

Proposed Selwyn District Plan



Section 42A Report

Report on submissions and further submissions

Natural Features and Landscapes

Jon Trewin

2nd June 2022

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List of submitters and further submitters addressed in this report

Submitter ID	Submitter Name	Abbreviation
DPR-0032	Christchurch City Council	CCC
DPR-0036	Tony Edney	
DPR-0070	Jan Inwood	
DPR-0097	Flock Hill Holdings	FHH
DPR-0101	Chorus New Zealand Limited, Spark New Zealand Trading Limited & Vodafone New Zealand Limited	Chorus, Spark and Vodafone
DPR-0104	Lukas Travnicek	
DPR-0144	Mt Algidus Station, Glenthorne Station, Lake Coleridge, Mt Oakden & Acheron Stations	The Stations
DPR-0157	Kevin & Bonnie Williams	The Williams
DPR-0207	Selwyn District Council	SDC
DPR-0209	Manmeet Singh	M Singh
DPR-0212	Ellesmere Sustainable Agriculture Incorporated	ESAI
DPR-0214	Ahuriri Farm & The Graham Family	
DPR-0260	Canterbury Regional Council	CRC
DPR-0292	Paul Christian	
DPR-0298	Trices Road Re-zoning Group	Trices Road
DPR-0301	Upper Waimakariri/Rakaia Group	UWRG
DPR-0308	Helen & Pieter Heddell	
DPR-0345	Porters Alpine Resort	PAR
DPR-0353	Horticulture New Zealand	Hort NZ
DPR-0358	Rolleston West Residential Limited	RWRL
DPR-0363	Ipport Rolleston Holdings Limited	IRHL
DPR-0367	Orion New Zealand Limited	Orion
DPR-0371	Christchurch International Airport Limited	CIAL
DPR-0372	Dairy Holdings Limited	DHL
DPR-0374	Rolleston Industrial Holdings Limited	RIHL
DPR-0375	Waka Kotahi NZ Transport Agency	Waka Kotahi
DPR-0381	Coleridge Downs Limited	CDL
DPR-0384	Rolleston Industrial Developments Limited	RIDL
DPR-0387	Hugh & Thomas Macartney & Families	
DPR-0388	Craigmore Farming Services Limited	CFSL
DPR-0390	Rakaia Irrigation Limited	RIL
DPR-0391	Castle Hill Adventure Tours Limited	CHATL
DPR-0395	Castle Hill Adventure Tours Limited	CHATL
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	
DPR-0422	Federated Farmers of New Zealand - North Canterbury	NCCF
DPR-0423	PHC Terrace Downs Resort Limited	Terrace Downs
DPR-0427	Lou Sanson, Director-General of Conservation	DoC
DPR-0439	Rayonier Matariki Forests	Rayonier
DPR-0440	Environmental Defence Society Incorporated	EDS
DPR-0441	Trustpower Limited	Trustpower

Submitter ID	Submitter Name	Abbreviation
DPR-0446	Transpower New Zealand Limited	Transpower
DPR-0453	Midland Port, Lyttelton Port Company Limited	LPC
DPR-0456	Four Stars Development & Gould Developments Ltd	Four Star & Gould
DPR-0458	KiwiRail Holdings Limited	KiwiRail
DPR-0461	Dunweavin 2020 Ltd	Dunweavin
DPR-0468	North Canterbury Fish and Game	NCFG
DPR-0474	Heather & Trevor Taege	
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	SSH

Please refer to **Appendix 1** to see where each submission point is addressed within this report.

