Moore on the merits, or not, of excluding Rural Residential 2 zones from the Blueskin bay NCC overlay. The extent of the Blueskin Bay NCC overlay at 6 Park Road is illustrated in Figure E1 of Mr Moore's evidence and at paragraph 185 Mr Moore notes "The coastal environment has been mapped for the entire coastline of Dunedin City (see the Coastal Environment of Otago, Dunedin City Section report) but it is my understanding that a policy decision has been made to apply coastal overlays or Coastal Environment Mapped Areas in Rural, Rural-residential and Recreation zones only in the 2GP. I understand that NCC overlays apply to coastal natural character units rated high and medium-high, with higher rated units having HNCC or ONCC overlays. In terms of Council's responsibilities under Section 6(a) of the RMA and the NZCPS, I believe it is appropriate that a mapped area or overlay is applied as generally as possible, wherever natural character values exist (amongst other reasons). It is my assessment that the NCC overlays around Blueskin Bay, including that over 6 Park Road, are justifiable and appropriate". Mr Moore then concludes, at paragraph 184 that "... it is my conclusion that the NCC overlays around Blueskin Bay generally and on 6 Park Road in particular, are appropriate". As I noted above, I agree with Mr Moore's comments on the application of NCC overlays in the 2GP and I, therefore, agree with his conclusion relating to 6 Park Road, and in doing so recommend (on the basis of the expert evidence) that the submission relating to the inappropriateness of including Rural Residential 2 zones into the Blueskin Bay NCC overlay be rejected (OS281.10), and again, recommend no amendment is made to the extent of the Blueskin Bay NCC overlay (OS281.9).

At paragraph 186 Mr Moore addresses the inclusion of 13 McLachlan Street, Waitati, into the Blueskin Bay NCC overlay; this property in relation to the overlay is illustrated in Figure E1 of Mr Moore's evidence and is located on the Waitati River delta. Mr Moore notes at paragraph 186, "...the coastal overlays are based on the identification of the coastal environment and natural character units, as presented in the Coastal Environment of Otago, Dunedin City Section report In this instance the coastal environment has been identified to include the open, rural low lying land seaward of Doctors Point Road and the township edge. This reflects that this area includes areas of tidal influence, is subject to coastal hazard, and that the open rural amenity of the area contributes to natural character. Whilst I do not consider this inappropriate, I believe that the boundary could be refined to coincide with the area of mapped coastal hazard, as shown in Figure E1, as this is perhaps the most significant determinant of the extent of the coastal environment in this situation". Mr Moore concludes at paragraph 189 "In response to Mark Thom's submission, I believe it is appropriate that the NCC overlay extends south of the railway line at 13 McLachlan Street, but that some refinement of the boundary as indicated in Figure E1 would be justifiable". I agree with Mr Moore's comments relating to 13 McLachlan Street, and in doing so recommend (on the basis of the expert evidence) that the submission is accepted in part (OS914.3) and that the extent of the Blueskin Bay NCC overlay is amended as shown below, and as shown in Figure E1 of Mr Moore's evidence.

Submissions relating to Natural Coastal Character Overlay Zone, Taieri Mouth Road, Brighton

Dunedin City Council (OS360.169) seeks to remove the Natural Coastal Character Overlay Zone from the addresses listed in the table because of a mapping error. This is supported by Te Ewi Mihaka (FS2052.3) who believes the overlays to be 'excessive'.

Recommendations – Amendment 2

The DCC requests to reduce to extent of the NCC overlay is to address 2GP mapping errors; I recommend that the submission (OS360.169) is accepted and further recommend the boundary of the NCC overlay in the vicinity of Taieri Mouth Road, Brighton is amended to exclude 787, 969, 967, 955, 953, 945, 939, 937, 931, 929 and 915 Taieri Mouth Road, Brighton.

Submissions relating to Smaills-Tomahawk Natural Coastal Character Overlay

Timothy David Deans Ritchie (OS382.1) seeks to move the boundary of Smaills Beach–Tomahawk Natural Coastal Character Overlay so that it extends no further than Tomahawk Beach because "the flat land in question is historic land fill" and the overlay may constrain potential future activities (see further details in submission).

Recommendations

Advice was also sought from expert landscape architect, Michael Moore on the merits, or not, of extending the Smaills Beach–Tomahawk NCC Overlay beyond Tomahawk Beach. The overlay and the land in question are illustrated in Figure E4 of Mr Moore's evidence. At paragraph 194 Mr Moore notes "Coastal overlays are based on the Coastal Environment of Otago Natural Character and Outstanding Natural Features and Landscape Assessment, Dunedin City Section Report. This assessment identified the inland extent of the coastal environment as well as natural character units along the coast. The Smaills Beach-Tomahawk unit covers Smaills and Tomahawk beaches and the associated dune systems, and abuts the Highcliff-Pudneys Cliff unit at its eastern end. In my assessment, the inland extent of these units (and the coastal environment) appropriately includes the dunes and the visually significant headland. The boundary between the natural character units has been identified to reflect the extent of depositional landforms as opposed to erosional hill slopes. In my assessment, the extent of the Smaills Beach-Tomahawk NCC overlay is approximately right in its relationship to the adjacent Highcliff-Pudneys Cliff ONCC overlay. I do not believe it is appropriate to reduce the extent of the identified coastal environment completely and it would be my recommendation that the outcome of any reduction to the NCC would therefore merely result in an extension to the ONCC". Mr Moore then concludes at paragraph 195 "It is my conclusion that the Smaills Beach-Tomahawk NCC overlay is appropriately mapped in the vicinity of 478 Tomahawk Road". I agree with Mr Moore's assessment, an assessment that is consistent with other recommendations contained within this report pertaining to the same area. I, therefore, recommend (on the basis of the expert evidence) that the submission (OS382.1) be rejected and that no amendment is made to the extent of the Smaills-Tomahawk Natural Coastal Character Overlay.

Submissions relating to Island Park NCC overlay

Blackhead Quarries Ltd (OS874.52) seek to remove the small area of NCC overlay from 333 Blackhead Road because the submitter does not consider such overlays are appropriate where a quarry is already in existence.

Recommendation – Amendment 3

Advice was also sought from expert landscape architect Michael Moore on the merits, or not, of completely excluding 333 Blackhead Road from

the Island Park NCC overlay. The area in question is illustrated in Figure E3 along with the Island Park NCC overlay and shows the overlay covers a small area of 333 Blackhead Road alongside the Blackhead Road boundary. At paragraph 191 of his evidence, Mr Moore notes "This is obviously the result of a mapping inaccuracy, as Blackhead Road represents the line at which the character changes from the quarried Blackhead landform to the native scrub covered dune lands", and at paragraph 192 he concludes "I believe it is appropriate to amend the NCC Blackhead Road boundary to avoid any overlap with 333 Blackhead Road". I agree with Mr Moore that the overlap of the Island Park NCC overlay with 333 Blackhead Road is inconsistent with the landscape features on the ground and in doing so recommend (on the basis of the expert evidence) that the submission (OS874.52) is accepted and that the Island Park NCC overlay is amended to exclude 333 Blackhead Road as shown below, and on Figure E3 of Mr Moore's evidence.

Submissions to remove Waikouaiti Estuary NCC from Maori Land

William Rangi Hawea Ellison (OS323.1) seeks to remove the Waikouaiti Estuary NCC overlay from the Maori land of which he is an owner, as detailed above (40 and 50 Merton Station Road). The submitter is concerned about 'excessively onerous' restrictions, and does not consider the land warrants 'special protection' and requests that the land be removed from the overlay or to only have the ridgeline on the property included. See submission for additional detail.

Recommendations –Amendment 4

Advice was also sought from expert landscape architect, Michael Moore on the appropriateness, or not, of including these properties into the Waikouaiti Estuary NCC overlay. Figure E5 of Mr Moore's evidence illustrates 40 and 50 Merton Station Road, and shows the location of the NCC overlay. At paragraph 197 of Mr Moore's evidence he states "The NCC overlay encompasses the Waikouaiti River Estuary and associated river flats and the boundary mapping rationale in this vicinity is to reflect the top of a low coastal scarp. This scarp is considered to be an appropriate boundary in terms of the NZCPS Policy 1, in particular: (c) areas where coastal processes, influences or qualities are significant, including coastal lakes, lagoons, tidal estuaries, saltmarshes, coastal wetlands, and the margins of these; and (f) elements and features that contribute to the natural character, landscape, visual qualities or amenity values." At paragraph 198 Mr Moore states "As can be seen in Figure E5 this intent has not been translated very accurately to the 2GP map and requires amendment as indicated. Whilst this will have the effect on increasing coverage on 40 and 50 Merton Station Road, the actively farmed parts of the property are excluded". Mr Moore concludes at paragraph 199 "It is my conclusion that removal of the NCC overlay at 40 and 50 Merton Station Road is not consistent with the NZCPS but that correction to the mapping is required". I agree with Mr Moore's assessment of the boundary of the overlay in the vicinity of 40 and 50 Merton Station Road and recommend (on the basis of the expert evidence) that the submission is accepted in part (OS323.1), and that the boundary of the Waikouaiti Estuary NCC as notified is amended as shown below, and in Figure E5 of Mr Moore's evidence.

Recommended amendments:

Amendment 1

Amend Blueskin Bay NCC overlay as shown in Figure E1 of Mr Moore's evidence. {*NatEnv 914.3*}

Amendment 2

Remove Natural Coastal Character Overlay Zone from 787, 969, 967, 955, 953, 945, 939, 937, 931, 929 and 915 Taieri Mouth Road, Brighton.

{NatEnv 360.169}

Amendment 3

Amend the Island Park NCC overlay to exclude 333 Blackhead Road as shown on Figure E3 of Mr Moore's evidence. {NatEnv874.52}

Amendment 4

Amend the boundary of the Waikouaiti Estuary NCC in the vicinity of 40 and 50 Merton Station Road as shown in Figure E5 of Mr Moore's evidence. {NatEnv323.1}

5.16.6 Proposed New Natural Coastal Character Overlay Zones

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
OS447.130	Harboursides and Peninsula Preservation Coalition	I seek to have the above provision amended	Add an Outstanding Natural Coastal Character Overlay Zone over Portobello Peninsula (excluding the Aquarium site).	Accept in part	Add new NCC overlay as shown below
OS447.131	Harboursides and Peninsula Preservation Coalition	I seek to have the above provision amended	Add Natural Coastal Character Overlay Zone over all Township and Settlement Residential Zone land on the Otago Peninsula from Harrington Point Road/Tidewater Drive intersection to Taiaroa Head.	Reject	Do not add Natural Coastal Character Overlay Zone as requested
OS900.131	Save The Otago Peninsula (STOP) Inc Soc	I seek to have the above provision amended	Add an Outstanding Natural Coastal Character Overlay Zone over Portobello Peninsula	Accept in part	Add new NCC overlay as shown below

Submissions to add a Portobello Peninsula Outstanding Natural Coastal Character overlay

HPPC (OS447.130) and STOP (OS900.131) seek to add an Outstanding Natural Coastal Character overlay over Portobello Peninsula because of its 'exceptional' coastal landscape values.

Recommendations - Amendment 1

Advice was sought from expert landscape Architect Michael Moore on the merits of the request to include a new ONCC in the 2GP to cover the Portobello Peninsula. At paragraph 158 of Mr Moore's evidence he states "Currently in the 2GP, Portobello Peninsula is shown as within the Coastal Environment Mapped Area and is covered by the North-west Peninsula SNL, but it has no coastal overlay. The Coastal Environment of

Otago Natural Character and Outstanding Natural Features and Landscapes Assessment, Dunedin City Section Report assessed the Portobello Peninsula and Goat and Quarantine Island as one natural character unit and gave it an overall natural character rating of Medium–high”. The summary comments [from the report] are as follows: “The Portobello peninsula and harbour islands form one geomorphological unit but with varying ecological and landscape value. The Portobello peninsula is the most modified, Quarantine Island less so and Goat Island has the highest natural character, both ecologically and perceptually. The intertidal and aquatic habitats have a moderately high degree of health. Overall the unit has moderately high wild and scenic quality”. Mr Moore continues in paragraph 159 as follows “Given the Medium–high natural character rating overall I do not believe that an ONCC overlay can be justified for this unit. As illustrated in Figure D2 factors such as the presence of the road and farm tracks, the presence of the aquarium and the power pylons, and the dominance of farmed exotic grassland, precludes such a rating. I do believe, however, that Portobello Peninsula as well as Goat and Quarantine Islands should have a NCC overlay, given the Medium–high rating, and for consistency with other similarly assessed areas in the 2GP. I agree with the submitters that Portobello Peninsula has high visual prominence and sensitivity, and high scenic landscape values. These are recognized by the SNL overlay (part of the North-west Peninsula SNL). Whilst only indirectly pertinent to this submission, I am comfortable that ONF landscape overlay status, which has been proposed for Goat and Quarantine Islands, is not justified for Portobello Peninsula because whilst the peninsula has similar scenic attributes to Quarantine Island in particular, it does not have the cultural and historic significance, nor the recognized ecological values of the islands to reinforce this” (at paragraph 159 of Mr Moore’s evidence). By way of conclusion, at paragraph 160 Mr Moore states “It is my conclusion that ONCC status cannot be justified for Portobello peninsula, but that it would be appropriate for an NCC overlay to apply, both to the peninsula and to the harbour islands”. I agree with Mr Moore’s assessment of the landscape values of Portobello Peninsula (and the Otago Harbour islands – Goat and Quarantine) and recommend (on the basis of the expert evidence) that the submissions are accepted in part (OS447.130 and OS900.131) and that a new NCC is added to the 2GP to cover these areas as shown below, and as shown in Figure D2 of Mr Moore’s evidence.

Submissions to add a Natural Coastal Character overlay

HPPC (OS447.131) seek to add a Natural Coastal Character overlay over all Township and Settlement zoned land from Harwood to Taiaroa Head as described above. The submitter states that “We seek to preserve the historic village-rural-village settlement pattern of the iconic Otago Harbour” and explains that a Natural Coastal Character overlay could address harbour-side sprawl.

