

Proposed Selwyn District Plan



Right of Reply Report

Ecosystems and Indigenous Biodiversity

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30 September 2022

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List of submitters and further submitters addressed in this report

Submitter ID	Submitter Name	Abbreviation
DPR-0019	Sue Jarvis	S Jarvis
DPR-0032	Christchurch City Council	CCC
DPR-0097	Flock Hill Holdings	Flock Hill
DPR-0101	Chorus New Zealand Limited, Spark New Zealand Trading Limited & Vodafone New Zealand Limited	Chorus, Spark & Vodafone
DPR-0104	Lukas Travnicek	L Travnicek
DPR-0136	Lynn & Malcolm Stewart, Lynn & Carol Townsend & Rick Fraser	L & M Stewart, L & C Townsend & R Fraser
DPR-0142	New Zealand Pork Industry Board	NZ Pork
DPR-0154	Ev Moorhead	E Moorhead
DPR-0157	Kevin & Bonnie Williams	K & B Williams
DPR-0159	Lincoln Envirotown Trust	Lincoln Envirotown
DPR-0168	Paula Godfrey	P Godfrey
DPR-0176	Brent Macaulay & Becky Reid	B Macaulay & B Reid
DPR-0207	Selwyn District Council	The Council
DPR-0209	Manmeet Singh	M Singh
DPR-0212	Ellesmere Sustainable Agriculture Incorporated	ESAI
DPR-0215	Winstone Aggregates	Winstone
DPR-0233	Canterbury Botanical Society	CBS
DPR-0234	Mark Booker & Alexandra Roberts	M Booker & A Roberts
DPR-0239	Benjamin Lowe	B Lowe
DPR-0246	Craig Robertson	C Robertson
DPR-0260	Canterbury Regional Council (Environment Canterbury)	CRC
DPR-0290	Hamish Rennie	H Rennie
DPR-0298	Trices Road Re-zoning Group	Trices Road
DPR-0299	Steve & Jane West	S & J West
DPR-0301	Upper Waimakariri/Rakaia Group	UWRG
DPR-0302	Alison Smith, David Boyd & John Blanchard	A Smith, D Boyd & J Blanchard
DPR-0305	April Fitzjohn	A Fitzjohn
DPR-0343	Canterbury District Health Board	CDHB
DPR-0345	Porters Alpine Resort	PAR
DPR-0353	Horticulture New Zealand	HortNZ
DPR-0357	Siana Fitzjohn	S Fitzjohn
DPR-0358	Rolleston West Residential Limited (RWRL)	RWRL
DPR-0363	Iport Rolleston Holdings Limited	IRHL
DPR-0367	Orion New Zealand Limited	Orion
DPR-0368	Beef + Lamb New Zealand Ltd & Deer Industry New Zealand	Beef + Lamb NZ & Deer NZ
DPR-0371	Christchurch International Airport Limited	CIAL
DPR-0372	Dairy Holdings Limited	Dairy Holdings
DPR-0374	Rolleston Industrial Holdings Limited	RIHL
DPR-0375	Waka Kotahi NZ Transport Agency	WKNZTA
DPR-0379	Jill Thomson	J Thomson
DPR-0381	Coleridge Downs Limited	CDL
DPR-0384	Rolleston Industrial Developments Limited	RIDL
DPR-0388	Craigmore Farming Services Limited	Craigmore
DPR-0390	Rakaia Irrigation Limited	RIL
DPR-0391	Castle Hill Adventure Tours Limited	CHAT
DPR-0407	Royal Forest & Bird Protection Society of New Zealand Inc.	Forest & Bird
DPR-0414	Kāinga Ora - Homes & Communities	Kāinga Ora
DPR-0421	Richard & Anna Hill	R & A Hill
DPR-0422	Federated Farmers of New Zealand - North Canterbury	FFNC

Submitter ID	Submitter Name	Abbreviation
DPR-0423	PHC Terrace Downs Resort Limited	PHC Terrace Downs
DPR-0427	Lou Sanson, Director-General of Conservation	DoC
DPR-0437	Mt Algidus Station, Glenthorne Station, Lake Coleridge, Mt Oakden & Acheron Stations	The Stations
DPR-0439	Rayonier Matariki Forests	Rayonier
DPR-0440	Environmental Defence Society Incorporated	EDSI
DPR-0441	Manawa Energy Limited (formerly Trustpower Ltd)	Manawa
DPR-0446	Transpower New Zealand Limited	Transpower
DPR-0453	Midland Port, Lyttelton Port Company Limited	Midland & Lyttelton Ports
DPR-0454	Central Plains Water Limited	CPW
DPR-0456	Four Stars Development & Gould Developments Ltd	Four Stars & Gould
DPR-0458	KiwiRail Holdings Limited	KiwiRail
DPR-0461	Dunweavin 2020 Ltd	Dunweavin
DPR-0468	North Canterbury Fish and Game	Fish & Game
DPR-0471	Duncan & Kate Calder, Robin Jamison & Richard Reed	D & K Calder, R Jamison & R Reed
DPR-0486	Coleridge Downs Limited	CDL
DPR-0492	Kevler Development Ltd	Kevler
DPR-0493	Gallina Nominees Ltd & Heinz-Wattie Ltd Pension Plan	Gallina & Heinz-Wattie
DPR-0565	Shelley Street Holdings Ltd	Shelley Street

Abbreviations

Abbreviations used throughout this report are:

Abbreviation	Full text
CON	Controlled activity status
CRPS	Canterbury Regional Policy Statement 2013
DIS	Discretionary activity status
GRUZ	General Rural Zone
NC	Non complying activity status
NES-F	National Environmental Standard for Freshwater 2020
NPS-ET	National Policy Statement on Electricity Transmission 2008
NPS-IB	Draft National Policy Statement on Indigenous Biodiversity
NPS-REG	National Policy Statement for Renewable Electricity Generation 2011
PDP	Proposed Selwyn District Plan
Planning Standards	National Planning Standards
RDIS	Restricted discretionary activity status
RMA or Act	Resource Management Act 1991
SKIZ	Porters Ski Zone
SNA	Significant Natural Area

1. Purpose of Report

- 1.1 The purpose of this report is to respond to the questions raised by the Hearings Panel during Hearing 10: Ecosystems and Indigenous Biodiversity, and for the Officer to propose any further amendments to the notified version of the Proposed District Plan (PDP) above those recommended in the Officers s42A evidence report.

2. Hearing Panel's Questions to the s42a Reporting Officer and/or the Submitters and their Response

- 2.1 The following topics provide a response to questions were received from the Hearing Panel or posed to

submitters for the Ecosystems and Indigenous Biodiversity (ECO) Chapter, which sat on 1 and 2 August 2022.

- 2.2 The Hearing Panel questions have been addressed in order of how the provisions appear in the PDP; i.e., definitions, maps, objectives and policies, rules, rule requirements, matters for control or discretion and 'other' matters.
- 2.3 Amendments to recommendations to accept, accept in part, or reject submission points are shown in a consolidated manner in **Appendix 1**.
- 2.4 Recommended amendments to Plan provisions are shown in a consolidated manner in **Appendix 2**.