Abbreviations

Abbreviations used throughout this report are:

Abbreviation	Full text
APP	Appendix
CARP	Canterbury Air Regional Plan
CE	Coastal Environment
CMUZ	Commercial and Mixed Use Zone
CRPS	Canterbury Regional Policy Statement 2013
DPZ	Dairy Processing Zone
EI	Energy and Infrastructure
EIB	Ecosystems and Indigenous Biodiversity
EW	Earthworks
GIZ	General Industrial Zone
GRUZ	General Rural Zone
GRZ	General Residential Zone
HH	Historic Heritage
IMP	Mahaanui Iwi Management Plan 2013
NATC	Natural Character
NPS-REG	National Policy Statement on Renewable Electricity Generation
NPS-ET	National Policy Statement on Electricity Transmission
NES-F	National Environmental Standards for Freshwater
NES-PF	National Environmental Standards for Plantation Forestry
NFL	Natural Features and Landscapes
NH	Natural Hazards
NPS	National Planning Standards
NZCPS	New Zealand Coastal Policy Statement
ONL	Outstanding Natural Landscapes
ONFL	Outstanding Natural Features and Landscapes
PDP	Proposed Selwyn District Plan
PORTZ	Port Zone
RESZ	Residential Zone
RMA	Resource Management Act 1991
SASM	Sites and Areas of Significance to Maori
SD	Strategic Directions
SKIZ	Porters Ski Zone
The Council	Selwyn District Council
TRAN	Transport
VAL	Visual Amenity Landscapes

1. Purpose of report

- 1.1 This report is prepared under s42A of the RMA in relation to the Natural Features and Landscapes Chapter in the PDP. The purpose of this report is to provide the Hearing Panel with a summary and analysis of the submissions received on this topic and to make recommendations on either retaining the PDP provisions without amendment or making amendments to the PDP in response to those submissions.
- 1.2 The recommendations are informed by both the technical information provided by Mr James Bentley of Boffa Miskell Ltd (see **Appendix 3**) and the evaluation undertaken by myself as the planning author. In preparing this report I have had regard to the s42A report on Strategic Directions prepared by Mr Love and the Overview s42A report that addresses the higher order statutory planning and legal context. In addition I have also had regard to the s42A reports for: Part 1 – Introduction and General Provisions by Ms Tuilaepa, Energy and Infrastructure by Ms Barker, Natural Hazards by Ms Carruthers, Earthworks by Mr Mayes and Transport and the General Rural Zone, authored by myself.
- 1.3 The conclusions reached and recommendations made in this report are not binding on the Hearing Panel. It should not be assumed that the Hearing Panel will reach the same conclusions having considered all the information in the submissions and the evidence to be brought before them, by the submitters.

2. Qualifications and experience

- 2.1 My full name is Jon Trewin. I am employed by the Council as a Strategy and Policy Planner. My qualifications include a MSc in Development Planning from Reading University, UK.
- 2.2 I have 15 years' experience as a resource management planner, with this including working in the UK and New Zealand on a variety of policy and planning related work concerning natural resource management, transport planning, economic development and land use planning.
- 2.3 I confirm that I have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2014 and that I have complied with it when preparing this report. Having reviewed the submitters and further submitters relevant to this topic I advise there are no conflicts of interest that would impede me from providing independent advice to the Hearings Panel.

3. Scope of report and topic overview

- 3.1 This report considers the submissions and further submissions that were received in relation to the NFL Chapter. It is recommended that this report be read in conjunction with the S42A reports mentioned in paragraph 1.2 above as there is an element of cross referencing and overlap.
- 3.2 Recommendations are made to either retain provisions without amendment, or delete, add to or amend the provisions. All recommended amendments are shown by way of strikeout and underlining in **Appendix 2** to this Report. Footnoted references to a submitter number, submission point and the abbreviation for their title provide the scope for each recommended change. Where it is considered that an amendment may be appropriate but it would be beneficial to hear further evidence before making a final recommendation, this is made clear within the report. Where no

amendments are recommended to a provision, submissions points that sought the retention of the provision without amendment are not footnoted. Appendix 2 also contains recommended spatial amendments to the PDP Planning Maps.

- 3.3 Clause 16(2) of the RMA allows a local authority to make an amendment to a proposed plan without using a Schedule 1 process, where such an alteration is of minor effect, or may correct any minor errors. A number of alterations have already been made to the PDP using cl.16(2) and these are documented in reports available on the Council's website. Where a submitter has requested the same or similar changes to the PDP that fall within the ambit of cl.16(2), then such amendments will continue to be made and documented as cl.16(2) amendments and identified by way of a footnote in this s42A report.