Recommendations – Amendment 2

Advice was sought from expert landscape Architect Michael Moore on the merits of the request to add a Natural Coastal Character overlay over all Township and Settlement zoned land from Harwood to Taiaroa Head. At paragraph 201-202 of Mr Moore’s evidence he states “In terms of how the 2GP is structured and for internal consistency, I do not believe that a NCC overlay is appropriate in this area. This is because, as I understand it, coastal overlays are only identified where the natural character assessment ratings (as per the Coastal Environment of Otago, Dunedin City Section report, Moore et al, 2015) were Medium or higher (and this area was assessed as medium – low), and because the overlays exclude urban zoned land. Having said this, I strongly support the aims stated in the HPPC submission and believe that Council has obligations under Sections 6(a) and 7(c) of the RMA to preserve remaining natural character and to maintain and enhance amenity values. As illustrated in Figure E6, much of the area in question is within the coastal environment as mapped in the Moore et al, 2015 report, and in my opinion, the 2GP maps err in not identifying the coastal environment mapped area in this vicinity. Given the coastal hazard and natural character issues in this area, I believe that the HPPC submission raises valid concerns about the extent and continuity of the Township and Settlement Zone.” Mr Moore concludes at paragraph 202 “It is my conclusion that a NCC overlay would not be consistent with the rationale for these areas

adopted for the 2GP, but that a coastal environment mapped area should be identified in this area. I also recommend that the extent and continuity of the Township and Settlement zone in this vicinity be reviewed for consistency with the NZCPS provisions.”

I agree with Mr Moore that including Township and Settlement Zones into NCC overlays is not consistent with the practice adopted for the 2GP when identifying areas suitable for NCC overlays, and do not recommend accepting the HPPC submission (OS447.131). The NCC overlays manage development activities, including requiring resource consent for buildings and structures over 60m² and indigenous vegetation clearance, and setting a more restrictive threshold for what may be considered earthworks – small scale. I do not consider that the NCC overlay zones should apply in residential zones. I consider that, in accordance with Policy 6 of the NZCPS, the 2GP recognises that these already-existing developed residential areas have had their natural character modified to such an extent that built development can be enabled within these areas without compromising their coastal values.

I do not agree with Mr Moore’s conclusion that a coastal environment mapped area should apply in this area. The coastal environment mapped area is linked specifically to a rule that sets a restricted discretionary activity status for any indigenous vegetation clearance. The intent of the coastal mapped area is to manage indigenous vegetation clearance in coastal rural areas that were not assessed as being of sufficient natural character values to be mapped as an ONCC, HNCC or NCC. It is also employed in certain landscape overlay zones where, to avoid over-complexity of provisions, an NCC was not applied but the coastal mapped environment was included to manage indigenous vegetation clearance. As I do not consider that a rule to manage indigenous vegetation clearance is required in these residential zones, I do not recommend that a coastal environment mapped area is applied over the Township and Settlement zoned land from Harwood to Taiaroa Head.

I consider that the issue of ‘harbourside sprawl’ as described by the submitter is best addressed through the application of management zone provisions, rather than overlay provisions. This will include assessing the extent of built development that is appropriate in the coastal environment. Policy 6c of the NZCPS is to “encourage the consolidation of existing coastal settlements and urban areas where this will contribute to the avoidance or mitigation of sprawling or sporadic patterns of settlement and urban growth”. I consider that the 2GP has addressed this by reviewing the appropriate extent of residential zoning in the coastal environment and generally discouraging urban expansion in these areas.

Recommended amendment:

Amendment 1

Add a new NCC overlay to the 2GP that covers Portobello Peninsula (and the Otago Harbour islands – Goat and Quarantine). {*NatEnv 447.130 and 900.131*}

Remove Coastal Environment mapped area from the new NCC area referred to above in 1. {*NatEnv 447.130 and 900.131*}

5.17 Mapping Submissions – Mapped Areas

5.17.1 Coastal Environment Mapped Area

Sub pt #	Submitter Name	Support/Oppose/Seek Amend	Summary Of Submission	Accept/Reject/Accept in part	Staff Recommendation
OS3.1	Peter Innes-Jones	I support the provision	Retain Coastal Environment Mapped Area	Accept in part	Amend boundary of Coastal Environment Mapped Area as shown below
OS355.21	Robert George & Sharron Margaret Morris	I seek to have the above provision amended	Amend boundaries of Coastal Environment Mapped Area at Sandfly Bay and Hoopers Inlet as per Figure 4 of submission	Accept in part	Amend boundary of Coastal Environment Mapped Area as shown below
OS951.15	Timothy George Morris	I seek to have the above provision amended	Amend boundaries of Coastal Environment Mapped Area at Sandfly Bay and Hoopers Inlet as per Figure 4 of submission	Accept in part	Amend boundary of Coastal Environment Mapped Area as shown below
OS1054.15	Timothy Morris (on behalf of RG and SM Morris Family Trust)	I seek to have the above provision amended	Amend boundaries of Coastal Environment Mapped Area at Sandfly Bay and Hoopers Inlet as per Figure 4 of submission	Accept in part	Amend boundary of Coastal Environment Mapped Area as shown below

Submissions in support

Peter Innes-Jones (OS3.1) seeks to retain the Coastal Environment Mapped Area. No specific reasons are given.

Submissions to amend boundary of Coastal Environment Mapped Area at Sandfly Bay and Hoopers Inlet

Robert George & Sharron Margaret Morris (OS355.21), Timothy George Morris (OS951.15) and Timothy Morris (on behalf of RG and SM Morris Family Trust) (OS1054.15) seek to amend the boundaries of the Coastal Environment Mapped Area at Sandfly Bay and Hoopers Inlet because "the extent of what DCC refer to as "coastal environment" has not been ground truthed or based on consultation with landowners."

Recommendation

Advice was sought from expert landscape Architect Michael Moore on the merits of the submitter's requests to amend the boundary of the Coastal Environment Mapped Area at Sandfly Bay and Hoopers Inlet. The two areas at issue are illustrated in Figures E7 and E8 of Mr Moores

evidence. At paragraph 204-205 of his evidence he states “The Coastal Environment Mapped Area is based on the Coastal Environment of Otago, Dunedin City Section report. The mapping is based on the guidance provided in Policy 1 of the NZCPS and the rationale for various coastal situations is laid out on pages 6 and 7 of that report. The area in question at Sandfly Bay is a cliffed coastline and the mapping rationale in these areas is to include: 1. Significant changes of slope defining land adjacent to the coast with coastal aspect and/or; 2. The extent of landforms which are primarily a product of coastal processes and/or; 3. Areas that are visually prominent in wider coastal views (e.g. headlands). At paragraph 206 Mr Moore notes “Having reviewed the original maps on which the 2GP map layer is based, I believe there is scope for refinement as illustrated in Figure E7. The amended line follows the crest of a minor spur form to include only land with a clifftop aspect”.

At paragraph 207 Mr Moore address Hoopers Inlet and notes that the area “...is lower lying and the mapping rationale in these situations is to include: 1. The extent of areas previously mapped as being subject to coastal hazards and/or; 2. The extent of tidal reach (where salinity affects the ecology rather than simply water movement) and/or; 3. The top of the coastal escarpment where this exists and/or; 3. The extent of landforms which are primarily a product of coastal processes. Having reviewed the original maps on which the 2GP map layer is based, and discussed the matter with ecologist Brian Stewart, I believe that the Mapped Area as currently drawn in the 2GP is appropriate. Whilst the area has been modified by the construction of Hoopers Inlet Road, drainage and agricultural use, it is very low lying, partially subject to occasional inundation and the flora and fauna show estuarine influence”. At paragraph 208 Mr Moore concludes “It is my conclusion that some minor refinement of the Coastal Environment Mapped Area is justified at Sandfly Bay but that the area as currently shown at Hoopers Inlet is appropriate”. I agree with the conclusions of Mr Moore in relation to the extent of the Coastal Environment Mapped Area at both Sandfly Bay and Hoopers Inlet, and in doing so recommend (on the basis of the expert evidence) that the submissions (OS3.1, OS355.21, OS951.15 and OS1054.15) are accepted in part and that a minor amendment to the boundary of the Coastal Environment Mapped Area in the vicinity of Sandfly Bay is made, as shown below and in Figure E7 of Mr Moore’s evidence.

Recommended amendment:

Amend the boundary of the Coastal Environment Mapped Area in the vicinity of Sandfly Bay only, as shown below and in Figure E7 of Mr Moore’s evidence. {*NatEnv 1054.15, and others*}

5.17.2 Urban Conservation Mapped Area

Sub pt #	Submitter Name	Support/Oppose/ Seek Amend	Summary Of Submission	Accept/Reject/ Accept in part	Staff Recommendation
OS360.186	Dunedin City Council	I seek to have the above provision amended	Remove Urban Conservation Mapped Area from 23 Sretlaw Place and 118 Brockville Road, Brockville.	Accept	Amend UCMA 11 as shown below
OS360.187	Dunedin City Council	I seek to have the above provision	Amend Urban Conservation Mapped Area to include a section of Rail corridor between	Accept	Amend UCMA 4 as shown below

		amended	Kohi Place and Port Chalmers as Urban Conservation Area 04.		
OS553.6	Otago Railway and Locomotive Society Inc.	I seek to have the above provision amended	Move the boundary of the Urban Conservation Mapped Area at 3 John Wilson Ocean Drive so that it lies clear of the buildings and the railway track.	Accept	Amend UCMA 17 as shown below
OS707.2	David Randle	I support the provision	Retain 146 and 172 Caversham Valley Road in the Urban Conservation Mapped Area.	Accept	No amendment required
OS762.1	Robert Fulcher	I seek to have the above provision amended	Remove or amend the Urban Conservation Mapped Area at 21 Lancefield Street and 8 McCracken Street	Accept in part	Amend UCMA 14 as shown below
OS908.88	Otago Regional Council	I seek to have the above provision amended	Amend Urban Conservation Mapped Area to provide appropriate identification and protection for areas of indigenous and exotic vegetation	Reject	No amendment required
OS927.4	Christian Jordan	I seek to have the above provision amended	Remove the Urban Conservation Mapped Area from 1 Larnach Road or alternatively reduce the Urban Conservation Mapped Area to only the steep slope fronting Marne Street (refer maps in submission)	Reject	Retain UCMA 20 as notified
OS1022.3	Caversham Community Group	I support the provision	Retain Urban Conservation Area Mapped Area for 6 Barnes Drive/Sidey Park	Accept	No amendment required
OS1022.4	Caversham Community Group	I support the provision	Retain Urban Conservation Area Mapped Area for 132 Caversham Road (the peripatus reserve)	Accept	No amendment required
OS1022.5	Caversham Community Group	I support the provision	Retain Urban Conservation Area Mapped Area for 41 Forfar Street (Caversham Station Reserve (West))	Accept	No amendment required

Discussion:

Note that the numbering for Urban Conservation Mapped Areas (UCMAs) in this part of the report refers to the UCMA numbering as notified, based on the Urban Landscape Conservation Area (ULCA) numbering in the operative Plan, which is also used in the evidence of Richard Ewens and the assessments by Ahika Consulting. As discussed in section 5.8.5 above, I am recommending the addition of a new Appendix A10 to describe the values of UCMAs, along with a consequential amendment to renumber the UCMAs. The discussion below, however, employs the

notified version of the UCMA numbering.

Submissions relating to address mapping errors

Dunedin City Council (OS360.186) seeks to remove the Urban Conservation Mapped Area from the Brockville addresses detailed above to correct a mapping error. Dunedin City Council (OS360.187) also seeks to include a section of rail corridor in Port Chalmers within Urban Conservation Area 4 as detailed above.

Recommendations – Amendments 1,2

Advice was sought on the appropriateness, or not, of removing the Brockville addresses from UCMA 11 from expert ecologist Richard Ewans. At paragraph 10 of his evidence he states “In my opinion 23 Stretlaw Street and 118 Brockville Road, Brockville contain no conservation values and aerial photography imagery suggests these sites have been vegetated by exotic grassland since at least 1990. Frasers Stream is buffered by native vegetation immediately below both properties. Therefore, I support the submission”. Map 1 in Appendix 1 of Mr Ewans’ evidence shows the boundary changes requested by this submission and supported by Mr Ewans evidence. I agree with Mr Ewans’ assessment and in doing so recommend (on the basis of the expert evidence) that the DCC submission relating to UCMA11 (the Brockville addresses) is accepted and that the boundary of UCMA 11 is amended as shown below; I further note Stretlaw Street is actually Stretlaw Place (OS360.186).

In relation to DCC (OS360.187), Mr Ewans states at paragraph 11 of his evidence “The omission of this small area in the proposed Urban Conservation Area mapped area appears to be anomalous with the rest of UCMA 4 which includes the rest of the rail corridor. The rail corridor already included contains similar vegetation to the proposed area for inclusion. Therefore, I support the submission.” Map 2 in Appendix 1 of Mr Ewans evidence shows the boundary changes requested by this submission, and supported by Mr Ewans evidence. I agree with Mr Ewans’ assessment of the boundary of UCMA 4 in the vicinity of Kohi Place and in doing so recommend (on the basis of the expert evidence) that the DCC submission is also accepted and that the boundary of UCMA 4 as notified is amended as shown below (OS360.187).

Submissions relating to Ocean Grove UCMA17

Otago Railway and Locomotive Society Inc. (OS553.6) seeks to move the boundary of the Urban Conservation Mapped Area at 3 John Wilson Ocean Drive so that it lies clear of the buildings and the railway track.

Recommendations – Amendment 3

Advice was sought on the appropriateness, or not, of removing the railways and buildings from UCMA17 from expert ecologist Richard Ewans. At paragraph 12 of his evidence he states “In my opinion the area sought for removal from UCMA Site 17 contains no conservation values and the vegetation is comprised primarily of rank exotic grasses. Therefore, I support the submission.” Map 3 in Appendix 1 of Mr Ewans’ evidence shows the boundary changes requested by this submission. I agree with Mr Ewans’ assessment and in doing so recommend (on the basis of the expert evidence) that the Otago Railway and Locomotive Society Inc. (OS553.6) submission is accepted and that the boundary of UCMA17, as notified, is amended as shown below.