3. Definitions

Biodiversity offset

- 3.1 DOC¹ requests that the definition of biodiversity offset be amended to refer to a preference for a net gain in biodiversity. Manawa² also requests that the definition be amended, so that it only apply where residual effects would be more than minor; avoidance, remediation and mitigation need not be applied sequentially; and to clarify that 'no net loss' refers to loss of indigenous biodiversity. On reflection, I consider that:
 - a. Biodiversity offsets are only to be used when other options are inadequate, and the hierarchy of effects management should be applied
 - b. 'no net loss' is proposed as a defined term, and so the addition of 'indigenous biodiversity values' is superfluous.
 - c. The purpose of a definition is to define the term, not to describe what it is trying to achieve – that is the purpose of ECO-SCHED5.
- 3.2 I therefore recommend that the definition be amended as shown in **Appendix 2**, to increase clarity and ease of use for Plan users.
- 3.3 'Biodiversity offset' is a term proposed for definition in the NPS-IB, and so it would be appropriate to revisit this definition, should the NPS-IB be gazetted prior to the release of decisions on the PDP.

Improved pasture

- 3.4 CRC³, CBS, Forest & Bird,⁴ DOC⁵ and EDSI⁶ expressed concern that the proposed definition of 'improved pasture' is insufficiently clear, and that the associated rules would allow for unintended clearance as a permitted activity.

¹ Evidence of Amy Young for DOC, from para 168, and Appendix 1

² Evidence of Romae Callard for Manawa, para 9

³ Evidence of Philip Grove for CRC, from para 33

⁴ Legal submissions for Forest & Bird, para 21, evidence of Nicholas Head for Forest & Bird, Section 14.

⁵ Evidence of Amy Young for DOC, from para 165

⁶ Legal submissions for EDSI, from para 12

- 3.5 Following consultation with Dr Lloyd, I recommend that the definition be amended to remove the reference to the need for the exotic vegetation to have been deliberately introduced, leaving the definition including areas where exotic pasture species dominate in cover and composition, and where the naturally occurring indigenous species are largely absent from that area.
- 3.6 The recommended amended definition is shown in **Appendix 2**.
- 3.7 Scope for the amendment is provided by submission points DPR-0301.003 UWRG, DPR-0407.002 Forest & Bird, DPR-0440.001 EDSI, DPR-0422.052 FFNC, and DPR-0427.013 DOC.
- 3.8 'Improved pasture' is a term proposed for definition in the NPS-IB, and so it would be appropriate to revisit this definition, should the NPS-IB be gazetted prior to the release of decisions on the PDP.

Indigenous biodiversity

- 3.9 HortNZ noted a discrepancy in the Officer's response to Panel questions, and asked for clarification about the proposed definition of indigenous biodiversity. I can confirm that the definition as shown in Appendix 1 to the Officer's response⁷ is the one that was intended.
- 3.10 DOC requested an amendment to the definition, so that it starts "Is indigenous biodiversity".⁸ I agree that the requested amendment would exclude exotic species that are naturalised in New Zealand, including plant and animal pests, and therefore recommend that the definition be amended.
- 3.11 The proposed amended definition is shown in **Appendix 2**.
- 3.12 Scope for the amendment is provided by submission point DPR-0427.014 DOC.

Indigenous vegetation

- 3.13 UWRG,⁹ Forest & Bird,¹⁰ DOC,¹¹ and EDSI¹² expressed concern that the proposed definition of 'indigenous vegetation' does not include non-vascular plants. Following consultation with Dr Lloyd, I recommend that the definition be amended to include bryophytes and lichens. Bryophytes (mosses, liverworts and hornworts) all fall within the definition of a plant, but are included in the proposed definition for clarity. Lichens are not plants, and so need to be listed separately.
- 3.14 ESAI expressed concern that the difference between 'naturally occurring' vegetation and deliberately planted vegetation be recognised.
- 3.15 The proposed amended definition is shown in **Appendix 2**.
- 3.16 Scope for the amendment is provided by submission points DPR-0260.063 CRC, DPR-0301.002 UWRG, DPR-0407.004 Forest & Bird, DPR-0427.015 DOC and DPR-0441.018 Manawa.

⁷ https://www.selwyn.govt.nz/_data/assets/pdf_file/0004/992191/EIB-Officer-response-to-Panel-questions-Appendix-1-Recommended-Amendments.pdf

⁸ Evidence of Amy Young for DOC, para 184, evidence of Michael Harding for DOC, from para 53.

⁹ Evidence of UWRG, Section 3

¹⁰ Legal submissions on behalf of Forest & Bird, para 25, evidence of Nicholas Head for Forest & Bird, Section 13

¹¹ Evidence of Amy Young for DOC, Appendix 1, evidence of Michael Harding for DOC, from para 62

¹² Legal submission on behalf of EDSI, from para 9

No net loss

- 3.17 Manawa¹³ requested the insertion of a definition of ‘no net loss’. I recommended in the s42A report that this be accepted, subject to the amendment suggested by Forest & Bird¹⁴. On reflection, I consider that the phrase ‘biodiversity compensation’ should be removed from the definition because biodiversity compensation applies only when biodiversity offsetting is insufficient, and it is biodiversity offsetting that requires no net loss.
- 3.18 I therefore recommend that the definition be amended as shown in **Appendix 2**. Scope for the amendment is provided by DPR-0441.026 Manawa and DPR-0407.FS051 Forest & Bird.
- 3.19 The scale of the recommended change is such that a s32AA assessment is not required.

Threatened and at risk species

- 3.20 In his appearance for DOC, Mr Harding agreed to provide the Panel with a proposed definition of ‘threatened and at risk species’. The definition proposed by Mr Harding¹⁵ is:
- “means any indigenous species of flora or fauna that meets the criteria for Threatened or At Risk species in the New Zealand Threat Classification System Manual available at: <https://nztcs.org.nz/>”*
- 3.21 Following consultation with Dr Lloyd, I recommend that the term be adopted in part, with a stylistic amendment so that the definition starts “any...”, with a reference to the New Zealand Threat Classification System but not the manual,¹⁶ and without the mention of the website within the definition. Instead, the hyperlink from ‘New Zealand Threat Classification System’ to <https://nztcs.org.nz/> would form part of the definition, and so it need not be listed separately in the definition.
- 3.22 Consequential amendments would also be required to ECO-MAT1,1,b, ECO-SCHED1, and ECO-SCHED2, so that the proposed defined term applies as intended.
- 3.23 The recommended term and amendments to ECO-MAT1,1,b, ECO-SCHED1, and ECO-SCHED2 are shown in **Appendix 2**.
- 3.24 Scope for the amendments are provided by submission points DPR-0427.097 DOC and DPR-0440.013 EDSI.

4. Policies

ECO-P3

- 4.1 UWRG,¹⁷ HortNZ,¹⁸ EDSI¹⁹ and DOC²⁰ raised concerns that the use of the phrase “small scale, or low impact activities” in ECO-P3 would result in confusion about what might be permitted. ECO-P3 provides policy

¹³ DPR-0441.026 Manawa

¹⁴ DPR-0407.FS051 Forest & Bird

¹⁵ Memorandum for the Director-General of Conservation *Tumuaki Ahurei* 5 August 2022, para 10

¹⁶ The New Zealand Threat Classification System Manual set out the process for determining the risk of extinction of a species based on estimates of population size and trend projected over three generations.

¹⁷ Evidence of UWRG, Section 4

¹⁸ Evidence of Lynette Wharfe for HortNZ, para 6.15

¹⁹ Legal submissions for EDSI, from para 23

²⁰ Evidence of Amy Young for DOC, from para 35 and Appendix 1

guidance for the listed permitted activities in ECO-RC, and, for those activities that require a resource consent, what might be considered for approval given the nature of the proposed activity.