4. Statutory requirements and planning framework

Resource Management Act 1991

- 4.1 The PDP must be prepared in accordance with the Council's functions under section 31 of the RMA; Part 2 of the RMA; the requirements of sections 74 and 75, and its obligation to prepare, and have particular regard to, an evaluation report under section 32 of the RMA, any further evaluation required by section 32AA of the RMA; any national policy statement, the New Zealand coastal policy statement, national planning standards; and any regulations¹. Regard is also to be given to the CRPS, any regional plan, district plans of adjacent territorial authorities, and the IMP.
- 4.2 A number of provisions have been included in the NFL Chapter in response to the requirements in Part 2 of the RMA, including the need to protect outstanding natural features and landscapes from inappropriate subdivision, use, and development (section 6(b)), the maintenance and enhancement of amenity values (section 7(c)) and the maintenance and enhancement of the quality of the environment (section 7(f)).
- 4.3 As set out in the [‘Overview’ Section 32 Report](#), and [‘Overview’ s42a Report](#), there are a number of higher order planning documents and strategic plans that provide direction and guidance for the preparation and content of the PDP. These documents are discussed in more detail within this report where relevant to the assessment of submission points. This report also addresses any definitions that are specific to this topic, but otherwise relies on the s42A report that addresses definitions more broadly.
- 4.4 The assessment of submission points is made in the context of the Section 32 reports already undertaken with respect to this topic, being:
- [Strategic Directions](#)
 - [Outstanding Natural Features and Landscapes](#)
- 4.5 A number of reports were used to inform the development of the NFL Chapter and s32 analysis. These are listed in **Appendix 3** below.
- 4.6 All recommended amendments to provisions since the initial s32 evaluation was undertaken must be documented in a subsequent s32AA evaluation, where they are of a scale that alters the original

¹ Section 74 RMA

s32 conclusions. This has been undertaken for each sub-topic addressed in this report. Where amendments have been made but no s32AA has been included, the amendments have been assessed as being within scope of the conclusions of the s32.

National Policy Statement – Renewable Electricity Generation and National Policy Statement Electricity Transmission

- 4.7 The National Policy Statement on Renewable Electricity Generation sets out the objectives and policies for managing renewable electricity generation, and the National Policy Statement on Electricity Transmission sets out the objectives and policies for managing electricity transmission. Both documents must be given effect to through district and regional planning documents. The PDP gives effect to these documents primarily through the EI Chapter however there is cross referencing throughout the plan to other chapters as required, including NFL.

National Environmental Standard – Plantation Forestry

- 4.8 The NES-PF was published on 3 August 2017 and came into force on 1 May 2018 and puts in place standards for forestry activities. An NES prevails over district or regional plan rules except where the NES specifically allows more stringent or more lenient plan rules. Under the regulations, district plans can restrict plantation forestry in unique and sensitive environments, to protect matters of national importance and to give effect to national policy statements.
- 4.9 This has implications for landscape areas as it sets out the activity status for forestry in ONL (restricted discretionary) and VAL (controlled). It does however enable a district plan to apply more stringent rules to protect ONL and its recognised values.
- 4.10 The NES-PF applies to any forest of at least one hectare that has been planted specifically for commercial purposes and will be harvested. Specific activities that the NES-PF regulates include:
- afforestation (planting new forest)
 - pruning and thinning to waste (selective felling of trees where the felled trees remain on site)
 - earthworks
 - river crossings
 - forestry quarrying (extraction of rock, sand, or gravel within a plantation forest or for operation of a forest on adjacent land)
 - harvesting
 - mechanical land preparation
 - replanting.

New Zealand Coastal Policy Statement

- 4.11 The NZCPS applies to the coastal environment and prescribes objectives and policies to manage activities within the extent of the coastal environment, which includes the coastal marine area and landward extent of the coastal environment, and thus applies to regional coastal plans and district plans. In relation to NFL, Policy 15 applies. The policy seeks to identify and protect NFL within the coastal environment including through the avoidance of adverse effects of activities on ONFL and avoidance of significant adverse effects and avoid, remedy, or mitigate other adverse effects of activities on other natural features and natural landscapes.