Submissions relating to the Caversham Valley UCMA14

David Randle (OS707.2) supports the proposed extended boundaries of the Urban Conservation Mapped Area in Caversham Valley, including the addresses listed above, because it supports a habitat for peripatus. See original submission for additional details.

The Caversham Community Group (OS1022.3, OS1022.4 and OS1022.5) also supports the UCMA14 mapped area as notified and seeks to retain the Urban Conservation Mapped Area in Caversham as detailed above. The submitter expresses concern that Caversham Station Reserve (East 230 South Road) and College Street Park are zoned residentially in the 2GP and express hope that the Caversham Urban Conservation Mapped areas are preserved as green zones.

Robert Fulcher (OS762.1) seeks to remove or amend the Urban Conservation Mapped Area at Caversham in relation to his property as listed above so the land at 8 McCracken Street can be used for housing. There is an existing private residence at 21 Lancefield St.

Recommendations –Amendment 4

Advice was sought on the appropriateness, or not, of removing 8 McCracken Street and 21 Lancefield St from UCMA 14 from expert ecologist Richard Ewans. At paragraph 13 of his evidence he states "In my opinion the vegetation below the *Eucalyptus* sp. plantation on 8 McCracken Street at the southern end of the property has little conservation value. It is comprised mostly of exotic shrubs and young regenerating exotic trees being smothered by pohuehue (*Muehlenbeckia australis*). See Photo 1, Appendix 2. In my opinion the *Eucalyptus* sp. plantation on 21 Lancefield Street and 8 McCracken Street has little conservation value. It is comprised of mature planted *Eucalyptus* sp. and is almost completely free of native plant species. The understorey is comprised of exotic species such as sycamore (*Acer pseudoplatanus*), elderberry (*Sambucus nigra*), broom (*Cytisus scoparius*) and *Ribes* sp., and exotic grasses and herbaceous weeds dominate the ground cover. In my opinion the vegetation above the top driveway (accessing the property from Lancefield Street) on 21 Lancefield Street, and above the *Eucalyptus* sp. plantation on 8 McCracken Street is suitable for inclusion in the UCMA. This area is dominated by exotic vegetation but retains some indigenous vegetation such as mature tree fuchsia (*Fuchsia excorticata*), cabbage tree (*Cordyline australis*), kohuhu (*Pittosporum tenuifolium*) and lemonwood (*Pittosporum eugenioides*) and is important to provide habitat connectivity throughout the wider UCMA 14 mapped area. Therefore, I support an amendment to the boundary of UCMA 14 to remove the *Eucalyptus* sp. plantation and area south of the plantation from the UCMA but retain the area above the top driveway (accessing the property from Lancefield Street) on 21 Lancefield Street, and above the *Eucalyptus* sp. plantation on 8 McCracken Street." I agree with the assessment of these two properties by Mr Ewans and in doing so recommend (on the basis of the expert evidence) that the submission is accepted in part (OS762.1) and that the boundary of UCMA 14 is amended as shown below and as detailed in Map 4, Appendix 1 of Mr Ewans evidence.

Submissions relating to the Somerville Street UCMA 20

Christian Jordan (OS927.4) seeks to remove or reduce the Urban Conservation mapped area from 1 Larnarch Road as detailed above to allow for housing. The submitter suggests that the mapping is not appropriate for the location as the native scrub is of 'low value', and "much of the site is in weeds."

Recommendations

Advice was sought on the appropriateness, or not, of removing from 1 Larnarch Road from UCMA20 from expert ecologist Richard Ewans. At paragraph 15 of his evidence he states "In my opinion the vegetation at this address is all appropriate for inclusion in the UCMA. The site lies

within the 'acutely threatened' land environment¹ L4.1a, which has less than 10% of the original vegetation cover remaining nationally². The property retains remnant and regenerating indigenous broadleaved forest with at least 1 mature Hall's totara (*Podocarpus laetus*). See Photo 2, Appendix 2. The wider UCMA Site 20 which includes the property contains at least 36 indigenous plant species. The site also provides an important link for native birds between areas of habitat on Otago Peninsula and within the urban Dunedin area. The site may appear to be of low value due to the prevalence of the native climber pohuehue which covers many trees, however the site is comparable with many other areas considered as UCMA's. UCMA designation is appropriate for all of this site and ecological assessment of any proposed development is an important safeguard to ensure significant indigenous vegetation is retained. Therefore, I do not support the submission and in my opinion the boundaries of UCMA Site 20 should be retained as proposed in the Urban Conservation Area mapped area." I agree with the assessment of this property by Mr Ewans and in doing so recommend (on the basis of the expert evidence) that the submission is rejected (OS927.4) and that the UCMA 20 is retained as notified.

Submissions relating to management of the Urban Conservation Mapped Area

Otago Regional Council (OS908.88) seeks to ensure the Urban Conservation Mapped Areas provide appropriate identification and protection for areas of indigenous and exotic vegetation.

Recommendations

Advice was sought on the appropriateness, or not, of amending all UCMA's as notified to better align with Rule 10.3.2.3.b, from expert ecologist Richard Ewans. At paragraph 14 of his evidence he states "The submitters amendments are non-specific and appear to broadly describe the process that was followed in delineating the UCMA mapped area..." and "The UCMA mapped areas were assessed for suitability against ecological criteria outlined in Site Assessment Reports and many extensions were recommended to existing ULCA's for inclusion in the UCMA mapped areas. In my opinion in the context of this submission (i.e. the absence of specific proposals) the boundaries of the UCMA mapped areas should be retained as proposed. I support further work to refine and define criteria for inclusion in UCMA's, to compile all available ecological information for each site, to further field survey sites where information gaps are identified, and to develop recommendations for management priorities at each site (and between sites). Such work should also place the UCMA network in context with the wider ecological values present in the district." I agree in principle with the assessment of the Otago Regional Council (OS908.88) submission by Mr Ewans and further note that the submitters are concerned not only with indigenous vegetation, but also exotic vegetation, presumably acknowledging the benefit exotic vegetation can provide as habitat for indigenous fauna.

I have also discussed this matter with Dr Mandy Tocher, an ecologist and planner currently working for the DCC. She comments that "Exotic vegetation-dominated areas are included within the UCMA areas as notified, with a particularly good example of this being the Caversham Vally UCMA14 that is dominated by sycamores whilst all the while containing nationally important populations of peripatus. Other examples include the Golf Course of UCMA16 that provides an important corridor linking vegetated areas of the city, and the turf communities on Lawyers Head that provide habitat for the "At Risk-Declining" species *Lepidium tenuicaule*, and although there is little indigenous vegetation present along the stretch of coastline within UCMA7, there is significant habitat for indigenous fauna, particularly gulls, oystercatchers and penguins. Lawyers Head is also habitat for the spotted shag (*Strictocarbo punctatus*), while the variable oystercatcher (*Haematopus unicolor*) and red-billed gulls (*Larus novaehollandia*) are present in the grassed playing fields (exotic vegetation dominated habitat)."

The Otago Regional Council (OS908.88) submission also makes reference to the 'protection' of values within the UCMA's as notified. I note that Rule 10.3.2.1 Maximum area of vegetation clearance (urban conservation mapped area) states:

Vegetation clearance in an urban conservation mapped area must not exceed 20m² as measured from stems at ground level, on any site over any three year period, except for the following instances of vegetation clearance which are exempt from this standard:

- a. clearance that is part of conservation activity involving vegetation clearance and replacement with indigenous species;*
- b. clearance of a pest plant listed in Appendix 10B;*
- c. vegetation clearance for the erection, maintenance or alteration of fences (including gates);*
- d. vegetation clearance for the maintenance (but not extension) of existing network utilities activities, tracks, drains, or roads;*
- e. vegetation clearance for the construction or maintenance of tracks up to 2m in width; or*
- f. vegetation clearance that is provided for as part of a conservation management strategy, conservation management plan, reserve management plan or covenant established under the Conservation Act 1987 or any other Act specified in the First Schedule of the Conservation Act 1987.*

I am of the opinion that Rule 10.3.2.1 provides adequate protection for the conservation values (both indigenous and exotic) within UCMA's as notified and in doing so recommend the submission is rejected (OS908.88) and that all UCMA's are retained as notified along with associated rules and performance standards.

Recommended amendments:

Amendments 1,2

- Remove Urban Conservation Mapped Area (UCMA 11) from 23 Stretlaw Place and 118 Brockville Road, Brockville. {*NatEnv 360.186*}
- Amend Urban Conservation Mapped Area (UCMA 4) to include a section of Rail corridor between Kohi Place and Port Chalmers and in doing so, exclude the built area of Kohi Place from Urban Conservation Mapped Area 4. {*NatEnv 360.187*}

Amendment 3

- Amend Urban Conservation Mapped Area (UCMA 17) to exclude railways and buildings as shown in Map 3, Appendix 1 of Mr Ewans evidence. {*NatEnv 553.6*}

Amendment 4

- Amend Urban Conservation Mapped Area (UCMA 14) to exclude the *Eucalyptus* sp. plantation and area south of the plantation as shown on Map 4, Appendix 1 of Mr Ewans evidence. {*NatEnv 762.1*}

6.0 Minor and Inconsequential Amendments

91. Pursuant to Schedule 1, clause 16 (2) of the RMA, a local authority may make an amendment, without using the process in this schedule, to its proposed plan to alter any information, where such an alteration is of minor effect, or may correct any minor errors.
92. The following minor and inconsequential amendments relevant to this report are identified below and will be corrected.

Plan section	Reason for amendment	Proposed amendment
Definitions Section 1.5	Amendment to the definition of Water Body is recommended to improve grammar as follows:	"Fresh water or geothermal water in a river, lake, stream, pond, wetland, or aquifer, or any part thereof, that which is not located within the coastal marine area." {NatEnv cl.16}
Definitions Section 1.5	An incidental amendment is recommended to the definition of Wetland to improve grammar as follows:	"...For the purpose of this definition, wetland does not include the following: <ul style="list-style-type: none"> •Land sown with exotic grasses containing sparsely distributed wetland plants; •Constructed reservoirs; (NatEnv cl.16) •Farm drains and irrigation canals; •Land drainage canals; (NatEnv cl.16) •Constructed farm dams and detention dams; •Constructed wetlands used for wastewater or stormwater treatment; and •Oxidation ponds."
Rule 20.11.2.3	Wrong section reference	g. "See Section 10.46 for guidance on the assessment of resource consents in relation to Objective 10.2.1 and effects on biodiversity."
Appendix 10A	Inaccurate name OS949: "Minute flower is not a common name and should instead be linked to the species name Chaerophyllum to read Chaerophyllum "minute flower" indicating this is an un-named taxa in the genus Chaerophyllum with a tag name "minute flower"	Amend listing for minute flower to <i>Chaerophyllum</i> "minute flower" (NatEnv949)
Appendix 10A	Wrong threat classification	Amend threat classification given to <i>Deyeuxia youngii</i> to AR-N Amend threat classification for <i>Helichrysum selago</i> var. <i>tumidum</i> to AR-N
Appendix 10A	Wrong spelling	Amend spelling of <i>Ranunculus maculatus</i>
Appendix 10A	Wrong case used	Amend <i>Sonchus kirkii</i> so lower case is used for species name
Appendix 10B	Wrong spelling	Amend spelling <i>Eragrostis curvula</i> and by using a lower case f for the species name in <i>Leycesteria formosa</i> .
Appendix A3.3.2.1	Drafting error	Amend first paragraph: "The area surrounds the Mt Holmes Organ Pipes which are an excellent and easily

Plan section	Reason for amendment	Proposed amendment
		accessible example of columnar jointing. These are an Outstanding Natural Feature in the plan."
Mapping	Inaccurate labelling - Urban Conservation Mapped Area	Change label in pop-up box to "Urban Conservation <u>Mapped</u> Area". Change Plan ID reference to "UC <u>L</u> MA1, UC <u>L</u> MA2..." etc.
Mapping	Inaccurate mapping of some ASCV areas	Align mapping of some ASCVs to site boundaries
Rule 10.8.1.6	Drafting error	Amend rule number reference as follows: "If landscape building platforms are approved through the subdivision consent process, the construction of new buildings greater than 60m ² within the landscape building platform will be subject to Rule 16.3.4.3.b (rural zones) or Rule 17.3.3.3.e 17.3.4.3.c (rural residential zones)".