- 4.2 I consider that the amendment proposed by Ms Young in her Appendix 1²¹ would improve clarity and certainty for Plan users, and recommend that the amendment be accepted.
- 4.3 The recommended amendments are shown in **Appendix 2**.
- 4.4 Scope for the recommended amendment is provided by submission point DPR-0427.094 DOC.

ECO-P4

- 4.5 DOC²² requested amendments to ECO-P4, so that activities that would adversely affect the ecological values of a SNA are to be avoided, rather than activities that would adversely affect indigenous biodiversity values. This is because any activity would be likely to adversely affect indigenous biodiversity values to some degree, and so would be unable to be considered for approval. I consider that the requested amendment would improve clarity and ease of use for Plan users, when accompanied by the requested definition of 'ecological integrity' as set out in the NPS-IB. For consistency of terminology throughout the PDP, I recommend that amendments are also made to ECO-RF.1.b, ECO-REQG.1 and ECO-MAT1.d, so that the defined term is used, rather than something with the same intent but different phrasing.
- 4.6 EDSI²³ expressed concern about the introduction of the phrase 'clearance of unwanted organisms'. HortNZ²⁴ support the inclusion of the phrase, on the basis that the recommendations for biosecurity provisions arising from Hearing 6 are also implemented. I continue to recommend this amendment, for the reasons set out starting at paragraph 5.10 of this report.
- 4.7 The recommended definition of 'ecological integrity' and amendments to ECO-P4, ECO-RF.1.b, ECO-REQG.1 and ECO-MAT1.d are shown in **Appendix 2**.
- 4.8 Scope for the recommended amendments is provided by submission point DPR-0427.095 DOC.

ECO-P6

- 4.9 DOC²⁵ and EDSI²⁶ requested that ECO-P6 be extended to cover all threatened or at risk species, without restricting ECO-P6 to crested grebe and canterbury mudfish and their habitats.
- 4.10 While I agree that it would be appropriate for ECO-P6 to protect all threatened or at risk species, I prefer the amended wording shown in **Appendix 2** for the following reasons:
 - a. use of the term 'threatened and at risk species' rather than the phrase 'threatened or at risk species' requested by DOC²⁷ links the policy to the proposed defined term;

²¹ Evidence of Amy Young for DOC, Appendix 1

²² Evidence of Amy Young for DOC, from para 42 and Appendix 1

²³ Legal submissions for EDSI, from para 26

²⁴ Evidence of Lynette Wharfe for HortNZ, para 6.21

²⁵ Evidence of Michael Harding for DOC, from para 134, evidence of Amy Young for DOC, para 57 and Appendix 1

²⁶ Legal submissions for EDSI, para 25

²⁷ DPR-0427.098 DOC

- b. 'managing' activities is not necessarily sufficient to protect species, and so I recommend retaining the requirement that significant adverse effects are to be avoided, with other effects to be managed.

4.11 The proposed amendments to ECO-P6 are shown in **Appendix 2**.

4.12 Scope for the amendment is provided by submission points DPR-0427.097 DOC and DPR-0440.013 EDSI.

ECO-P8

4.13 Transpower²⁸ submitted that ECO-P8 needs to be amended to clarify that biodiversity offsetting can only be considered where it has been proposed or agreed to by the resource consent applicant or designation requiring authority²⁹, rather than considering it in all cases where ECO-P8 applies. This is specified in the RMA³⁰ and is consistent with every other measure to ensure positive effects on the environment or to compensate for adverse effects, and so I do not consider that ECO-P8 requires specific amendment to achieve the relief sought.

ECO-P11

4.14 DOC³¹ requested that ECO-P11 be amended to specify that the relevant pest plants are those listed in ECO-SCHEDI³² and the Canterbury Regional Pest Management Plan. I do not support reference to the Canterbury Regional Pest Management Plan because it is a regional council document subject to its own review processes. If it were included in ECO-P6, an inefficient Schedule 1 process would be required to update the policy to refer to the updated plan, should the Plan be updated during the life of the PDP. Given that ECO-SCHEDI lists only plant species that are not listed in the Canterbury Regional Pest Management Plan, I therefore do not support the inclusion of ECO-SCHEDI in ECO-P11. Other PDP chapters addressing s6 RMA matters do include references to schedules, but in those instances there is no overlap with regional responsibilities.

4.15 I therefore continue to recommend that ECO-P11 be retained as notified.

ECO-PA

4.16 Forest & Bird³³ and DOC³⁴ each requested that proposed ECO-PA be amended to better ensure that indigenous vegetation is maintained on dryland ecosystems that are extensively grazed. I agree that the requested amendment would provide better clarity and certainty for Plan users, and therefore recommend that the amendment be made.

4.17 The recommended amendment is shown in **Appendix 2**.

4.18 Scope for the amendment is provided by submission point DPR-0407.FS116 Forest & Bird.

²⁸ Evidence of Ainsley McLeod for Transpower, para 42

²⁹ Evidence of Ainsley McLeod for Transpower, starting at para 34

³⁰ ss104(1)(ab), s171(1B) RMA

³¹ Evidence of Michael Harding for DOC, from para 134, evidence of Amy Young for DOC, from para 72 and Appendix 1

³² ECO-SCHEDI is referred to as ECO-TABLE1 and ECO-TABLE2 in the evidence of Amy Young for DOC, Appendix 1

³³ Evidence of Nicholas Head for Forest & Bird, Section 23.

³⁴ Evidence of Amy Young for DOC, para 89 and Appendix 1

ECO-PB

- 4.19 Transpower³⁵ submitted that ECO-PB as proposed in the s42A report would not be sufficient to provide a clear policy pathway for important infrastructure, because the proposed wording does not ‘cure’ the potential for other policies to override the intended direction for important infrastructure set out in EI-P2, particularly in relation to ECO-P4, which required the avoidance of many activities in SNAs.³⁶
- 4.20 In his evidence for DOC, Mr Harding³⁷ suggested that ECO-PB should apply only to nationally important infrastructure, rather than to all important infrastructure. In her evidence for DOC, Ms Young³⁸ requested that ECO-PB be amended by the introduction of a fourth point requiring the investigation of alternatives that would minimise adverse effects on indigenous biodiversity.
- 4.21 Forest & Bird³⁹ and EDSI⁴⁰ agreed with Mr Harding that ECO-PB should only apply to nationally important infrastructure, or in the least to nationally and regionally important infrastructure as set out in the CRPS. I note that the only facilities, services, and installations proposed to be listed in the definition of ‘important infrastructure’ that are not explicitly listed within the CRPS definitions of ‘critical infrastructure’ and ‘regionally significant infrastructure’ are the dairy processing plants at Darfield and Dunsandel, West Melton Aerodrome, and Rolleston Prison.⁴¹ As such, I do not consider it necessary to restrict the applicability of ECO-PB beyond important infrastructure.
- 4.22 I have considered deleting ECO-PB and amending ECO-P4 as discussed at the hearing, but on reflection consider that amending ECO-PB in a manner consistent with that sought by Transpower⁴² would provide a clearer direction as to the intended policy direction for important infrastructure. ECO-P5 is recommended for deletion, and so need not be included in ECO-PB.
- 4.23 The recommended amended policy ECO-PB is shown at **Appendix 2**.
- 4.24 Scope for the amendment is provided by submission points DPR-0367.055, DPR-0367.056 Orion, DPR-0375.090 WKNZTA, DPR-0441.100, DPR-0441.102 Manawa, and DPR-0446.083 Transpower.