National Planning Standards

- 4.12 As set out in the PDP Overview s42A Report, the NPS were introduced to improve the consistency of council plans and policy statements. The NPS were gazetted and came into effect on 5 April 2019. The PDP must be prepared in accordance with the NPS. The NPS require that if a district plan addresses the identification of features and landscapes that are outstanding, significant or otherwise valued, the objectives, policies and rules must be contained in a chapter called Natural Features and Landscapes.

5. Procedural matters

- 5.1 At the time of writing this s42A report there have not been any pre-hearing conferences, clause 8AA meetings or expert witness conferencing in relation to submissions on this topic.
- 5.2 SUB-R23 relating to subdivision within natural features and landscapes is dealt with through this hearing stream rather than the Subdivision Hearing Stream.

6. Consideration of submissions

Overview of submissions

- 6.1 40 submissions were received in relation to this Chapter and 24 further submissions with approximately 246 submission and 276 further submission points made. Out of the 246 original submission points, 52 were supportive and requested that particular provisions be retained as notified. The other 194 submission points requested amendments or deletion of particular provisions.
- 6.2 The main changes sought by submitters were:
- 6.2.1 Changes to activity rules in the NFL Chapter, typically to be more enabling of certain activities such as horticulture and shelterbelts.
 - 6.2.2 Amendments to NFL maps and amendments to schedules typically to reduce areas of ONL and VAL.
 - 6.2.3 Removal of ONL's from notified or proposed special purpose zones.
 - 6.2.4 Recognition of the needs of important infrastructure within the NFL Chapter.
 - 6.2.5 Clarifying how this Chapter relates to other parts of the PDP.
 - 6.2.6 Challenging the presumption that provisions on VAL are required.
 - 6.2.7 Changes to rule requirements typically to be more enabling of building and structures and earthworks.

Structure of this report

- 6.3 This report has been structured in accordance with the NFL Chapter and follows that sequence. Definitions are addressed firstly given they are relevant to the entire NFL Chapter, followed by general submissions on the NFL Chapter as a whole, before addressing the higher order framework that affects the whole chapter, followed by the provisions within the PDP. The provisions include objectives, policies, rules, rule requirements, matters of control or discretion and schedules.

Requested new provisions have been addressed subsequent to related provisions. Mapping issues are addressed towards the end of the report.

- 6.4 The assessment of submissions generally follows the following format: Submission Information; Analysis; and Recommendation and Amendments. Where an amendment is recommended the applicable s32AA assessment will follow on from the Recommendations section for that issue.

7. Definitions

- 7.1 The Definitions Chapter is subject to its own Hearing (Part 1 – Introduction and General Matters), however there are a number of submissions relating to definitions which are specifically relevant to and integral to the drafting of the NFL Chapter that are considered to be more efficiently addressed as part of this report.

Submissions

- 7.2 Seven submissions points and six further submission points were received in relation to this subtopic.

Submitter ID	Submitter Name	Submission Point	Plan Reference	Position	Decision Requested
DPR-0367	Orion	009	Ancillary Utility Equipment	Oppose	Delete as notified.
DPR-0407	Forest & Bird	FS578	Ancillary Utility Equipment	Oppose	Reject aspects of the submission which do not directly relate to electricity lines and services as critical infrastructure.
DPR-0441	Trustpower	014	Ancillary Utility Equipment	Support In Part	Amend as follows: Equipment that must be installed with, and at the same site as, a network utility <u>or renewable electricity generator</u> to enable its operation, but excludes antennas, self-contained power units or generators.
DPR-0144	The Stations	005	Building Node	Support In Part	Amend as follows: Includes that area of land which <u>may</u> contains the principal residential unit, ..discrete area of the property, <u>generally</u> delineated by intensive shelter or amenity planting and worked paddocks. A building node is contained within an area not exceeding <u>650m</u> 500m distance from the principal residential unit...with the farming operation on the property.
DPR-0301	UWRG	FS020	Building Node	Oppose	Disallow in full