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Stephanie McConnon	656
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9.0 Summary of Amendments

Report Section	2GP Section/Topic	Number of original submission points (OS) and Further submission points (FS)	Amendment recommended	Marked up in Recommendation Version of Eplan	In Appendix 4
5.1	Definitions				
5.1.1	Definition of Conservation	5 OS Amend 2 OS Support 2 FS	No	N/A	N/A
5.1.2	Suggested new definition of biodiversity	1 OS Amend 1 FS	Yes	Yes	No
5.1.3	Suggested new definition and framework for biodiversity offsets	5 OS Amend 1 OS Oppose 6 FS	Yes	Yes	No
5.2	Strategic Directions				
5.2.1	Objective 2.2.3: Indigenous biodiversity	5 OS Support 2 OS Amend 1 FS	Yes	Yes	No
5.2.2	Policy 2.2.3.1	6 OS Amend 1 OS Support 10 FS	Yes	Yes	No
5.2.3	Policy 2.2.3.2	5 OS Amend 5 FS	Yes	Yes	No
5.2.4	Policy 2.2.3.3	3 OS Support 2 OS Amend 3 FS	Yes	Yes	No
5.2.5	Policy 2.2.3.4	3 OS Amend 7 FS	Yes	Yes	No
5.2.6	Request to add new policies under Objective 2.2.3	4 OS Amend 10 FS	Yes	Yes	No
5.2.7	Request for new objectives and policies under 2.3 Dunedin is	2 OS Amend 9 FS	No	N/A	N/A

	Economically and Socially Prosperous				
5.2.8	Policy 2.3.3.1.c	1 OS Support	No	N/A	N/A
5.2.9	Objective 2.4.4: Natural landscapes and natural features	5 OS Support 1 OS Amend 3 OS Oppose 4 FS	No	N/A	N/A
5.2.10	Policy 2.4.4.2	1 OS Support	No	N/A	N/A
5.2.11	Policy 2.4.4.3	1 OS Support 4 OS Amend 8 FS	Yes	Yes	No
5.2.12	Objective 2.4.5: Natural character of the coastal environment	3 OS Support 3 OS Amend 9 FS	Yes	Yes	No
5.2.13	Policy 2.4.5.1	1 OS Amend 1 FS	No	N/A	N/A
5.2.14	Policy 2.4.5.2	1 OS Support	No	N/A	N/A
5.2.15	Policy 2.4.5.3	4 OS Amend 8 FS	Yes	Yes	No
5.3	Natural Environment & Introduction				
5.3.1	Section 10. Natural Environment	1 OS Support 3 OS Amend 2 OS Oppose	Yes	Yes	Yes
5.3.2	10.1 Introduction	7 OS Amend 9 FS	Yes	Yes	Yes
5.4	Objectives and Policies				
5.4.1	10.2. Objectives and Policies	1 OS Support 8 OS Amend 6 OS Oppose 13 FS	Yes	Yes	Yes
5.4.2	Objective 10.2.1	16 OS Amend 1 OS Support 23 FS	No	N/A	N/A
5.4.3	Policy 10.2.1.1	4 OS Amend 1 OS Support 3 FS	No	N/A	N/A
5.4.4	Policy 10.2.1.2	4 OS Amend 2 OS Support 1 OS Oppose 6 FS	Yes	Yes	Yes
5.4.5	Policy 10.2.1.7	3 OS Amend 3 OS Oppose 2 FS	Yes	Yes	Yes
5.4.6	Policy 10.2.1.8	6 OS Oppose 1 OS Support 1 OS Amend 2 FS	No	N/A	N/A
5.4.7	Policies 10.2.1.9, 10.2.1.10 and 10.2.1.11	9 OS Oppose 1 OS Amend 1 FS	Yes	Yes	Yes
5.4.8	Objective 10.2.2	1 OS Support 8 OS Amend 18 FS	No	N/A	N/A
5.4.9	Policy 10.2.2.1	2 OS Amend 5 FS	No	N/A	N/A
5.4.10	Policy 10.2.2.4	6 OS Amend 1 OS Support 24 FS	Yes	Yes	Yes
5.4.11	Policy 10.2.2.6	2 OS Support 2 OS Amend	No	N/A	N/A
5.4.12	Objective 10.2.3 and policies	7 OS Amend 3 OS Oppose 15 FS	Yes	Yes	Yes
5.4.13	Objective 10.2.3	7 OS Amend 15 FS	No	N/A	N/A

5.4.14	Policy 10.2.3.1	4 OS Amend 1 OS Support 5 FS	No	N/A	N/A
5.4.15	Policy 10.2.3.2	4 OS Amend 6 FS	No – see section 5.4.12	N/A	N/A
5.4.16	Policy 10.2.3.3	3 OS Amend 5 FS	No – see section 5.4.12	N/A	N/A
5.4.17	Policies 10.2.3.4, 10.2.3.10 and 10.2.3.11	5 OS Amend 2 OS Oppose 1 OS Support 6 FS	No	N/A	N/A
5.4.18	Policy 10.2.3.5	3 OS Amend 4 FS	No – see section 5.4.12	N/A	N/A
5.4.19	Policy 10.2.3.7	2 OS Amend 3 FS	No	N/A	N/A
5.4.20	Objective 10.2.4	1 OS Support 2 OS Amend	Yes	Yes	Yes
5.4.21	Policy 10.2.4.3 #2	3 OS Amend	Yes	Yes	Yes
5.4.22	Objective 10.2.5 and policies	15 OS Amend 3 OS Oppose 39 FS	Yes	Yes	Yes
5.4.23	Objective 10.2.5	15 OS Amend 38 FS	No	N/A	N/A
5.4.24	Policy 10.2.5.1	1 OS Amend 6 FS	No	N/A	N/A
5.4.25	Policy 10.2.5.2	1 OS Oppose 1 FS	No	N/A	N/A
5.4.26	Policy 10.2.5.3	1 OS Amend 3 FS	No	N/A	N/A
5.4.27	Policy 10.2.5.4	1 OS Amend 1 FS	No	N/A	N/A
5.4.28	Policy 10.2.5.5	1 OS Support	No	N/A	N/A
5.4.29	Policy 10.2.5.6	4 OS Amend 4 OS Oppose 8 FS	No	N/A	N/A
5.4.30	Policy 10.2.5.7	5 OS Amend 3 OS Oppose 7 FS	No	N/A	N/A
5.4.31	Policy 10.2.5.10	4 OS Oppose 1 OS Amend 2 FS	Yes	Yes	Yes
5.5	Notification rule	4 OS Oppose 2 OS Amend 3 FS	Yes	Yes	Yes
5.6	Esplanade Reserves and Strips Provisions				
5.6.1	Corrections to drafting errors	5 OS Amend	Yes	Yes	Yes
5.6.2	Policy 10.2.2.5	2 OS Amend 3 FS	No	N/A	N/A
5.6.3	Policy 10.2.4.3 #1	1 OS Amend 1 FS	No	N/A	N/A
5.6.4	Rule 10.3.1 Esplanade reserves and strips performance standard	3 OS Support 6 OS Amend 3 OS Oppose 3 FS	Yes	Yes	Yes
5.6.5	Esplanade Reserves and Strips Mapped Area	1 OS Amend	Yes (map amendment)	N/A	N/A
5.7	Setback from Coast and Water Bodies Provisions				
5.7.1	Definition of Water Body	1 OS Amend	No	No	N/A
5.7.2	Definition of Wetland	2 OS Amend 1 OS Support 1 FS	Yes	Yes	No

5.7.3	Suggested new definition of Margin	2 OS Amend 3 FS	Yes	Yes	No
5.7.4	Policy 10.2.2.2	3 OS Amend 1 OS Support 4 FS	No	No	N/A
5.7.5	Policy 10.2.4.1	2 OS Amend 1 OS Support 1 FS	Yes	Yes	Yes
5.7.6	Rule 10.3.3 Setback from coast and water bodies performance standard	8 OS Amend 4 OS Support 4 OS Oppose 20 FS	Yes	Yes	Yes
5.7.7	Rule 10.4.3.10 Setback from coast and water bodies' assessment rule	2 OS Amend 1 OS Support 4 FS	No	No	N/A
5.8	Vegetation Clearance Provisions				
5.8.1	Definition of Indigenous Vegetation	8 OS Amend 1 OS Oppose 19 FS	Yes	Yes	No
5.8.2	Definition of Indigenous Vegetation Clearance	3 OS Amend 1 OS Support 16 FS	No	No	N/A
5.8.3	Definition of Vegetation Clearance	4 OS Amend 2 OS Support 20 FS	Yes	Yes	No
5.8.4	Rule 10.3.2 Vegetation Clearance	13 OS Amend 2 OS Support 1 OS Oppose 10 FS	Yes	Yes	Yes
5.8.5	Urban Conservation Mapped Area provisions				
5.8.5.1	Policy 10.2.1.5 Vegetation clearance and earthworks in Urban Conservation Mapped Areas	5 OS Amend 5 FS	Yes	Yes	Yes
5.8.5.2	Rule 10.3.2.1 Vegetation clearance in Urban Conservation Mapped Areas	4 OS Amend 3 OS Support 13 FS	No	N/A	N/A
5.8.5.3	Rule 10.4.3.2 Assessment of Vegetation clearance in a UCMA	3 OS Amend 3 FS	Yes	Yes	Yes
5.8.6	Maximum area of indigenous vegetation clearance provisions				
5.8.6.1	Policy 10.2.1.3 Maximum area of indigenous vegetation clearance	9 OS Amend 22 FS	Yes	Yes	Yes
5.8.6.2	Rule 10.3.2.2 Maximum area indigenous vegetation clearance performance standard	26 OS Amend 9 OS Support 7 OS Oppose 34 FS	Yes	Yes	Yes
5.8.6.3	Rule 10.4.3.3 Indigenous vegetation clearance (maximum area) assessment rule	5 OS Amend 1 OS Support 3 FS	Yes	Yes	Yes
5.8.7	Provisions for Protected Areas and Protected Species				
5.8.7.1	Policy 10.2.1.4	4 OS Amend 1 OS Oppose 10 FS	Yes	Yes	Yes
5.8.7.2	Policy 10.2.2.3 Setback of vegetation clearance from the coast and water bodies	7 OS Amend 18 FS	Yes	Yes	Yes
5.8.7.3	Rule 10.3.2.3 Protected	14 OS Support	Yes	Yes	Yes

	Areas	7 OS Amend 4 OS Oppose 25 FS			
5.8.7.4	Rule 10.3.2.4 Protected species (indigenous vegetation clearance)	12 OS Amend 3 OS Support 1 OS Oppose 28 FS	Yes	Yes	Yes
5.8.7.5	Rules 10.4.3.4-10.4.3.5 Vegetation clearance (protected areas, protected species) assessment rules	2 OS Amend 2 OS Oppose 9 FS	No	No	N/A
5.8.7.6	Appendix 10A. Protected Indigenous Species	1 OS Amend	Yes	Yes	No
5.8.7.7	Appendix 10B. Pest Plant Species	2 OS Amend	Yes	Yes	No
5.8.8	Rule 10.8 Special Information Requirements – vegetation clearance	2 OS Amend 7 FS	Yes	Yes	No
5.8.9	New Suggested Provisions – Vegetation clearance	3 OS Amend 5 FS	No	N/A	N/A
5.9	Tree Species Provisions				
5.9.1	Policy 10.2.1.6	3 OS Amend 1 OS Support 6 FS	Yes	Yes	Yes
5.9.2	Rule 10.3.4 Tree Species performance standard	3 OS Amend 3 OS Oppose 1 OS Support 4 FS	Yes	Yes	Yes
5.9.3	Rule 10.4.3.11 Tree species assessment rule	2 OS Amend 3 FS	No	N/A	N/A
5.10	New suggested performance standard - forestry				
5.10	New suggested performance standard - forestry	2 OS Amend 2 FS	Yes	Yes	Yes
5.11	Management of buildings and structures in landscape and coastal character overlay zones				
5.11.1	Activity status of buildings and structures in landscape and natural coastal character overlays	1 OS Support 23 OS Amend 6 OS Oppose 22 FS	Yes	Yes	Yes
5.11.2	Minimum Building Separation Provisions				
5.10.1	Policy 10.2.3.8, Policy 10.2.5.12 and Rule 10.3.5	3 OS Oppose 6 OS Amend 2 OS Support 2 FS	Yes	Yes	Yes
5.11.3	Reflectivity Provisions				
5.11.3.1	Policy 10.2.3.6	1 OS Amend 2 FS	No	N/A	N/A
5.11.3.2	Policy 10.2.5.8	1 OS Amend 3 FS	Yes	Yes	Yes
5.11.3.3	Rule 10.3.6 Reflectivity performance standard	6 OS Amend 1 OS Oppose	Yes	Yes	Yes
5.11.3.4	Rules 10.4.3.8-10.4.3.9 Reflectivity assessment rules	4 OS Amend 7 FS	Yes	Yes	Yes
5.11.4	Maximum Height Provisions				
5.11.4.1	Rules 16.6.6 and 17.6.6 Maximum height in landscape and natural coastal character	9 OS Amend 2 OS Oppose 5 FS	No	N/A	N/A

	overlays – performance standards				
5.11.4.2	Rules 10.4.4.1 and 10.4.4.2 Maximum height in landscape and natural coastal character overlays - assessment rules	2 OS Amend 4 FS	No	N/A	N/A
5.11.5	Landscape Building Platforms	8 OS Amend 2 OS Oppose 15 FS	Yes	Yes	Yes
5.11.6	New Suggested Provisions – Size and Number of Permitted Buildings/Structures	5 OS Amend 4 OS Oppose 20 FS	No	N/A	N/A
5.11.7	New Suggested Provisions – Building/Structure Screening	4 OS Amend 16 FS	No	N/A	N/A
5.12	Rules – Activity Status in landscape and natural coastal character overlays and ASCVs				
5.12.1	Activity status of land use, development, subdivision and network utilities activities in ASCVs	5 OS Amend 4 OS Oppose 1 OS Support 22 FS	Yes	Yes	Yes
5.12.2	Activity status of farming, grazing and forestry in landscape and natural coastal character overlays	10 OS Amend 1 OS Oppose 5 FS	No	N/A	N/A
5.12.3	Activity status of mining and landfills in landscape and natural coastal character overlays	5 OS Amend 1 OS Oppose 8 FS	Yes	Yes	Yes
5.12.4	Activity status of other rural land use activities in landscape and natural coastal character overlays	5 OS Amend 6 FS	No	N/A	N/A
5.12.5	Activity status of residential, commercial and industrial activities in landscape and natural coastal character overlays	10 OS Amend 12 FS	No	N/A	N/A
5.12.6	Activity status of major facilities activities in landscape and natural coastal character overlays	6 OS Amend	No	N/A	N/A
5.12.7	Activity status of vegetation clearance and indigenous vegetation clearance in landscape and natural coastal character overlays	2 OS Oppose 1 OS Amend 7 FS	No	N/A	N/A
5.12.8	Activity status of subdivision, earthworks and tree planting in landscape and natural coastal character overlays	2 OS Amend 13 FS	No	N/A	N/A
5.12.9	Activity status of public amenities in landscape	2 OS Amend 2 OS Oppose	No	N/A	N/A