New ECO-PK

- 4.25 DOC⁴³ requested the inclusion of a new policy to provide guidance about when biodiversity compensation may be appropriate. On reflection, given the inclusion of the concept of biodiversity compensation in both the NPS-FM and the NPS-IB, I consider that it is appropriate to include a policy that supports the use of compensation provided criteria and limits are clear and appropriate.
- 4.26 The recommended policy ECO-PK is shown in **Appendix 2**.
- 4.27 Scope for the amendments are provided by submission point DPR-0427.103 DOC.

³⁵ Evidence of Ainsley McLeod for Transpower, from para 34

³⁶ Evidence of Ainsley McLeod for Transpower, para 30

³⁷ Evidence of Michael Harding for DOC, para 223

³⁸ Evidence of Amy Young for DOC, para 89 and Appendix 1

³⁹ Legal submissions on behalf of Forest & Bird, para 28

⁴⁰ Legal submissions on behalf of EDSI, para 29

⁴¹ Right of reply report, *Energy and Infrastructure* chapter, Appendix 2 Recommended Amendments

⁴² Evidence of Ainsley McLeod for Transpower, para 33

⁴³ DPR-0427.103 DOC, evidence of Amy Young for DOC, from para 82 and Appendix 1

5. ECO-RC and ECO-RD Clearance of indigenous vegetation

ECO-RC.3.f Network utilities

- 5.1 Manawa⁴⁴ requested that ECO-RC.3.f be retained with amendment, but have since agreed with my position that the provision is not required and may be deleted.⁴⁵

ECO-RC.3.g, ECO-RC.3.h.i, ECO-RC.h.ii Naturally occurring vegetation, compared to native species that have be deliberately planted

- 5.2 ESAI⁴⁶ raised concerns that the permitted activity provisions of ECO-RC.3 as shown in the s42A report might inadvertently lead to an incorrect interpretation of the definition of 'indigenous vegetation'. This is because, while the definition excludes areas that have been deliberately planted with native species, ECO-RC.3 then permits clearance of these areas, even though they are outside what is intended by the definition, and therefore what is intended to be captured by the header sentence of the rule.
- 5.3 I agree that amendments to each of ECO-RC.3.g, ECO-RC.3.h.i and ECO-RC.h.ii would be appropriate, to remove potential confusion about what is meant by the defined term 'indigenous vegetation' and to improve ease of use for Plan users. Native species that have been deliberately planted in an area, as opposed to those that have self-established, are not intended to be managed by ECO-RC.
- 5.4 The recommended amendments are shown in **Appendix 2**.
- 5.5 Scope for the amendments is provided by submission point DPR-0212.044 ESAI.

ECO-RC.3.i Clearance of indigenous vegetation in areas of improved pasture, outside SNAs

- 5.6 In discussions with the Panel, CBS, FFNC and Forest & Bird each considered the appropriateness of grazing in areas of improved pasture outside of SNAs, relative to other forms of clearance, such as cultivation, mechanical clearance, irrigation or the application of fertiliser. CBS and FFNC considered that grazing would be acceptable in a way that other forms of clearance would have unacceptable effects, while Forest & Bird limited that acceptability to the extensive grazing of sheep. Mr Head for Forest & Bird considered that mobstocking of sheep or grazing of any form by cattle would have unacceptable effects.
- 5.7 Following consultation with Dr Lloyd, I recommend that:
- The ECO Management Overlay: Hill and High Country Area and the ECO Management Overlay: Major Rivers Overlay be retained and combined, with the name 'Indigenous Biodiversity Overlay'.
 - Vegetation clearance of improved pasture be a permitted activity only in the 'Indigenous Biodiversity Overlay', and only where the clearance is by way of grazing that is not overgrazing/trampling⁴⁷ (a recommended defined term⁴⁸). This would leave the clearance by other means (such as cultivation or mechanical clearance) needing consent as an RDIS activity unless it was permitted by another aspect

⁴⁴ Evidence of Romae Callard for Manawa, para 11

⁴⁵ Post-hearing correspondence from Romae Callard for Manawa, 11 August 2022

⁴⁶ Evidence of ESAI, para 4.11

⁴⁷ DPR-0471.002 D & K Calder, R Jamison & R Reed

⁴⁸ Recommended definition: *The practice of confining farm stock to an area of land resulting in the depletion or destruction of indigenous vegetation by intensive grazing and/or trampling*

of ECO-RC.3. Recognising their rarity in other parts of the district, indigenous vegetation clearance within an area of improved pasture in areas would require consent as an RDIS activity, unless otherwise permitted by ECO-RC.

- 5.8 The recommended amendments are shown in **Appendix 2**.
- 5.9 Scope for the amendments are provided by submission points DPR-0233.011 CBS, DPR-0301.025 UWRG, DPR-0422.152 FFNC, DPR-0407.024 Forest & Bird, and DPR-0427.106 DOC.

ECO-RC.3.k, ECO-RC.8.b, ECO-RC.11.c, ECO-RD.1.a, ECO-RD.3.g clearance of material infected by unwanted organisms

- 5.10 Forest & Bird⁴⁹ and DOC⁵⁰ raised concerns with the proposed permitted activity status for the clearance of material infected by an unwanted organism, on the basis that it would have adverse effects on indigenous biodiversity. This concern appears to have resulted from a lack of clarity in the s42A report about what is meant by the term.
- 5.11 ‘Material infected by an unwanted organism’ is proposed for introduction to the PDP through Hearing 6 Contaminated Land and Hazardous Substances⁵¹ as a term defined as meaning “*material infected by unwanted organisms as declared by MPI Chief Technical Officer or an emergency declared by the Minister under the Biosecurity Act 1993.*” Outside of the *Ecosystems and indigenous biodiversity* chapter, the term is recommended for use in a new *Biosecurity* chapter, as set out in the right of reply report for Hearing 6.
- 5.12 HortNZ⁵² notes that, as the clearance of material infected by unwanted organisms is undertaken under the Biosecurity Act 1993, it would be better to use ‘including’ rather than ‘or’ in ECO-RC.3.k. I agree that this would improve clarity and ease of use for Plan users, and recommend that the change be made.
- 5.13 The recommended amendment is shown in **Appendix 2**.
- 5.14 Scope for the amendments are provided by submission point DPR-0353.0119 HortNZ.

ECO-RC.3.o Clearance of indigenous vegetation associated with horticulture

- 5.15 HortNZ⁵³ noted that not all horticultural systems require cultivation, and that ECO-RC.3.o as shown in the s42A report would not adequately provide for the clearance of scattered indigenous plants amongst existing trees or vines. I agree.
- 5.16 The clearance of indigenous vegetation to create a new area of horticulture would, and should, require resource consent, but once that consent has been granted and given effect to, the clearance of scattered indigenous plants within that area has been anticipated and so should not trigger on-going consenting requirements. I consider that the amendment to ECO-RC.3.o requested by HortNZ⁵⁴ would improve clarity and ease of use for Plan users, and that as a consequence ECO-RC.3.p as set out in the Officers Response

⁴⁹ Legal submissions on behalf of Forest & Bird, para 26

⁵⁰ Evidence of Michael Harding for DOC, from para 213

⁵¹ Hearing 6 Right of reply report https://www.selwyn.govt.nz/_data/assets/pdf_file/0004/561505/Right-of-Reply-Report-Contaminated-Land-and-Hazardous-Substances-1-November-2021.pdf

⁵² Evidence of Lynette Wharfe for HortNZ, para 7.10

⁵³ Evidence of Lynette Wharfe for HortNZ, from para 7.11

⁵⁴ Evidence of Lynette Wharfe for HortNZ, para 7.22

to Panel questions would not be required.

5.17 The recommended amendment is shown in **Appendix 2**.

5.18 Scope for the amendments are provided by submission point DPR-0353.0131 HortNZ.

ECO-RC.11 Porters Ski Zone

5.19 DOC⁵⁵ and Forest & Bird⁵⁶ raised concerns about the permitted clearance of indigenous vegetation in the Porters Ski Zone (SKIZ). Mr Harding noted that removal of even small areas of indigenous vegetation in the SKIZ would risk adverse effects on indigenous biodiversity. Alpine, subalpine and upper-montane vegetation within this zone is vulnerable to disturbance and slow to recover. Removal of 5m² of vegetation each month may adversely affect whole plant communities and have a disproportionate effect on indigenous biodiversity of the wider area.

5.20 Following consultation with Dr Lloyd, I recommend that ECO-RC.11.a be deleted, so that permitted indigenous vegetation clearance in SKIZ is limited to that associated with a CON or RDIS earthworks consent granted under NFL-R2, or where it is necessary for the clearance of material infected by unwanted organisms.

5.21 NFL-R2 requires consent for all earthworks in the SKIZ, with an activity status that varies from CON to DIS, depending on the location and nature of the proposed works. Where the activity has a CON or RDIS status, NFL-MAT2 applies as a matter of control or discretion, as appropriate. NFL-MAT2.6 requires consideration of:

Terrestrial and aquatic ecological values within the area of disturbance and the potential to minimise or avoid disturbance that will affect the function and integrity of plants and habitat. In particular, vegetation in herbfields, boulderfields, scree, and spring flushes should be avoided in the first instance. If unable to be avoided then measures should be taken to minimise or mitigate the extent or nature of disturbance. Regard shall be given to the effectiveness of the measures to maintain the function and integrity of plants and habitats assessed.

5.22 A consequential amendment may also be required, should the provisions of NFL-R2 be relocated to the Earthworks chapter in response to a submission point by Kāinga Ora. This will be addressed in the upcoming Officer's Right of Reply Report in relation to Hearing 19: Natural Features and Landscapes.

5.23 The clearance of material infected by unwanted organisms is discussed starting at paragraph 5.10 of this report.

5.24 The recommended amendments are shown in **Appendix 2**.

5.25 Scope for the substantive amendment is provided by submission point DPR-0427.104 DOC.

⁵⁵ Evidence of Amy Young for DOC, para 101-102, 112, evidence of Michael Harding for DOC, from para 159.

⁵⁶ Legal submission on behalf of Forest & Bird, para 27

ECO-RD.3.f Network utilities

- 5.26 Manawa⁵⁷ raised concerns with the potential for conflict between ECO-RD.3.f and the requirements of the National Policy Statement for Renewable Electricity Generation 2011 (NPS-REG), requesting an amendment to ECO-RD.3, such that non-compliance with ECO-RD.3.f is a DIS activity, rather than NC, for new renewable electricity generation activities.
- 5.27 Compliance with ECO-R1 as notified (ECO-RD as recommended) is only required in the *Energy and infrastructure* chapter of the PDP where compliance with EI-REQ4 Clearance of vegetation is required. The establishment of a new, or the expansion of an existing renewable electricity generation investigation⁵⁸ is subject to EI-REQ4, but renewable electricity generation or electricity generation activities at Coleridge HEPS including any new building or addition, operation, maintenance, refurbishment, enhancement, or upgrading to an existing building,⁵⁹ and the establishment of a new renewable electricity generation activities,⁶⁰ are not.
- 5.28 As notified, Manawa's activities at the Lake Coleridge HEPS are outside the definition of 'network utility', but I note that Ms Barker, the author of the s42A report for the *Energy and infrastructure* chapter, recommends that the definition be amended to include *any person who owns or operates a generator connected to distribution or transmission lines*.⁶¹ This would result in Manawa being within the definition of 'network utility'
- 5.29 Following discussion with Ms Barker, the author of the s42A report for the *Energy and infrastructure* chapter, I agree with Manawa that new renewable electricity generation activities should be a DIS activity as anticipated by EI-R31, but consider that the structure of the PDP would be better if ECO-RD.3.f were deleted (consistent with the recommendation for ECO-RC.3.f) and appropriate amendments were instead made to the *Energy and infrastructure* chapter so that bespoke provisions for energy and infrastructure are located in that chapter. These amendments are discussed further in Section 9 of this report.
- 5.30 The recommended amendments to ECO-RD.3.f are shown in **Appendix 2**.
- 5.31 Scope for the amendments is provided by submission points DPR-0367.058, DPR-0367.102 Orion, DPR-0441.106 Manawa, DPR-0446.087 Transpower, and DPR-0375.FS107 WKNZTA.

Flock Hill rezoning proposal

- 5.32 Flock Hill requested that, should their request to create a special purpose zone be successful, the same ECO provisions apply to that site as apply to the surrounding GRUZ land. Should the Panel for that other hearing be of a mind to approve that request, then I consider that this would be an appropriate method by which to manage ecosystems and indigenous biodiversity in this zone.
- 5.33 The recommended amendments are shown in **Appendix 2**, with the special purpose zone using the acronym **FHSVZ**.

⁵⁷ Evidence of Romae Callard for Manawa, para 19

⁵⁸ EI-R28 Renewable Electricity Generation Investigations

⁵⁹ EI-R29 Renewable Electricity Generation - Coleridge HEPS

⁶⁰ EI-R30 Small and Community-Scale Electricity Generation, and Small and Community-Scale Electricity Generation Activities, EI-R31 Other Renewable Electricity Generation and Renewable Electricity Generation Activities

⁶¹ Officer's Right of Reply report, *Energy and Infrastructure* 26 October 2021 https://www.selwyn.govt.nz/_data/assets/pdf_file/0004/557464/EI-Right-of-Reply-Appendix-2-26-October-2021.pdf

5.34 Scope for the amendments is provided by submission point DPR-0097.003 Flock Hill.

6. ECO-RE, ECO-RF and ECO-REQG Crested Grebe and Mudfish

ECO-RE Crested Grebe

6.1 UWRG⁶² and DOC⁶³ correctly noted an error in ECO-RE of the s42A report, in that the proposed text permits vegetation clearance during September – February each spring/summer. September – February is in fact the nesting period of the crested grebe, when protection is required. In order to provide adequate protection for the crested grebe, I agree that an amendment to ECO-RE is required, so that permitted vegetation clearance must occur in the period 1 March – 31 August.

6.2 The recommended amendment is shown in **Appendix 2**.

6.3 Scope for the amendment is provided by submission point DPR-0427.114 DOC.

ECO-RF and ECO-REQG Mudfish

6.4 ESAI⁶⁴ raised concerns that the provisions of the Mudfish Habitat Overlay were not based on an ecological assessment. It is my understanding that the starting point was a 2009 assessment undertaken by EOS Ecology for Council's Assets Department. This was then refined by a subgroup of the Biodiversity Working Group which included representation from DOC, SDC and Te Taumutu Runanga and reflected more recent work. As such, and given that mudfish can survive undetected by regular surveys for a number of years, I consider that it included the best information available at the time the PDP was notified.

6.5 In order to avoid overlapping provisions with the Land and Water Regional Plan⁶⁵ which covers waterbodies, the overlay was identified as being appropriately located only over artificial watercourses (drains and water races) that fall outside the RMA definition of a waterbody and which are Council assets (as opposed to private drains). Council's Assets Department have advised that a mudfish survey of the Ellesmere watercourses (including those in the Killinchy/Brookside area identified by ESAI⁶⁶) is planned for the summer of 2022/23, with results likely to be available in around June or July 2023.