	and natural coastal character overlays	2 FS			
5.12.10	Activity status of network utilities activities in SNLs	1 OS Amend 1 FS	No	N/A	N/A
5.13	Submissions on assessment rules – not relating to specific performance standard or activity status rules - Rules – Assessment Rules				
5.13.1	Rule 10.4.2 Assessment of all performance standard contraventions	2 OS Support 2 OS Amend 4 FS	No	N/A	N/A
5.13.2	Rule 10.4.3 Assessment of performance standard contraventions located in Natural Environment	2 OS Amend	Yes	Yes	Yes
5.13.3	Rule 10.4.4.5 Sediment control (earthworks standards) assessment rule	2 OS Amend 1 FS	No	N/A	N/A
5.13.4	Rule 10.5.2 Assessment of restricted discretionary activities	4 OS Amend 2 OS Support 4 FS	Yes	Yes	Yes
5.13.5	10.5.2.2 Assessment of all subdivision activities	3 OS Amend 2 FS	Yes	Yes	Yes
5.13.6	Rules 10.5.2.3-10.5.2.6 Assessment of restricted discretionary activities in ONCC, HNCC, NCC overlay zones	3 OS Amend 1 OS Support 4 FS	Yes	Yes	Yes
5.13.7	Rules 10.5.2.11-10.5.2.16 Assessment of restricted discretionary activities in ONF, ONL, SNL overlay zones	3 OS Support 2 OS Amend 5 FS	No	N/A	N/A
5.13.8	Rule 10.6.2 Assessment of discretionary activities	8 OS Amend 4 OS Oppose 5 FS	Yes	Yes	Yes
5.13.9	Rule 10.7 Assessment of non-complying activities	5 OS Amend 17 FS	No	N/A	N/A
5.14	Areas of Significant Conservation Value – Schedule and Mapping				
5.14.1	Introduction to Schedule	1 OS Amend	No	N/A	N/A
5.14.2	Schedule	6 OS Amend 8 FS	Yes	N/A	N/A
5.14.3	Mapping of ASCVs	3 OS Amend 2 OS Support 2 OS Oppose 1 FS	Yes (mapping amendment)	N/A	N/A
5.15	Landscape Overlay Zones – Landscape Values and Mapping				
5.15.1	A3.1 Outstanding Natural Features – Landscape Values	2 OS Amend 1 OS Support 1 OS Oppose 1 FS	Yes	Yes	No
5.15.2	Outstanding Natural Feature Mapping Submissions	1 OS Amend 1 OS Oppose	No	No	N/A
5.15.3	A3.2 Outstanding Natural Landscapes – Landscape Values	1 OS Amend	No	No	N/A
5.15.4	Outstanding Natural Landscape mapping submissions	5 OS Oppose 4 OS Amend 1 OS Support 2 FS	Yes (mapping amendment)	N/A	N/A

5.15.5	A3.3. Significant Natural Landscapes – Landscape Values	2 OS Amend	Yes	Yes	No
5.15.6	Significant Natural Landscape Mapping Submissions	28 OS Amend 20 OS Oppose 10 FS	Yes (mapping amendment)	N/A	N/A
5.15.7	Submissions requesting changes to mapping of more than one type of landscape overlay zone	4 OS Amend	No	No	N/A
5.15.8	Proposed new landscape overlay zones	3 OS Amend 3 FS	Yes (mapping amendment)	N/A	N/A
5.16	Natural Coastal Character Overlay Zones – Natural Character of the Coast Values and Mapping				
5.16.1	5.18.1 Outstanding Natural Coastal Character Mapping Submissions	1 OS Amend	No	N/A	N/A
5.16.2	5.18.2 A5.2. High Natural Coastal Character Values	1 OS Amend 1 FS	No	N/A	N/A
5.16.3	5.18.3 High Natural Coastal Character Mapping Submissions	4 OS Amend 2 OS Oppose 2 FS	No	N/A	N/A
5.16.4	A5.3. Natural Coastal Character Values	10 OS Amend	Yes	Yes	No
5.16.5	Natural Coastal Character Mapping Submissions	6 OS Amend 4 OS Oppose 4 FS	Yes (mapping amendment)	N/A	N/A
5.16.6	Proposed New Natural Coastal Character Overlay Zones	3 OS Amend	Yes (mapping amendment)	N/A	N/A
5.17	Mapping Submissions – Mapped Areas				
5.17.1	Coastal Environment Mapped Area	3 OS Amend 1 OS Support	Yes (mapping amendment)	N/A	N/A
5.17.2	Urban Conservation Mapped Area	6 OS Amend 4 OS Support	Yes (mapping amendment)	N/A	N/A

Appendix One: Appendix A10 to be added to 2GP

A10. Urban Conservation Mapped Area Values

The Urban Conservation Mapped Areas (UCMAs) are derived from the Urban Landscape Conservation Areas (ULCAs) of the first generation Dunedin City District Plan, and include those with the highest conservation values. The boundaries of the UCMAs have been refined from the ULCA boundaries to exclude areas considered low in conservation value (e.g. playing fields in some instances). The UCMAs form an extensive network of conservation areas over the Dunedin City environs. For each UCMA description to follow, the Threatened Environment Classification (so-called 'LENZ level 5 classifications'), is provided.

A10.1 Town Belt

A10.1.1 Description of the area

The Dunedin Town Belt is an important asset to the City and fulfils an important amenity role within Dunedin. It is a significant landscape feature, provides areas for recreation, and is an important ecological resource. As a high profile public reserve, its management and maintenance is important to the Dunedin community and the area is subject to the 'Town Belt Management Plan'. The Town Belt has an important network of vegetation across the city, creating potential corridors for indigenous animals, and habitat for indigenous plant and animal species. While several sections of the Town Belt may be of relatively low indigenous biodiversity value (i.e. playing fields), they still warrant inclusion in the UCMA as their associated shelter belts and amenity plantings provide habitat and food resources for indigenous flora and fauna, and help to maintain the overall connectivity of the Town Belt.

A10.1.2 Conservation values to be protected

a) *Vegetation/Habitat types:*

An extensive survey of vegetation and associated biodiversity was undertaken as part of the development of the Town Belt Management Plan. The predominant vegetation types of the Town Belt are kanuka forest, moist broadleaved forest, exotic coniferous-deciduous forest, and mown grassland. Alluvial forest, dry broadleaved forest, swamp forest, cliff vegetation, rough grassland, and heathland vegetation occur locally throughout. Stuart Street marks a major change in the overall composition and structure of the Town Belt, with native-dominant forest the predominant cover north of Stuart Street, and exotic-dominated forest and mown grassland the main vegetation south of Stuart Street. This change is also reflected in understory composition with several native trees, shrubs, lianes, and monocot herbs being more common in the north of the Town Belt, while native dicot herbs are more common in the southern areas of the Town Belt.

b) *Rare and notable species, habitats or communities:*

The Town Belt Management plan reports extensively on the biodiversity values of the Town Belt. Three plant species recorded within the UCMA are classified as nationally threatened, uncommon, or data deficient, nationally. The tree *Raukaua edgerleyi* is notable and has been recorded at two sites within the UCMA; only three individuals are known, all mature trees. Another small tree, fierce lancewood (*Pseudopanax ferox*), which is classified as 'At Risk-Naturally Uncommon', has also been recorded at the UCMA. A single sub adult tree is known here. The sedge *Carex raoulii*, which was previously classified as 'Data Deficient' has been recorded on steep slopes of the UCMA, where at least 20 plants are present. Fifty six native plant species present in the Town Belt, occur naturally at six or fewer sites. Seventeen of these have been recorded from only one site.

Most of the vegetation in the Town Belt is "At Risk" based on the Threatened Environment Classification having between 20-30 percent of the original vegetation

cover remaining nationally, and a high degree of habitat fragmentation. *Peripatus* occurs in Woodhaugh Gardens: this area has always been in lowland native forest and the surviving invertebrates persisting there are important locally and nationally.

c) *Species diversity and Naturalness:*

Much detail on both plant and animals species diversity, is provided in the Town Belt Management Plan.

A10.1.3 Principle threats to conservation values

Threat	Description
Plant and animal pests	<p>a. Wilding seedlings of woody tree species such as sycamore may spread within reserves either from a seed source within the reserve or from adjacent properties. Sycamore spread in some reserves has the potential to result in this species replacing the native canopy.</p> <p>b. Native plant species that do not naturally occur in Dunedin City, such as <i>Coprosma grandifolia</i>, <i>C. robusta</i> and <i>Brachyglottis repanda</i> may smother other significant native plant species.</p>
Fragmentation/loss of continuity/edge effects	<p>a. To ensure the long-term viability of the UCMA, a vegetation buffer is desirable to guard against adverse effects of fragmentation and edge.</p>

A10.1.4 Key management actions to be required or encouraged

Threat	Key management actions
Plant and animal pests	<p>a. Prevent sycamore spread into new areas where sycamores have not yet established.</p> <p>b. Where weedy species may restrict the growth of local native species, therefore compromising the viability of the UCMA, control and removal of these species is appropriate (see the Town Belt Management Plan).</p>
Fragmentation/loss of continuity/edge effects	<p>a. Consideration could be given to extending the Town Belt UCMA to include the southeast facing bush slopes above Logan Park</p>

Threat	Key management actions
	High School, and the bush-clad gully running North West and parallel to Warden Street. The forested gully has a relatively intact canopy of mixed native and exotic species, and a diverse understory of ferns. The creek within is often flowing, and is habitat for southern koura (<i>Paranephrops zealandicus</i>). These two areas represent important buffer zones which would help to reduce external impacts on the UCMA by minimising edge and improving connectivity.

A10.2 Port Chalmers Town Belt

A10.2.1 Description of the area

The forest of this UCMA contains many large trees, with patches of both native and exotic species. Due to its largely undisturbed canopy, coupled with large amounts of decaying woody material and dense understory, the forested area is likely to be important habitat for indigenous plant and animal species. The Port Chalmers Town Belt represents an important part of an urban green corridor network.

A10.2.2 Conservation values to be protected

a) Vegetation/Habitat types:

The native canopy is primarily composed of tree fuchsia, whiteywood and broadleaf, and to a lesser extent, kanuka. The main exotic canopy species are sycamore and hawthorn, with an understory of rangiora. A large component of the more peripheral shorter scrubby vegetation is exotic – mainly gorse and Scottish broom. While the biodiversity values of this exotic-dominated vegetation type are relatively low, it does act as a buffer which can protect the values of the more intact adjacent indigenous-dominated vegetation.

b) Rare and notable species, habitats or communities:

The Port Chalmers Town Belt is ecologically significant in that it represents one of the few remaining areas of remnant coastal ngaio/totara forest within the Dunedin City area, and is relatively large in size (c.7.0 ha). This coastal forest is a lowland vegetation type classified as “Acutely Threatened” in the Threatened Environment Classification scheme, having less than 10 percent of the original vegetation cover remaining nationally.

c) Species diversity and Naturalness:

It is estimated that 69 percent of plant species over the UCMA are indigenous.

A10.2.3 Principle threats to conservation values

Threat	Description
Plant and animal pests	a. Invasive plant pests pose the greatest

Threat	Description
	<p>threat to the conservation values of this UCMA, but threats from animal pests such as possum, rats/mice and stoats are also likely. The most significant plant pests are sycamore, rangiora and hawthorn.</p> <p>b. Other weedy exotic species that could be problematic in the future include Darwin's barberry, cotoneaster, ivy and buddleja (buddleia).</p>
Fragmentation/loss of continuity/edge effects	<p>a. To ensure the long-term viability of the UCMA, a vegetation buffer is desirable to guard against adverse effects of fragmentation and edge.</p>

A10.2.4 Key management actions to be required or encouraged

Threat	Key management actions
Plant and animal pests	<p>a. Many large sycamore trees are present within the Port Chalmers Town Belt, and seedlings and suckers are sprouting vigorously along the bush margins, including road verges and train tracks. This species is out-competing the native species that would have historically dominated the UCMA. Control of the weedy exotic species, particularly sycamore, to preserve indigenous biodiversity values, is desirable.</p> <p>b. Amenity plantings around the lookout are native species that are inappropriate for coastal Otago; these include purple akeake, Chatham Island tree daisy and Chatham Island astelia. Replacing these species with more appropriate species would help with weed-management of the wider area, and improve the usefulness of these plantings as a vegetation buffer.</p>
Fragmentation/loss of continuity/edge effects	<p>a. To help protect the long-term viability of this UCMA, a boundary extension to include the adjacent gully system and vegetation contiguous with the UCMA mapped area (areas</p>

Threat	Key management actions
	likely to support similar and complimentary species), would provide buffering from future disturbance and minimise edge effects.

A10.3 Back Beach, Port Chalmers

A10.3.1 Description of the area

The Back Beach reserve is a mixture of vegetation types along a predominantly steep and unstable coastal margin. The western and eastern sides of the reserve are comprised largely of exotic plant species, while most of the native biodiversity is concentrated around the southern point of the reserve.

A10.3.2 Conservation values to be protected

a) *Vegetation/Habitat types:*

The west side of the reserve is dominated by large Monterey pines, and indigenous biodiversity values along this stretch of the UCMA are low. The southernmost point retains the greatest proportion of indigenous vegetation cover – notably ngaio, broadleaf, whiteywood, *Helichrysum lanceolatum*, *Hebe elliptica* and lowland flax. *Eucalyptus* species occurs in patches along the eastern side of the reserve, interspersed with occasional ngaio and whiteywood. Exotic, *Eucalyptus* species can provide good forage for native bird species. The eastern side of the reserve is weedy with *Muehlenbeckia australis*, ivy and banana passion fruit growing over woody vegetation such as Scottish broom, rangiora, elderberry, and sycamore.

b) *Rare and notable species, habitats or communities:*

The elongated shape of the UCMA makes it vulnerable to disturbance and pest weeds, and this feature reduces its overall value as habitat. Nevertheless, the coastal vegetation that persists at the site is “At Risk” based on the Threatened Environment Classification (having between 20-30 percent of the original vegetation cover remaining nationally and a high degree of habitat fragmentation). A small beetle, *Microsiphia litorea*, Family Staphylinidae, subfamily Microsilphinae, occurs at low tide level on the beach at Port Chalmers and is possibly not widely distributed elsewhere in Dunedin City.

c) *Species diversity and Naturalness:*

It is estimated that 61 percent of plant species over the UCMA are indigenous.

A10.3.3 Principle threats to conservation values

Threat	Description
Plant and animal pests	<p>a. Exotic plant pests include sycamore, hawthorn, gorse, Scottish broom, banana passion fruit, boxthorn and crack willow.</p> <p>b. Animal pests have not been fully assessed; no animal sign was noted at the</p>

Threat	Description
	UCMA during a field survey.
Fragmentation/loss of continuity/edge effects	a. To ensure the long-term viability of the UCMA, a vegetation buffer is desirable to guard against adverse effects of fragmentation and edge.