6.6 Of relevance to mudfish, Plan Change 7 to the Land and Water Regional Plan⁶⁷ was notified on 20 July 2019, with decisions notified on 20 November 2021. The relevant Policy 4.101 and Rules 5.167 and 5.168 are not subject to appeal, and so earthworks within the mapped Critical Habitat⁶⁸ (which excludes artificial water courses) are now a RDIS activity under Rule 5.169. The matters for discretion include "actual and potential adverse environmental effects on areas of natural character, outstanding natural features or landscapes, areas of significant indigenous vegetation, indigenous biodiversity and significant habitats of indigenous fauna, mahinga kai areas or sites of importance to Tangata Whenua".⁶⁹

⁶² Evidence of UWRG, Section 5

⁶³ Evidence of Michael Harding for DOC, para 180

⁶⁴ Evidence of ESAI

⁶⁵ <https://www.ecan.govt.nz/your-region/plans-strategies-and-bylaws/canterbury-land-and-water-regional-plan/>

⁶⁶ Evidence of ESAI, para 4.17

⁶⁷ <https://www.ecan.govt.nz/your-region/plans-strategies-and-bylaws/canterbury-land-and-water-regional-plan/change-7/>

⁶⁸ <https://www.ecan.govt.nz/your-region/plans-strategies-and-bylaws/canterbury-land-and-water-regional-plan/change-7/>, Map B-066

⁶⁹ Canterbury Land and Water Regional Plan, Rule 5.169.4

- 6.7 ESAI⁷⁰ raised concerns that the Mudfish Habitat Overlay has been incorrectly mapped. Because the overlay is over Council assets, the mapping was based on existing Council drain and water race maps, which in turn were digitized by hand from hardcopy maps drawn at a smaller scale than is generally anticipated by users of electronic maps such as used by the PDP. This means that there are errors when compared to the scale at which more modern maps are expected to be accurate, and so the overlay appears to be offset from the drain or water race by some metres. I recommend that this mapping be corrected via CI16, the process of which would largely rely on existing aerial photography to identify the appropriate drains, with a degree of ground truthing where the aerial imagery is unclear.
- 6.8 ESAI raised concerns that the inclusion of the Mudfish Habitat Overlay was not agreed to by the Biodiversity Working Group.⁷¹ The Working Group met for the last time on 13 December 2018 and provided 'in principle' approval to both the map and the provisions as notified. The minutes indicate that the Group did not consider that the outstanding matters were of a nature or scale that required them to meet again to agree to them.⁷²
- 6.9 DOC⁷³ raises concerns that ECO-RF does not adequately protect a threatened; nationally critical species. While I understand and agree with their concern, continued works within the artificial watercourses of the Mudfish Habitat Protection Overlay is provided for under s10 RMA because, as artificial watercourses, they are outside the definition of a lake or river and so s10A RMA does not apply.
- 6.10 In addition, as notified, the clearance of drains and water races within the Mudfish Habitat Overlay does not need to comply with ECO-RF (ECO-R.1.4.I and ECO-R1.16-1.19 as notified), because the relevant *EI-R6 Operation, Maintenance and Repair of Existing Network Utilities and Ancillary Vehicle Access Tracks* does not require compliance with *EI-REQ4 Clearance of Vegetation*, which is the link between the *Energy and infrastructure* chapter and the *Ecosystems and indigenous biodiversity* chapter. I do not consider that this absence is sufficient to address Council's s6(c) obligations, and recommend that EI-R6 be amended to require compliance with the provisions of the Mudfish Habitat Overlay.
- 6.11 The current text of ECO-RF.1.b and ECO-REQG.1 permit works where they are explicitly specified within an approved management plan established through a Local Government Act or Resource Management Act 1991 process. Asset management plans tend to prioritise the asset over other local government purposes as set out in s10 Local Government Act 2002,⁷⁴ and I consider that that the provisions should each be amended to require explicit consideration of effects on indigenous biodiversity in making such plans.
- 6.12 A Resource Management Act 1991 process would consist of either a certificate of compliance or a resource consent to undertake works. In either case, reference to such a process in a permitted activity rule is superfluous and creates ambiguity. I therefore consider that that the provisions should each be amended to delete this reference, to provide clarity for plan users.

⁷⁰ DPR-0212.042 ESAI

⁷¹ The Biodiversity Working Group and their contribution to the development of PDP provisions are described in the s32 assessment https://www.selwyn.govt.nz/_data/assets/pdf_file/0009/354744/12.-Ecosystems-and-Indigenous-Biodiversity.pdf

⁷² Working Group minutes of the meeting 13 December 2018 https://www.selwyn.govt.nz/_data/assets/pdf_file/0006/349836/13DEC18-Minutes-Biodiversity-Working-Group-FINAL.PDF

⁷³ Evidence of Amy Young for DOC, from para 134.

⁷⁴ S10 Local Government Act 2002: Purpose of local government

(1) The purpose of local government is—

(a) to enable democratic local decision-making and action by, and on behalf of, communities; and

(b) to promote the social, economic, environmental, and cultural well-being of communities in the present and for the future.

- 6.13 ECO-RF.1 manages vegetation clearance in the Mudfish Habitat Overlay, while ECO-REQG.1 manages earthworks in the same area. The activities are intrinsically linked, but the activity status where the permitted activity standards are not met are not consistent across the provisions – DIS⁷⁵ where ECO-RF.1 is not complied with, but RDIS where ECO-REQG.1 is not complied with. ECO-MAT2 sets out appropriate matters of discretion for both earthworks and vegetation clearance, and so for consistency across the Plan I recommend that ECO-RF be amended so that non-compliance with ECO-RF.1 results in a RDIS, rather than DIS status, with the matters of discretion restricted to ECO-MAT2.
- 6.14 I therefore recommend that amendments be made to:
- a. The Mudfish Habitat Overlay, so that the location of the mapped water races and drains matches those on the ground;
 - b. Each of ECO-RF.1.b and ECO-REQG.1 to remove reference to an RMA process, as if an RMA consent is in place, then it is not a permitted activity; and to require any approved management plan to have specifically addressed adverse effects on indigenous biodiversity;
 - c. ECO-RF so that non-compliance with ECO-RF.1 results in a RDIS status, with the matters of discretion restricted to ECO-MAT2
 - d. EI-R6 Operation, Maintenance, and Repair of Existing Network Utilities and Ancillary Vehicle Access Tracks, to require compliance with EI-REQ4.6 Clearance of vegetation, so that the vegetation clearance provisions of ECO-RF apply when operating, maintaining or repairing drains and water races within the Mudfish Habitat Overlay; and
 - e. EI-R6 Operation, Maintenance, and Repair of Existing Network Utilities and Ancillary Vehicle Access Tracks, to require compliance with ECO-REQG Earthworks and Ecosystems and indigenous biodiversity when operating, maintaining or repairing drains and water races within the Mudfish Habitat Overlay.
- 6.15 The recommended amendments are shown in **Appendix 2**.
- 6.16 Scope for the amendments is provided by submission points DPR-0212.042 ESAI, and DPR-0427.111 and DPR-0427.112 DOC.

7. Matters of control or discretion

ECO-MAT1 Indigenous Vegetation Clearance

- 7.1 Mr Harding at the hearing supported the DOC position that ECO-MAT1 should be deleted,⁷⁶ but in her post-hearing correspondence, having considered the amendments recommended in the Officer's reply to Panel questions, Amy Young for DOC⁷⁷ requested that no further amendment to ECO-MAT1 be made. I therefore consider that no amendments to ECO-MAT1 are required to address the DOC submission, beyond those discussed in Sections 3 and 4 of this report relating to improving the consistent use of terminology throughout the PDP.

⁷⁵ An activity status for non-compliance with ECO-RF.1 is not provided in PDP (where it appears as ECO-R1.16), therefore the status is DIS as per s87B(1)(b) RMA

⁷⁶ Evidence of Michael Harding for DOC, para 196

⁷⁷ Evidence of Amy Young for DOC, Appendix 1

- 7.2 In the s42A report, I recommended in response to the CRC submission⁷⁸ that an additional matter of discretion be inserted wherever ECO-MAT1 applies, requiring the consideration of any effects on indigenous vegetation and habitats of indigenous fauna in the coastal environment. Because it applies everywhere that ECO-MAT1 does, I considered including it within ECO-MAT1. On reflection, I consider that this aspect is in fact already provided for in ECO-MAT1, because the general phrase in ECO-MAT1 ‘indigenous biodiversity and ecosystems’ includes those in the coastal environment, and so the additional matter is not required.
- 7.3 The resulting recommended amendments to ECO-RC.6.b are shown in **Appendix 2**.
- 7.4 I now recommend that submission points DPR-0260.092 CRC be accepted in part and continue to recommend that DPR-0260.093 CRC be accepted in part.

ECO-MAT2 Protecting Habitats of Indigenous Fauna

- 7.5 Michael Harding for DOC⁷⁹ continues to be concerned with ECO-MAT2.4, on the basis that many areas of the affected habitat have been previously modified by the removal of habitat. This is supported by Amy Young in her evidence,⁸⁰ but not included in her schedule of requested amendments.
- 7.6 I agree that ECO-MAT2.4 has the potential to cause uncertainty, as it is unclear whether previous modification supports granting consent because modification has already occurred, or whether it is a factor that counts against further modification. As such, I consider that ECO-MAT2.4 does not provide assistance to decision makers and recommend that it be deleted.
- 7.7 The recommended amendment is shown in **Appendix 2**.
- 7.8 Scope for the amendment is provided by submission point DPR-0427.120 DOC. Although DOC did not specifically submit on ECO-MAT2.4, the submission point seeks that the matters of discretion in ECO-MAT2 provide certainty that adverse effects will be appropriately considered.

8. Schedules

ECO-SCHED2 Biodiversity Management Plan requirements

- 8.1 HortNZ⁸¹ expressed concern that, although ECO-P7 is recommended for deletion, the potential for duplication and regulatory burden on those with SNAs or other indigenous biodiversity on their land would remain.
- 8.2 Forest & Bird⁸² expressed concern that biodiversity management plans do not require independent ecologist peer reviews, and that it is unclear how identified significant ecological values would be properly protected as part of a consent application.
- 8.3 The PDP does not propose that biodiversity management plans are the ‘be all and end all’, or that they cannot be developed in conjunction with other consenting requirements. Rather, they create a more

⁷⁸ DPR-0260.092 and DPR-0260.093 CRC

⁷⁹ Evidence of Michael Harding for DOC, para 181

⁸⁰ Evidence of Amy Young for DOC, para 153

⁸¹ Evidence of Lynette Wharfe for HortNZ, para 6.26

⁸² Evidence of Nicholas Head for Forest & Bird, Section 20

straightforward consenting pathway, where resource consent is required. As with any other expert evidence submitted in support of a resource consent application, biodiversity management plans would be subject to independent ecologist peer review, and would inform the creation of conditions of consent relevant to the proposed site and activity. Dr Lloyd advises that he supports their continued inclusion in the PDP.

- 8.4 I continue to recommend that ECO-SCHED2 be included in the PDP, subject to the recommended consequential amendment arising from the introduction of the defined term 'threatened and at risk species' as discussed in Section 3 of this report.

ECO-SCHED3 Potential significant natural areas

- 8.5 ECO-SCHED3 was drafted to support ECO-R1, to permit certain levels of indigenous vegetation clearance in certain parts of the district. Although no longer required for that purpose, the s42A report recommends that the schedule be instead retained as a guide to what is likely to meet the definition of a significant natural area.
- 8.6 CRC⁸³ requested that ECO-SCHED3 be amended to include braided rivers, as the current legal definition of 'riverbed' as it applies to braided rivers covers only a small proportion of the geomorphic and ecological braided riverbed (or braidplain) extent. They argue that because the area of regional council control over vegetation clearance and other activities in the braided river is constrained under the current RMA riverbed definition, it is important that local authorities (Selwyn District Council in this instance) also recognise and share responsibility for management of the indigenous ecosystem and biodiversity values of braided rivers.
- 8.7 In his evidence for DOC, Mr Harding⁸⁴ requested that ECO-SCHED3 be deleted. He noted that the plant community/habitat types listed in ECO-SCHED3 do not appear to have not been selected by assessing areas against the criteria in ECO-SCHED1, noting that if ECO-SCHED3 is used as a guide, there is a risk that significant areas of indigenous vegetation and habitat may be overlooked. Overall, he considered that the schedule is unlikely to assist, and may in fact hinder, the protection and maintenance of indigenous biodiversity.
- 8.8 Following discussion with Dr Lloyd, I continue to recommend that ECO-SCHED3 be retained. There is greater risk in not having the schedule, because landholders will have little guidance on significance that they can understand, and this creates a greater risk that significant values will be overlooked. However, I recommend that:
- a. the name of ECO-SCHED3 be amended to emphasize that it contains examples rather than a definitive list of what might be considered significant;
 - b. explanatory comments be inserted at the start of the schedule, noting that the schedule is not an exhaustive list, and repeating the advice in the note to plan users at the start of the Rules section to contact Council for advice and support;
 - c. Braided river environments be included, outside the bed of the river;

⁸³ Evidence of Dr Philip Grove for CRC, para 37

⁸⁴ Evidence of Michael Harding for DOC, from para 202

- d. subheadings be amended to remove the reference to 'Areas', as these Areas of the ECO Management Overlay are recommended for deletion, leaving references to geographic features; and
- e. the area references in the schedule are deleted, as they were included in the notified version of the PDP as permitted clearance thresholds, rather than examples of what might meet the criteria for significance.

8.9 The recommended amendments are shown in **Appendix 2**.

8.10 Scope for the inclusion of braided rivers in ECO-SCHED3 is provided by DPR-0427.113 and DPR-0427.124 DOC. Scope for the remaining amendments is provided by submission point DPR-0375.095 WKNZTA.

ECO-SCHEDH Rare and threatened plants found within the Selwyn District

8.11 Forest & Bird discussed proposed ECO-SCHEDH,⁸⁵ and requested that the schedule be amended to include additional species as shown in the post-hearing correspondence from Forest & Bird.⁸⁶ DOC⁸⁷ made a similar request, with Mr Harding including a list that had been peer reviewed, a process which included Mr Head.

8.12 Species lists such as ECO-SCHEDH become out of date over time. As such, I recommend that, rather than extending ECO-SCHEDH, it should be deleted and replaced instead with the recommended defined term 'threatened and at risk species', which would include a hyperlink to the New Zealand Threat Classification System Manual.

8.13 The recommended amendment is shown in **Appendix 2**.

8.14 Scope for the deletion is provided by submission point DPR-0427.127 DOC.

ECO-SCHED5 Framework for Biodiversity Offsetting

8.15 DOC⁸⁸ continues to request that ECO-SCHED5 be amended to include a reference to a preference for a net gain in biodiversity. Given that biodiversity offsets are only to be used when other options are inadequate, and that net gain would be a preference rather than a requirement, I continue to recommend that the schedule be amended as set out in the s42A report.