A10.3.4 Key management actions to be required or encouraged

Threat	Key management actions
Plant and animal pests	<p>a. The indigenous biodiversity values of the Back Beach UCMA could be greatly enhanced by pest weed control, particularly at the southern point where the highest proportions of native plants occur. On the north side of the road several mature hawthorns could be removed in order to reduce their spread, while potential pest plants along the harbour side of the road include gorse and <i>Echium pininana</i>.</p> <p>b. Sycamore and alder form extensive stands over 10 m tall around the marina and boat sheds, and the control of these plants could help ensure the long-term viability of the UCMA.</p> <p>c. At the eastern most edge of the reserve there is a well-established population of boxthorn. This is a particularly noxious pest which could be removed and replaced with more appropriate native plantings.</p>
Fragmentation/loss of continuity/edge effects	a. The current UCMA could be extended to include the coastal margin of Watson Park, to provide a corridor of protected habitat which could be further improved with native plantings. In recognition of areas of important habitat, and to recognise potential habitat connections, consideration could be given to including the adjacent Rakiriri (Goat) and Kamau Taurua (Quarantine) Islands into this UCMA.

A10.4 Kaikorai Estuary

A10.4.1 Description of the area

This UCMA is composed of a mixture of riparian margin and wetland/estuarine habitat, some of which has been drained, that extends across the Southern Motorway. To the north of the motorway, the UCMA comprises a generous riparian strip alongside Abbott's Creek, and to the south, there is a wetland area that takes in Kaikorai Stream and continues to the east of Brighton Road.

A10.4.2 Conservation values to be protected

a) Vegetation/Habitat types:

Abbott's Creek itself has no indigenous riparian vegetation and is choked with weedy exotic grasses. The UCMA also contains a small part of drained wetland on the true right of Abbott's Creek which contains some patches of indigenous wetland vegetation, including several patches of sedges, rushes and flax. To the south of the motorway the UCMA comprises a contiguous strip of estuary on the true right of Kaikorai Stream extending to the east as far as Brighton road; this area has estuarine vegetation and rank grass with flax and toetoe on the higher points along the road edge. Some *Pittosporum tenuifolium* have been planted along the bund created by straightening the mouth of Abbott's Creek. The indigenous estuary vegetation is largely saltmarsh ribbonwood, *Carex secta* and jointed wire rush. Much of the indigenous vegetation has been replaced by weedy exotic species, particularly cocksfoot, gorse and crack willow, which is now the dominant cover along this stretch of Kaikorai Stream. The riparian strip along a bend of Kaikorai Stream on the east side Brighton Road is a mown area with some landscape plantings of natives.

b) Rare and notable species, habitats or communities:

On the northern side of the motorway the indigenous vegetation has been mostly lost, apart from a few scattered patches within the drained wetland on the true right of Abbott's Creek. On the immediate southern side of the motorway, significant indigenous vegetation remains, although in a degraded state. The habitat supports indigenous fauna; for example spotted shag (*Phalacrocorax punctatus*).

The wetland vegetation that persists at the site is "At Risk" based on the Threatened Environment Classification having between 20-30 percent of the original vegetation cover remaining nationally, and a high degree of habitat fragmentation; no field assessment of the wetland has been conducted.

c) Species diversity and Naturalness:

Vegetation of the wetland and riparian margins is estimated at having between 25-55 percent indigenous plant species.

A10.4.3 Principle threats to conservation values

Threat	Description
Plant and animal pests	a. Pest plant species are predominantly crack willow, gorse and blackberry.
Fragmentation/loss of continuity/edge effects	a. The northern portion of the mapped

Threat	Description
	area provides an important freshwater corridor and associated biodiversity linkages. To ensure the long-term viability of the UCMA, a vegetation buffer is desirable to guard against adverse effects of fragmentation and edge effects in both terrestrial and freshwater/estuarine systems.

A10.4.4 Key management actions to be required or encouraged

Threat	Key management actions
Plant and animal pests	a. Not assessed.
Fragmentation/loss of continuity/edge effects	<p>a. Indigenous vegetation, primarily lowland flax, has persisted along the highway margin and biodiversity gains could be made here and along both Abbott's Creek and the adjacent wetland, through road-side, riparian and wetland indigenous plantings.</p> <p>b. Consideration could be given to extending the mapped UCMA, as opportunities arise, to the south of the motorway to include the estuary and the littoral areas. The Kaikorai Estuary is important habitat for indigenous animals. The UCMA could conceivably extend from the motorway and connect the estuary to the Island Park reserve, which contains indigenous terrestrial and wetland biodiversity values.</p>

A10.5 Frasers Gully

A10.5.1 Description of the area

Frasers Gully UCMA falls entirely within the Frasers Gully Recreation Reserve and is subject to the 'Hills Reserves Management Plan'. Frasers Gully Recreation Reserve is an important area of vegetation in the suburbs surrounding Dunedin City, providing a tree-dominated landscape in an otherwise urban setting. The UCMA encompasses steep gully slopes and ridges surrounding the upper reaches of the Kaikorai Stream and tributaries. Vegetation is a mix of mature secondary native forest, regenerating forest and planted exotic species.

A10.5.2 Conservation values to be protected

a) *Vegetation/Habitat types:*

The UCMA contains six vegetation and habitat types, and 'The Hills Reserves Management Plan' contains much information on the vegetation of the area. The

UCMA has a remnant podocarp/broadleaved forest at the top of a planted slope, at the head of a gully; this area is composed of largely intact indigenous podocarp forest. There is a grassed picnic area and playing fields in Ellis Park, which are comprised of a managed playing turf with native and exotic specimen trees. The south-west facing slopes of the UCMA are steep and have small pockets of remnant indigenous cover (i.e. tree fuchsia and whiteywood with a semi-intact understory) largely overtopped by sycamores and *Muehlenbeckia australis*, with other weedy species also present, including Darwin's barberry. There is a c. 300 m² patch of this habitat which has been cleared, and is now composed almost entirely of Scottish broom.

A 50-60 m² patch of silver beech has been planted on the lower slopes over the last 20 years. The lower reaches of Fraser's Creek have a fairly complete canopy cover, including some large remnant patches of tall (>8 m) kanuka, complemented with a range of c. 10-20 year old native plantings. The native trees are interspersed with occasional large sycamore, alder, willow and laurel. The south-east facing slope (ex-forestry) has a c. 3 ha area of 2 -3 year old re-vegetation plantings; these plantings grow amongst stumps of cleared exotic forestry. This area extends to the foot of the slope and along the flats. Many of the plants are well established but are competing with the densely regenerating Himalayan honeysuckle and Scottish broom. The UCMA also has patches of unimproved pasture, which covers most of the true right of Fraser's Creek.

b) *Rare and notable species, habitats or communities:*

The podocarp/broadleaved forests in the upper parts of the gully are classified as "Chronically Threatened" under the Threatened Environments Classification. They represent a highly fragmented habitat type with only 10-20 percent of indigenous cover left, nationally. The native dwarf mistletoe *Korthalsella salicornioides* (classified as 'At Risk-Naturally Uncommon') is known from the site. The most significant threats to further losses of biodiversity in these habitats are further fragmentation, and invasive plant and animal species.

c) *Species diversity and Naturalness:*

The vegetation of Frasers Gully is estimated to be between 41-86 percent indigenous.

A10.5.3 Principle threats to conservation values

Threat	Description
Plant and animal pests	a. Pest plant species include sycamore, elderberry, gorse, Scottish broom, blackberry, crack willow, convolvulus, buddleja (buddleia) and hawthorn. Animal pests have not been assessed but no feral animal sign was noted at the site during a field inspection.
Fragmentation/loss of continuity/edge effects	a. To ensure the long-term viability of the UCMA, a vegetation buffer is desirable to guard against adverse effects of fragmentation and edge.

A10.5.4 Key management actions to be required or encouraged

Threat	Key management actions
Plant and animal pests	<p>a. The major threats to biodiversity in this UCMA are the sycamores, elderberry and hawthorn. These species are all relatively shade tolerant, and are all establishing under the canopy of the native bush. The sycamores are a particular issue in the lower reaches of the stream where they are clearly outcompeting natives and could be removed. The elderberries and hawthorns could be removed to improve the long-term viability of the UCMA.</p>
Fragmentation/loss of continuity/edge effects	<p>a. The entire area contained within Frasers Gully UCMA has very high biodiversity and habitat values, and constitutes an important ecological corridor between urban and rural areas. Consideration could be made to extending the boundaries to cover the private land and gullies to the north of the current mapped UCMA, and to the west, to include the vegetated area around the nearby water reservoir. These areas represent important buffer zones which can reduce external impacts by minimising edge effects.</p>

A10.6 Wakari Reserve and Transmission line easement

A10.6.1 Description of the area

This UCMA contains a significant area of bush adjacent to the Halfway Bush substation, which comprises a remnant podocarp/broadleaved forest on southeast facing banks. The designated dog walking area to the north has areas of well-established mixed amenity plantings of several exotic and native species. Well established 10-20 year old exotic trees create a parkland landscape in the northern part of the UCMA. Some of these planted species are inappropriate in that they are not found naturally in the area; e.g. *Sophora longicarinata*.

A10.6.2 Conservation values to be protected

a) Vegetation/Habitat types:

The UCMA is composed of three spatially distinct habitat/vegetation types: a remnant podocarp/broadleaved forest on the southeast facing banks adjacent to the substation; a well-established mixed amenity planting of several exotic and native species around the designated dog walking area to the north; and native plantings in and around the drainage channel along the southwest boundary near Taieri Road. The remnant vegetation is dominated by tree fuchsia and whiteywood, with occasional totara and other woody trees and shrubs. The understory is disturbed, with large areas of exposed soil. Plants in the understory include occasional hen and chicken fern, *Blechnum chambersii* and some epiphytic *Asplenium flaccidum*. Scattered patches of prickly shield fern have survived outside of the bush cover, and extend

under the exotic tree plantings. Well established 10-20 year old exotic trees create a parkland landscape in the northern part of the area, primarily composed of silver birch, fir, oak, and cypress. The native plantings around the drainage gully are well established and provide some cohesive vegetation cover, and protect the banks from erosion.

b) Rare and notable species, habitats or communities:

The podocarp/broadleaved forest on the steep southeast facing banks is classified as "At Risk" under the Threatened Environments Classification. It represents a habitat type with only 20-30 percent of indigenous cover left nationally. The most significant threats to further losses of biodiversity in these habitats are further fragmentation and invasive plant and animal species.

c) Species diversity and Naturalness:

The vegetation of the UCMA is estimated to be 64 percent indigenous.

A10.6.3 Principle threats to conservation values

Threat	Description
Plant and animal pests	<p>a. Pest plant species include sycamore, elderberry, gorse, Scottish broom, blackberry and ragwort.</p> <p>b. Animal pests –have not been assessed but no feral animal sign was noted at the site during a field inspection.</p>
Fragmentation/loss of continuity/edge effects	<p>a. Minimal buffer to guard against adverse effects of fragmentation and edge effects.</p>

A10.6.4 Key management actions to be required or encouraged

Threat	Key management actions
Plant and animal pests	<p>a. The major threats to biodiversity in this UCMA are the sycamores, Scottish broom and blackberry. The shade tolerant sycamores are establishing under the canopy of the native bush, and threaten to out-compete them. Removal of sycamores is therefore a priority for this UCMA.</p>
Fragmentation/loss of continuity/edge effects	<p>a. Consideration could be given to an extending the UCMA mapped area to include the adjacent steep vegetated slopes to the east. Although the increase in total biodiversity</p>

Threat	Key management actions
	resulting from these inclusions is likely to be small, it has the advantage of creating a green corridor between Wakari and the Balmacewen Golf Course. These areas represent important buffer zones which could reduce external impacts by minimising edge effects.

A10.7 Brockville slopes, Kaikorai Stream

A10.7.1 Description of the area

The UCMA is composed of two spatially disjunct areas: the vegetated southern slopes of Brockville and the grassed open spaces adjacent to Kaikorai Stream, including Kaikorai Valley High School playing fields.

A10.7.2 Conservation values to be protected

a) *Vegetation/Habitat types:*

The remnant vegetation on the southern slopes of Brockville is highly diverse, with a canopy dominated by kanuka and whiteywood, with emergent totara and rimu. The understory is largely intact, with many species of small trees and shrubs, sedges and ferns throughout. Exotic species are uncommon under the intact canopy, and where they are present, they occur mostly in the lower and upper bush margins. The area around Kaikorai Stream and Kaikorai Valley High School has not been assessed (this land is managed by the Ministry of Education) but aerial photographs indicate very little indigenous vegetation remains here. Vegetation on the true right of the stream, within the boundary of the UCMA, appears to be plantation forestry some of which has been cleared.

b) *Rare and notable species, habitats or communities:*

The podocarp/broadleaved forest on the steep south facing slopes of Brockville is classified as "Acutely Threatened" under the Threatened Environments Classification. It represents a habitat type that has less than 10 percent of indigenous cover left, nationally.

c) *Species diversity and Naturalness:*

The vegetation of the UCMA is estimated to be 80 percent indigenous.

A10.7.3 Principle threats to conservation values

Threat	Description
Plant and animal pests	a. Pest plant species within the Brockville slopes include sycamore, elderberry, Chilean flame creeper, gorse, Scottish broom, blackberry, holly, cotoneaster and cherry laurel. Animal pests have not been assessed but no feral animal sign was noted at the site

Threat	Description
	during a field inspection.
Fragmentation/loss of continuity/edge effects	a. To ensure the long-term viability of the UCMA, a vegetation buffer is desirable to guard against adverse effects of fragmentation and edge.

A10.7.4 Key management actions to be required or encouraged

Threat	Key management actions
Plant and animal pests	<p>a. The major threats to biodiversity in this reserve are the sycamores and cherry laurel, which are growing prolifically along the roadside, and encroaching on the native bush; these could be removed as a priority.</p> <p>b. Several shade tolerant species are present under the intact indigenous forest canopy, predominantly elderberry and hawthorn. These species could be actively managed to prevent future weed problems.</p> <p>c. Cotoneaster, holly, and Chilean flame creeper are all currently at low density, but have the potential to become serious plant pests.</p>
Fragmentation/loss of continuity/edge effects	<p>a. The Brockville slopes retain high indigenous biodiversity values and consideration could be made to extend the boundary of the mapped UCMA to include the adjacent and contiguous bush. This boundary extension would result in the inclusion of several hundred square meters of intact indigenous vegetation, including several mature podocarp trees. Bush habitat adjacent to the UCMA represents an important buffer zone which could help to reduce external impacts by minimising edge effects and improving connectivity.</p> <p>b. Apart from some relatively recent plantings (c. 5 years old) on the banks of Kaikorai Stream, the area within the mapped UCMA, but outside of the Brockville slopes,</p>

Threat	Key management actions
	contains little terrestrial biodiversity value. The stream itself, however, and the values associated with the riparian habitat are important in forming linkages. The area needs substantive assessment, along with the indigenous biodiversity values of the exotic plantation on the true right of the stream, to determine the appropriate management of any threats present.

A10.8 Caversham Valley

A10.8.1 Description of the area

This UCMA is composed of the south facing slopes of Caversham valley, including the following Reserves: Caversham, Lookout Point, Elgin, Caversham Valley Forest, Caversham Station, Forfar Street and Sidey Park. A high voltage transmission line runs through the UCMA parallel with the valley. Vegetation clearance along this easement has created a corridor of disturbed vegetation that is highly weedy.

A10.8.2 Conservation values to be protected

a) *Vegetation/Habitat types:*

The dominant vegetation cover of the south facing slopes of the Caversham valley is sycamore, with scattered patches of larger trees such as *Eucalyptus*, particularly on the steeper slopes, and pine. Under the exotic canopy, secondary growth whiteywood and remnant tree fuchsia are thriving. The vegetation of the high voltage transmission line is dominated by *Muehlenbeckia australis* and exotic woody weeds such as gorse and Scottish broom.

b) *Rare and notable species, habitats or communities:*

The vegetation that persists on the lower slopes of the UCMA is "Acutely Threatened" based on the Threatened Environment Classification, having less than 10 percent of the original vegetation cover remaining nationally, and a high degree of habitat fragmentation. The upper slopes are "At Risk" having between 20-30 percent of the original vegetation cover remaining nationally. Caversham Valley Forest Reserve has been identified as an area with important conservation values due to its population of the endemic velvet worm (*Peripatus* species).

c) *Species diversity and Naturalness:*

The vegetation of the UCMA is estimated to be 39-41 percent indigenous.

A10.8.3 Principle threats to conservation values

Threat	Description
Plant and animal pests	a. The most serious plant pest in the UCMA is sycamore; it forms extensive stands covering most of the area. Other pest trees

Threat	Description
	<p>include holly, hawthorn, cherry laurel and elderberry. Other woody weeds include gorse, Scottish broom and Darwin's barberry. Herbaceous weeds include aluminium weed, blackberry and Himalayan honeysuckle.</p> <p>b. Animal pests have not been assessed but no feral animal sign was noted at the site during a field inspection.</p>
Fragmentation/loss of continuity/edge effects	<p>a. To ensure the long-term viability of the UCMA, a vegetation buffer is desirable to guard against adverse effects of fragmentation and edge.</p>

A10.8.4 Key management actions to be required or encouraged

Threat	Key management actions
Plant and animal pests	<p>a. The highest biodiversity values of the UCMA are contained within the Caversham Bush Reserve, and management within this reserve could include control of sycamore and hawthorn within the bush remnant. Control of gorse, Himalayan honeysuckle and other plant pests that are competing with native plantings, is also desirable.</p>
Fragmentation/loss of continuity/edge effects	<p>a. Reserves to the east of Caversham Bush Reserve all have relatively low biodiversity values, with canopies largely dominated by exotic species, and a large proportion of exotic pest plants in the understory. These areas do, however, perform an important buffering function and provide a green corridor for indigenous fauna between Caversham Bush Reserve and the Town Belt UCMA.</p> <p>b. The entire UCMA is likely to provide habitat for <i>Peripatus</i> species.</p>

A10.9 Ross Creek/Balmacewen

A10.9.1 Description of the area

This UCMA is composed of two disconnected parts; to the north is Balmacewen Golf Course (both sides of Balmacewen Road) with Ross Creek and its generous riparian margins forming the northern boundary. The UCMA then extends in a south west direction, skipping over the

playing fields of Nairn Street Reserve, Bishopscourt and Balmacewen Intermediate, to continue along the Kaikorai Common.

A10.9.2 Conservation values to be protected

a) *Vegetation/Habitat types:*

The Kaikorai Common contains a re-vegetated riparian strip and a constructed wetland. The constructed wetland may provide some habitat for indigenous fauna, and may possibly be performing some ecological services in terms of improving water quality (based on a cursory field assessment). The Balmacewen Golf Course has two parts –a mown area of exotic grass interspersed with native and exotic shelter belt (based on aerial photos) and an extensive patch of remnant podocarp/broadleaved forest adjacent to Ross Creek itself. Further information on the vegetation of Ross Creek is contained within the ‘Hills Reserves Management Plan’.

b) *Rare and notable species, habitats or communities:*

Kaikorai Commons Reserve and the adjacent planted area around Shetland Street Organic Garden contain low level indigenous biodiversity values, and those that are there have resulted from community planting efforts. Two species listed on the protected indigenous species list are present here – wind grass (*Anemanthele lessoniana*) and narrow-leaved tree daisy (*Olearia lineata*), but both species have been planted (i.e. are not remnants of the original vegetation cover). As a large, intact green space, the Balmacewen Golf Course is likely to be an important habitat for indigenous fauna; the extent of the contribution, however, has not been fully assessed. Ross Creek Reserve and the adjoining Craigieburn Reserve have areas of remnant podocarp/broadleaved forest and regenerating kanuka scrub, with some exotics.

The vegetation within the UCMA is “At Risk” based on the Threatened Environment Classification having between 20-30 percent of the original vegetation cover remaining nationally, and a high degree of habitat fragmentation. The northern parts of the UCMA are likely to provide habitat for *Peripatus* species, and *Peripatus* are known to occur at Ross Creek under the native forest canopy.

c) *Species diversity and Naturalness:*

The vegetation of the UCMA is estimated to be 49-60 percent indigenous.

A10.9.3 Principle threats to conservation values

Threat	Description
Plant and animal pests	<p>a. No pest species of any significance have been found in the UCMA, based on a single cursory field survey. There is likely to be some plant pests, however, in the Balmacewen Golf Course – especially in the forest area on the northern boundary adjacent to Ross Creek.</p> <p>b. Pest species in the Ross Creek Reserve include sycamore, elderberry, Chilean flame creeper, gorse, Scottish broom, blackberry, holly, cotoneaster and cherry laurel.</p> <p>c. Animal pests have not been assessed but no feral animal sign was noted at the site during a field inspection.</p>

Threat	Description
Fragmentation/loss of continuity/edge effects	a. Minimal buffer to guard against adverse effects of fragmentation and edge in both terrestrial and freshwater/estuarine systems.

A10.9.4 Key management actions to be required or encouraged

Threat	Key management actions
Plant and animal pests	a. Although there are no pest species known that could pose a significant threat to indigenous biodiversity, management of sycamore is the highest priority within the Ross Creek Reserve.
Fragmentation/loss of continuity/edge effects	<p>a. Kaikorai Commons could be removed from the UCMA without significantly compromising the overall biodiversity values of the area. The biodiversity values associated with the planted area in Kaikorai Commons are small, despite plantings of locally threatened species. Biodiversity values of this area are probably sufficiently protected by interests of the community groups responsible for the plantings.</p> <p>b. The biodiversity values of parts of the Balmacewen golf course are likely to be small, but a more detailed field assessment is required to confirm this view.</p> <p>c. Consideration could be given to extending the UCMA boundary to include the entire Ross Creek Reserve and Craigieburn Reserves. These areas contain significant indigenous vegetation and are important habitat for indigenous fauna, including <i>Peripatus</i>. The addition of these areas to the UCMA would help to secure the connections between this UCMA and the Leith Valley.</p>

A10.10 Ocean Grove

A10.10.1 Description of the area

This UCMA is composed of a coastal strip of varying width from St Clair beach to the gun emplacements at the north end of Tomahawk beach, and extends inland to Victoria Road including several playing fields, the Chisholm Links Golf Course and Andersons Bay Cemetery. The majority of the vegetation in the UCMA is grassed playing fields, with occasional amenity plantings and windbreaks.

A10.10.2 Conservation values to be protected

a) *Vegetation/Habitat types:*

The coastal vegetation on the fore dune is almost entirely exotic (i.e. marram, lupins). The back dune and cliff vegetation is largely composed of native species not found naturally in Dunedin City (i.e. *Coprosma repens*, *Olearia traversiorum*). Weedy *C. repens* forms large areas of intact scrub, particularly around John Wilson Drive and the old Lawyers Head Car Park, and further along the coast around to the Tomahawk gun emplacements. Aerial photography indicates that there are no areas of intact indigenous vegetation remaining within the golf course or cemetery. The notable exception, to this pattern of weedy vegetation cover, is the turf communities; the steep areas of the cliff are covered with patches of *Hebe elliptica* with a ground cover of *Leptinella dioica*, *Samolus repens*, *Sellieria radicans*, *Juncus antarcticus* and other turf species. There are also patches of glasswort and native ice plant throughout the UCMA. Sporadic patches of ngaio and *Hebe elliptica* also occur along the entire span of the UCMA.

b) *Rare and notable species, habitats or communities:*

The turf communities on Lawyers Head may provide habitat for the “At Risk-Declining” species *Lepidium tenuicaule*, and although there is little indigenous vegetation present along this stretch of coastline, there is significant habitat for indigenous fauna, particularly gulls, oystercatchers and penguins. Lawyers Head is also habitat for the spotted shag (*Strictocarbo punctatus*), while the variable oystercatcher (*Haematopus unicolor*) and red-billed gulls (*Larus novaehollandia*) are present in the grassed playing fields.

The vegetation within the UCMA is mostly “At Risk” based on the Threatened Environment Classification having between 20-30 percent of the original vegetation cover remaining nationally, and a high degree of habitat fragmentation. The vegetation towards the eastern half of the site is “Acutely Threatened” based on the Threatened Environment Classification, having less than 10 percent of the original vegetation cover remaining nationally, and a high degree of habitat fragmentation.

c) *Species diversity and Naturalness:*

The vegetation of the UCMA is estimated to be 63 percent indigenous.

A10.10.3 Principle threats to conservation values

Threat	Description
Plant and animal pests	a. Animal pests have not been assessed; hare sign was found along the cliff tops at Lawyer’s Head during a field survey.
Fragmentation/loss of continuity/edge effects	a. Minimal buffer to guard against adverse effects of fragmentation and edge effects.

A10.10.4 Key management actions to be required or encouraged

Threat	Key management actions
Plant and animal pests	a. While the majority of the vegetation in

Threat	Key management actions
	<p>the UCMA is not indigenous, there are very few pest plants present, and those that are present appear to be adequately controlled by the current management regime.</p> <p>b. A small, stunted population of the exotic ngaio <i>Myoporum insulare</i> is used as a dune stabilisation species on the coastal side of Kettle Park. This is a Tasmanian species which hybridises freely with the native ngaio <i>M. laetum</i>. Ideally these few plants could be replaced over time with another species.</p>
<p>Fragmentation/loss of continuity/edge effects</p>	<p>a. Consideration could be given to extending the boundary of the UCMA to take in adjacent areas of coastal vegetation towards Smails Beach. At Smails beach there is a viable population of a stiletto fly <i>Anabarhynchus fuscofemoratus</i> (Diptera, family Therevidae); this species occurs on sand from the fore dune to the back dunes. The habitat for this fly is exposed sand surrounded by low native grasses and vegetation. This is the only place in the world that this insect is currently known to occur, and therefore the habitat warrants protection. Vehicles driving on dunes pose a risk to this species.</p> <p>b. Many exotic-vegetation dominated areas of the UCMA, including playing fields, the golf course and cemetery, are likely to contain important habitat for coastal bird species. In terms of increasing habitat connectivity, consideration could be given to including Tomahawk Lagoon into this UCMA. This area represents an important buffer zone which could help reduce external impacts by minimising edge effects.</p>

A10.11 Chingford Park

A10.11.1 Description of the area

The boundaries of this UCMA are aligned with the Chingford Park Recreation Reserve. The vegetation cover of the reserve/UCMA is made up of a wide range of exotic species, planted in dense belts around playing fields. The area forms part of a biodiversity corridor along with an area of adjacent kanuka scrub, which links the residential areas of north east valley with indigenous habitat further along the valley towards Bethune's Gully. A tributary of Lindsay Creek running through a gully in the forested area is largely surrounded by native ferns and shrubs, and this gully extends uphill beyond the boundary of the UCMA into a contiguous area of native bush, with primarily kanuka and tree fuchsia as canopy species. This gully has not

been the subject of a field assessment, but is important in the context of contributing to a corridor of habitat joining northeast valley with Bethune's Gully.

A10.11.2 Conservation values to be protected

a) *Vegetation/Habitat types:*

Two major habitats exist: European beech forest with indigenous understory, and kanuka scrub. The south facing slopes at the northern boundary of the reserve have a large area of c.50 year old European beech trees. The beech canopy has provided cover for a range of native species, particularly ferns, which are establishing a relatively diverse understory. This forested area contains a gully with a running clay-bottomed creek, a small tributary of Lindsay Creek. The gully to the east appears to contain similar kanuka scrub, as does the large area of vegetation on the privately owned south facing slopes further up Norwood Street. The native understory and riparian communities developing beneath the beech forest are of relatively high indigenous diversity.

b) *Rare and notable species, habitats or communities:*

The native understory and riparian communities developing beneath the European beech are of relatively high indigenous diversity with a low prevalence of weedy exotic species. The kanuka scrub is notable in that it is fairly large and contiguous with Chingford Park. It has a relatively intact canopy, provides good protection of the creek, and has low numbers of weedy species. This UCMA is "At Risk" based on the Threatened Environment Classification having between 20-30 percent of the original vegetation cover remaining nationally.

c) *Species diversity and Naturalness:*

The vegetation of the UCMA is estimated to be 81-84 percent indigenous.