ECO-SCHEDI Pest plant species

8.16 CBS requested at the hearing that Chilian Myrtle be included in ECO-SCHEDI. This is outside the scope of their submission⁸⁹ (only willow species were included), and so I am unable to recommend that the amendment be made.

8.17 DOC⁹⁰ requested at the hearing that the species of ash listed in List B of ECO-SCHEDI be corrected from

⁸⁵ Evidence of Nicholas Head for Forest & Bird, Section 16

⁸⁶ Evidence of Michael Harding for DOC, Appendix 4

⁸⁷ Evidence of Michael Harding for DOC, from para 209, evidence of Amy Young for DOC, para 202

⁸⁸ Evidence of Amy Young for DOC, para 201, and Appendix 1

⁸⁹ DPR-0233.011 CBS

⁹⁰ Evidence of Michael Harding for DOC, para 189, Evidence of Amy Young for DOC, para 127

ash (*Faxinus ornus*) to European ash or common ash (*Fraxinus excelsior*). Mr Harding advises that *Faxinus ornus* is not known to be present in, or pose a significant threat to, the hill and high country areas of the district where List B applies, but that *Fraxinus excelsior* is known to be present and to pose a threat in this area. This is within the scope of the DOC submission point and so I recommend that the amendment be made.

- 8.18 Although Mr Harding advises⁹¹ that *Faxinus ornus* is known to occur in the Port Hills, this is outside the area where the planting of pest plants is proposed or requested, and so I consider that this aspect of his evidence is outside the scope of the submission.
- 8.19 Mr Harding listed another 15 species which he suggested should be included in Table 2 ECO-SCHEDI.⁹² None of these species are within the scope of the DOC submission, and so I am unable to recommend that these amendments be made.
- 8.20 The recommended amendment to ECO-SCHEDI is shown in **Appendix 2**.
- 8.21 Scope for the amendment is provided by submission point DPR-0427.118 DOC.

9. Relationship with the *Energy and infrastructure* chapter

EI-REQ4

- 9.1 Transpower⁹³ submitted that the proposed provisions could result in a perverse outcome where the clearance of indigenous vegetation for upgrading (including minor upgrading) of an existing transmission line could be a NC activity, but the new transmission line in the same location would be a DIS activity. They submit that this would not give adequate provision of the need to operate, maintain, develop and upgrade the National Grid as a matter of national significance as set out in the NPS-ET. Transpower⁹⁴ therefore proposed amendments to EI-REQ4 to address this inconsistency.
- 9.2 Following discussion with Ms Vicki Barker, the author of the s42A report for the *Energy and infrastructure* chapter, I recommend changes to EI-REQ4 that are largely consistent with those requested by Transpower, so that where EI-REQ4 does apply, non-compliance with ECO-RC.3 (indigenous vegetation clearance outside an SNA) becomes an RDIS activity, while non-compliance with ECO-RD.3 (indigenous vegetation clearance within an SNA) becomes a DIS activity, for important infrastructure.
- 9.3 The area of difference compared to the Transpower request is that non-compliance with ECO-RD.3 would be DIS rather than RDIS, to recognise the national importance of SNAs; and
- 9.4 The recommended amendments are shown in **Appendix 2**.
- 9.5 Scope for the amendments are provided by submission points DPR-260.093 CRC, DPR-0301.043 UWRG, DPR-0446.087 Transpower.

⁹¹ Evidence of Michael Harding for DOC, para 189

⁹² Evidence of Michael Harding for DOC, para 190

⁹³ Evidence of Ainsley McLeod For Transpower, from para 49

⁹⁴ Evidence of Ainsley McLeod For Transpower, para 53

10. Edge effects

- 10.1 UWRG⁹⁵ and Forest & Bird⁹⁶ requested that edge effects be given consideration in the PDP. As discussed at the hearing by Forest & Bird⁹⁷ and DOC,⁹⁸ the activities of concern to the submitters primarily relate to irrigation and earthworks on surrounding land that then have edge effects on an area of indigenous vegetation. Mr Harding⁹⁹ described for the Panel edge effects which affect open and non-woody plant vegetation, such as those indigenous plant communities that occupy the intermontane basins and upper valleys of Selwyn District. The effects of nearby irrigation and cropping on these areas include increased humidity and fertility, weed invasion, and the spread of pests and pathogens.
- 10.2 The management of water takes and discharges (irrigation) and the discharge of sediment (dust) to air is outside the scope of the PDP because they are instead within the jurisdiction of the regional council. The sedimentation of rivers and wetlands arising from earthworks is already addressed through the NES-F. I do not therefore recommend any changes to the PDP provisions to explicitly consider edge effects.

11. S32AA assessment

- 11.1 The following points evaluate the recommended amendments under Section 32AA of the RMA. Amendments to the provisions set out in the Officer's Reply Report are proposed to:
- a. improve clarity and ease of use for plan users by refining definitions and introducing new ones;
 - b. improve the consistent use of defined terms, thereby improving clarity and ease of use for plan users;
 - c. recognise that biodiversity compensation may be appropriate in limited circumstances;
 - d. clarify that provisions relate to 'indigenous vegetation' as defined, rather than to native plants that have been deliberately established in a place, such as in a garden or a shelterbelt;
 - e. limit the permitted clearance of indigenous vegetation within areas of improved pasture in the hills and high country and along major rivers to a type that is less likely to have adverse effects;
 - f. recognise that not all horticultural systems involve cropping, and so provide for clearance within areas of horticultural plantings;
 - g. correct a drafting error, so that crested grebe are not disturbed during their nesting season;
 - h. introduce area limits for earthworks within SNAs, consistent with those for the clearance of indigenous vegetation within SNAs;
 - i. remove the potential for confusion about the potential for previous clearance to affect the consideration of whether further proposed clearance is appropriate;
 - j. better support rural landholders to recognise when a part of their land may require an expert

⁹⁵ Evidence of UWRG, Section 4

⁹⁶ DPR-0407.001, DPR-0407.005 Forest & Bird, DPR-0427.FS001 DOC

⁹⁷ Evidence of Nicholas Head for Forest & Bird, Section 11

⁹⁸ Evidence of Michael Harding for DOC, from para 69

⁹⁹ Evidence of Michael Harding for DOC, para 70

assessment to determine whether a SNA exists on their land; and

- k. clarify the relationship between the *Ecosystems and indigenous biodiversity* chapter and the *Energy and Infrastructure* and *Earthworks* chapters.

Effectiveness and efficiency

- 11.2 I consider that the amendments recommended in this report would be a more effective and efficient way to achieve the objectives, compared to the notified version and the versions included in the s42A report and the officer's reply to questions from the Panel.

Costs and benefits

- 11.3 The amendments would better achieve ECO-O1, with the benefit of enabling landowners and important infrastructure operators to make reasonable use of their land and facilities, while protecting areas that require protection.

Risk of acting or not acting

- 11.4 As noted in the s32 and s42A reports, it is considered that there is a high level of knowledge of the issues and the need to identify and protect biodiversity values, such that there is a low risk of acting in the manner proposed.

Conclusion as to the most appropriate option

- 11.5 The recommended amendments are considered to be the most appropriate way to achieve objective ECO-O1, compared to the notified version and the versions included in the s42A report and the officer's reply to questions from the Panel.