A10.11.3 Principle threats to conservation values

Threat	Description
Plant and animal pests	<p>a. In Chingford Park sporadic incidences of Darwin's barberry, holly and cotoneaster have been reported. Towards the western boundary of the park, c.10-20 year old sycamores are becoming increasingly prolific.</p> <p>b. In the kanuka scrub there are a few large trees of holly and hawthorn growing on the margins.</p> <p>c. Animal pests have not been assessed but no animal sign was seen during a field assessment.</p>
Fragmentation/loss of continuity/edge effects	<p>a. Minimal buffer to guard against adverse effects of fragmentation and edge effects.</p>

A10.11.4 Key management actions to be required or encouraged

Threat	Key management actions
Plant and animal pests	<p>a. Consideration could be given to gradually and progressively removing sycamores that are growing within the western area of Chingford Park; this will help to slow down the invasion of sycamore seedlings into the bush margin. The tree weeds around the margin of the kanuka scrub to the north of the reserve could be removed fairly easily and in doing so would remove these as potential seed sources.</p>
Fragmentation/loss of continuity/edge effects	<p>a. The long-term viability of the Chingford Park UCMA could be improved if the boundary were extended to include the adjacent kanuka scrub. The structure of the intact mature European beech canopy of Chingford Park is complementary to the regenerating kanuka scrub, and both areas are relatively free of noxious plant pests. These areas, together, form a biodiversity corridor which links the residential areas of North East Valley with indigenous habitat further up the valley. They could together, also form parts of a future corridor linking Chingford Park to Bethune's Gully via Campbells Road.</p> <p>b. The neighbouring gully and faces, adjacent to the mapped Chingford Park UCMA, contain some high quality kanuka scrub. These areas represent important buffer zones which can help reduce external impacts by minimising edge effects.</p>

A10.12 Buccleugh Street, North East Valley

A10.12.1 Description of the area

This UCMA is composed of two components: a large gully area including Buccleugh Street Reserve and adjacent private property, and a smaller area including Dalmore Street Reserve and the adjacent private property.

A10.12.2 Conservation values to be protected

a) Vegetation/Habitat types:

The large gully area including Buccleugh Street Reserve and adjacent private property has a south facing gully of tall vegetation dominated by exotic species, primarily wilding sycamore with peripheral plantings of *Eucalyptus* species and crack willow. There is also an area of kanuka scrub in the centre the reserve. The vegetation is mostly between 5-10 m tall, and forms a fairly complete cover, aided in places by a sprawling cover of *Muehlenbeckia australis*. The understory has a large native component, primarily ferns, but also *Astelia*, *Coprosma* species and red mapou. Light

levels in the understory are likely to be too low for sycamore seed to germinate. Larger trees of regenerating whiteywood and remnant tree fuchsia are present throughout. A clay-bottomed creek runs the length of the UCMA, and there is a fairly continuous native riparian margin along its length. At the northern end, some forestry species have been recently felled. The small area of the UCMA that includes Dalmore Street Reserve and adjacent private property is surrounded by a south-facing patch of sycamore, with patches of kanuka spread throughout. The bush margin is dominated by weedy species.

b) Rare and notable species, habitats or communities:

The vegetation within the UCMA is mostly "At Risk" based on the Threatened Environment Classification having between 20-30 percent of the original vegetation cover remaining nationally, and a high degree of habitat fragmentation.

c) Species diversity and Naturalness:

The vegetation of the UCMA is estimated to be 62-74 percent indigenous.

A10.12.3 Principle threats to conservation values

Threat	Description
Plant and animal pests	<p>a. The major plant pest found in both areas of the UCMA is sycamore; this species comprises most of the biomass of the UCMA. Weeds are present in the understory where there are gaps in the canopy; notably ivy, male fern and rangiora.</p> <p>b. Other major pests include hawthorn, Himalayan honeysuckle and old man's beard. Lesser pests are blackberry, gorse and crack willow.</p> <p>c. Animal pests have not been assessed; possum sign was found in the Buccleugh Street reserve during a field survey.</p>
Fragmentation/loss of continuity/edge effects	<p>a. Not assessed.</p>

A10.12.4 Key management actions to be required or encouraged

Threat	Key management actions
Plant and animal pests	<p>a. There are no immediate threats to indigenous biodiversity at this UCMA from plant or animal pests – the limited indigenous biodiversity values that do exist are improved by the habitat created by the exotic plants, particularly the sycamore canopy.</p> <p>b. Any disturbance of the canopy would likely cause a proliferation of weedy species. There is, however, little evidence of succession of woody species in these areas, possibly because of predation and/or grazing of seeds</p>

Threat	Key management actions
	<p>and young plants by exotic animals, and possibly compounded by the lack of habitat in the canopy for native avifauna</p> <p>c. Unless future management includes under-planting with shade tolerant native tree species, succession to a native canopy is likely to be a very long-term prospect within this UCMA.</p>
Fragmentation/loss of continuity/edge effects	a. Not assessed.

A10.13 Somerville Street

A10.13.1 Description of the area

This UCMA is made up of three areas: steep vegetated faces above Marne Street and following Larnach Road as far as the roundabout; the Southeast facing slopes from Dunrobin Street to Andersons Bay Inlet running parallel to Somerville Street; and the continuation of the same southeast facing slopes from above Dunrobin Street to Highcliff Road.

A10.13.2 Conservation values to be protected

a) *Vegetation/Habitat types:*

The almost sheer faces above Marne Street contain patches of relatively diverse and intact vegetation, with patches of broadleaf, tree fuchsia, whiteywood, *Coprosma* species, kowhai, and totara. Several fern species are growing at the base of the cliffs, as well as perching in rock crevices above. On areas above Larnach Road there is a more typical mix of secondary growth whiteywood and tree fuchsia, interspersed with weeds, and largely smothered by *Muehlenbeckia australis*. The slopes above Somerville Street are composed of exotic tree species and weedy vegetation (assessed from aerial photographs). The area above the Dunrobin Street/Somerville Street intersection may also contain a sparse patch of kanuka (assessed from aerial photographs). The vegetation in the southern part of this UCMA has also been assessed by aerial photography and comprises second growth indigenous vegetation. The northern part of the UCMA, opposite Portland Place, has c.10 year old planted natives with further 2-3 year old planting in the gorse area above it. The older plantings are fairly well established in places, but overall the area supports poor diversity and no natural regeneration is occurring.

b) *Rare and notable species, habitats or communities:*

The indigenous vegetation that persists in this UCMA is "Acutely Threatened" based on the Threatened Environment Classification having less than 10 percent of the original vegetation cover remaining nationally, and a high degree of habitat fragmentation. Of all the areas contained in this UCMA, the steep faces above Marne Street have the most indigenous diversity and the fewest weeds.

c) *Species diversity and Naturalness:*

The vegetation of the UCMA is estimated to be 71 percent indigenous.

A10.13.3 Principle threats to conservation values

Threat	Description
Plant and animal pests	a. Several plant pests are present throughout the UCMA, notably banana passion fruit, gorse, Scottish broom, hawthorn, and Darwin's barberry.
Fragmentation/loss of continuity/edge effects	a. Minimal buffer to guard against adverse effects of fragmentation and edge effects in both terrestrial and freshwater/estuarine systems.

A10.13.4 Key management actions to be required or encouraged

Threat	Key management actions
Plant and animal pests	a. Some weed control would benefit the conservation values of this UCMA– particularly the control of Darwin's barberry which is in the initial stages of colonisation. While the contiguous area of vegetation on Larnach Road has relatively low biodiversity value, there is a large buddleja (buddleia) population on Larnach Road which could be removed to prevent spread of seeds into the nearby UCMA.
Fragmentation/loss of continuity/edge effects	a. Consideration could be made to extending the UCMA to include the steep faces above Portobello Road. The area below Dunrobin Road is of lesser value as no obvious indigenous vegetation remains in this area; however a more thorough assessment is required to substantiate this. The area above Dunrobin Road has some indigenous vegetation which is also contained within the "Acutely Threatened" land environment classification, and the kanuka scrub further up Dunrobin Road could be added as an extension of the UCMA. There is an area of vegetation on private land on Every Street which could be assessed for biodiversity values, and for inclusion into the UCMA. b. Including these areas into the UCMA could provide buffering from disturbance and minimise edge effects.

A10.14 Upper St Clair

A10.14.1 Description of the area

This UCMA has two distinct habitat types: the coastal vegetation landward of the Beaches, and the cliff vegetation. The UCMA takes in a popular walking track. There has been significant residential development within this UCMA, and this may have had cumulative negative impacts on the biodiversity values.

A10.14.2 Conservation values to be protected

a) Vegetation/Habitat types:

The coastal vegetation around Second Beach is a mixture of remnant indigenous and naturalised exotic species. The vegetation on the coastal side of the walking track is largely made up of *Hebe elliptica*, while the hillside vegetation is a mixture of *H. elliptica*, ngaio and *Coprosma repens*, other exotics and a relatively diverse understory of coastal fern species in places. The vegetation on the cliff top areas is similar to that of Lawyer's Head, but on a larger scale. Low *H. elliptica* occurs here, with patches of turf plants, native ice plant and glasswort interspersed with exotic grasses. Fairly large patches of ngaio are visible, particularly higher on the cliffs and in the gullies.

b) Rare and notable species, habitats or communities:

The remaining indigenous vegetation that persists in these areas is "Acutely Threatened" based on the Threatened Environment Classification having less than 10 percent of the original vegetation cover remaining nationally, and a high degree of habitat fragmentation. This coastal habitat, being less frequently used by humans, is probably more valuable habitat for indigenous animals than the adjacent sandy beach of St Clair. During a brief field assessment, New Zealand fur seals (*Arctocephalus forsteri*), a white-faced heron (*Egretta novaehollandiae*) and a "Threatened-Nationally Critical" black-billed gull (*Larus bulleri*) were observed. The cliff vegetation is also potential habitat for rare and threatened plant species, such as *Lepidium tenuicaule* "At Risk-Declining".

c) Species diversity and Naturalness:

The vegetation of the UCMA is estimated to be 61 percent indigenous.

A10.14.3 Principle threats to conservation values

Threat	Description
Plant and animal pests	<p>a. There are several plant pests present at the UCMA, including gorse, convolvulus, <i>Coprosma repens</i>, ivy and blackberry.</p> <p>b. Animal pests have not been assessed; no animal sign was noted at the site during a field visit.</p>
Fragmentation/loss of continuity/edge effects	<p>a. Minimal buffer to guard against adverse effects of fragmentation and edge effects in both terrestrial and freshwater/estuarine systems.</p>

A10.14.4 Key management actions to be required or encouraged

Threat	Key management actions
Plant and animal pests	a. None of the pest plants found at the site pose a specific risk to indigenous biodiversity values. <i>Echium pininana</i> , which is present at the site, has the potential to become a more widespread pest plant as it has elsewhere in the City and its removal is desirable. Future re-vegetation projects at the site may consider removing the <i>Coprosma repens</i> and replacing it with more suitable species i.e. indigenous ngaio.
Fragmentation/loss of continuity/edge effects	a. The indigenous vegetation remaining in this UCMA is "Acutely Threatened", and retains some relatively high quality vegetation. There are areas of vegetation adjacent to the current mapped UCMA that could be included. These areas represent important buffer zones which could reduce external impacts by minimising edge effects.

A10.15 Leith Valley

A10.15.1 Description of the area

Leith Valley is an important green corridor connecting the urban environment and town belt to the rural environment. The majority of the land within the mapped area is privately owned, and consists of the slopes of the Leith Valley which contain several patches of high quality indigenous vegetation, including a large stand of rimu and kahikatea, and several patches of South Island kowhai. Most of the area is made up of secondary growth vegetation – primarily mahoe, tree fuchsia and kanuka. As the majority of the land within the Leith Valley UCMA is on private land, this assessment has been made primarily on the basis of aerial photographs.

A10.15.2 Conservation values to be protected

a) *Vegetation/Habitat types:*

The vegetation of the UCMA is highly variable; there are several patches of high quality indigenous vegetation, including a large stand of rimu and kahikatea, and several patches of kowhai. Most of the UCMA is made up of secondary growth vegetation – primarily whiteywood, tree fuchsia and kanuka. The balance is made up of various exotic species, particularly sycamore and willow.

b) *Rare and notable species, habitats or communities:*

The Land Environments contained within the Leith Valley UCMA are a combination of "Acutely Threatened", having less than 10 percent indigenous vegetation remaining, and "At Risk" having between 20-30 percent indigenous vegetation remaining (based in the Threatened Environments Classification). *Peripatus* species occurs on the sides of the track down into the Leith Valley.

c) *Species diversity and Naturalness:*

Not assessed.

A10.15.3 Principle threats to conservation values

Threat	Description
Plant and animal pests	a. Not assessed.
Fragmentation/loss of continuity/edge effects	a. Minimal buffer to guard against adverse effects of fragmentation and edge.

A10.15.4 Key management actions to be required or encouraged

Threat	Key management actions
Plant and animal pests	a. Not assessed.
Fragmentation/loss of continuity/edge effects	a. Consideration could be given to extending the boundary of this UCMA to include adjacent vegetated areas. Some of the adjacent vegetated areas have variable biodiversity values in themselves, but represent important buffer zones which could reduce external impacts by minimising edge effects.

Appendix Two: Natural Environment 2GP Section 10

Please view Appendix Two at <https://2gp.dunedin.govt.nz/2gp/hearings-schedule/natural-environment.html>

Appendix Three: Areas of Significant Conservation Value (ASCVs) Mapping Submissions

Please view Appendix Three at <https://2gp.dunedin.govt.nz/2gp/hearings-schedule/natural-environment.html>

Appendix Four: Mapping amendments

Please view Appendix Four at <https://2gp.dunedin.govt.nz/2gp/hearings-schedule/natural-environment.html>