Submitter ID	Submitter Name	Submission Point	Plan Reference	Position	Decision Requested
DPR-0407	Forest & Bird	FS625	Building Node	Oppose	Reject the submissions
DPR-0372	DHL	003	Building Node	Oppose In Part	Amend as follows: Includes that area of land which contains the principal residential unit, other principal buildings, and any worker's accommodation or accessory buildings, which are contained in a discrete area of the property, delineated by intensive shelter or amenity planting and worked paddocks. ...
DPR-0388	CFSL	002	Building Node	Oppose In Part	Amend as follows: Includes that area of land which contains the principal residential unit, other principal buildings, and any worker's accommodation or accessory buildings, which are contained in a discrete area of the property, delineated by intensive shelter or amenity planting and worked paddocks. ...
DPR-0422	NCFE	034	Building Node	Oppose	Delete as notified.
DPR-0407	Forest & Bird	FS077	Building Node	Support In Part	Reject the submission to delete but consider amendments for clarity.
DPR-0207	SDC	001	Ridgeline (New)	Support	Insert a new definition as follows: <u>A geological feature that has a continuous elevational crest for some distance; provided that for the purposes of landscape assessments. This does not include the vegetation on the ridgeline.</u>
DPR-0101	Chorus, Spark and Vodafone	FS001	Ridgeline (New)	Oppose	Decline original submission point
DPR-0301	UWRG	FS021	Ridgeline (New)	Support	Allow in full

Analysis

Ancillary Utility Equipment

- 7.3 Orion² opposes the definition for Ancillary Utility Equipment as notified and seeks that it be deleted, as they state that it is not a term that appears to be utilised elsewhere across the PDP. I recommend this submission point is accepted for the following reasons:
- 7.3.1 NFL-R2.1.c. provides for the installation of underground infrastructure and ‘Ancillary Utility Equipment’ as a Permitted Activity in ONL. The definition is not used elsewhere in the PDP. Removal of the definition would create uncertainty however in NFL-R2.1c in that there would be a term that is not defined in the PDP. Overall however it would be more consistent to refer to ‘Ancillary Structures’ which is already used in NFL-R2.4c in respect of VAL.
- 7.3.2 I therefore recommend that NFL-R2.1c is amended to delete ‘Ancillary Rural Equipment’ and replace with ‘Ancillary Structure’. ‘Ancillary Utility Equipment’ should then be deleted from the definitions chapter as per the relief sought as it becomes a redundant term with the above change.
- 7.4 Trustpower³ supports the definition but seek amendments to recognise renewable electricity generators, as they do not meet the definition of a network utility operator and are therefore excluded from the definition for Ancillary Utility Equipment. I recommend this submission point is rejected as I am recommending that the definition of Ancillary Utility Equipment is deleted as a consequence of the Orion submission. The change in NFL-R2.1c to ‘Ancillary Structure’ likely meets the intent of the submitter’s relief sought as it broadens the scope of NFL-2.1c and would not be restricted in its application to just network utilities. I also note that, in relation to the submitter’s facility at Lake Coleridge (Coleridge HEPS), various relief is sought in the EI Chapter and NFL Chapter to further enable activities at the Coleridge HEPS. A number of these sought after changes are recommended to be accepted in some form by myself and the author of the EI Chapter s42a and Right of Reply report.

Building Node

- 7.5 The Stations⁴ seek an amendment to the definition for Building Node, as they consider the definition as notified is too prescriptive, noting that no two building nodes are the same, as they have in most cases developed over a very long period. DHL⁵ and CFSL⁶ also seek it be amended as they consider that building nodes being delineated by intensive shelter, amenity plantings or worked paddocks is arbitrary and should not alter whether the definition of building node is met. NCF⁷ opposes the definition and seeks that it be deleted from the PDP as they consider that it is incomprehensible, is void for uncertainty and there are sufficient land use controls for ONLs under the definitions for building coverage and building footprint. I recommend accepting in part the submission points of The Stations, DHL and CFSL and rejecting that of NCF for the following reasons:

2 Orion DPR-0367.009

3 Trustpower DPR-0441.014

4 The Stations DPR-0144.005

5 DHL DPR-0372.003

6 CFSL DPR-0388.002

7 NCF DPR-0422.034

- 7.5.1 Building Nodes recognise that farming related buildings and structures, such as workers accommodation, storage sheds, garages and other farm infrastructure are typically clustered in close proximity to a principal dwelling. This clustering generally results in more intensive consequential modification of the surrounding land area, such as domestication of the landscape with gardens, washing lines, fences and amenity plantings, along with more intensive modification of farming related activities, such shelterbelts and worked paddocks. Mr Bentley in his evidence has noted that the building node concept recognises that the Waimakariri and Rakaia ONL's are not pristine and that working farms and stations are commonplace in those landscapes.
- 7.5.2 Given the modification that has occurred, or is anticipated to occur in these areas, I consider providing for more intensive development within Building Nodes, relative to other less intensely developed parts of the ONL is appropriate, rather than relying on the less enabling provisions⁸ that apply across the wider ONL in general. Basing building nodes off principal buildings provides a transparent, consistent and clear approach for identifying such areas. I agree with the Stations that the other aspects of the definition (intensive shelter or amenity planting and worked paddocks) may (or may not) be present and are examples of domestication of the landscape, but it is the concentration of buildings that is most important as this will impact most on landscape values.
- 7.5.3 In terms of increasing the size of Building Nodes from 500m radius from a Principal Building to 650m as requested by the Stations, no comprehensive site by site assessment has been carried out to determine the optimal size for Building Nodes due to resource input required. A desk top exercise undertaken by Boffa Miskell, coupled with observations from site visits to High Country stations, determined that a 500m radius from the main farm dwelling in the High Country was a reasonable allowance for further intensification/domestication of the landscape where there is already a degree of change. It was established that most high country stations have the majority of their 'intensification' closest to the main farm dwelling and it was estimated that, on balance, 500m would be an appropriate 'generic' radius which would also provide for a significant development opportunity for landowners to achieve a 'clustering' approach. I agree with the original presumption that 500m (or 1km in total diameter) is a reasonable allowance and do not consider any increase is required.

Ridgeline

- 7.6 SDC⁹ notes that no definition for Ridgeline has been included in the PDP as notified and that this may cause uncertainty when interpreting provisions which rely on this term. The submitter recommends that a new definition be added to the PDP to provide certainty and consistency when interpreting PDP provisions. I accept the concerns raised by the submitter, although the wording of the proposed new definition is not that clear, as set out in Mr Bentley's evidence. Alternative wording is recommended by Mr Bentley, along with an accompanying diagram which I accept provides more clarity. Therefore I recommend that this submission point is accepted in part.

⁸ NFL-REQ1.1.2. Building and structure height; and NFL-REQ2.1.2. Building footprint Coverage

⁹ SDC DPR-0207.001

Recommendation and amendments

7.7 I recommend, for the reasons given above, that the Hearings Panel amend, as set out in **Appendix 2**, the following:

- a) Delete 'Ancillary Utility Equipment' from NFL-R2.1c and replace with 'Ancillary Structure'.
- b) Delete 'Ancillary Utility Equipment' from the definitions chapter.
- c) Insert 'generally' into the definition of Building Node as requested by The Stations.
- d) Insert a definition of 'Ridgeline' and include a diagram.

7.8 It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix 1**.

7.9 The scale of change does not require a s32AA evaluation.

8. General Submissions on the Natural Features and Landscapes Chapter

Submissions

8.1 Nine submissions points and 30 further submission points were received in relation to this subtopic.

Submitter ID	Submitter Name	Submission Point	Plan Reference	Position	Decision Requested
DPR-0212	ESAI	056	NFL	Oppose In Part	Amend planning maps to reduce multi overlay areas and rationalise provisions that deal several times in the same area about the same thing e.g. forestry and earthworks within Outstanding Natural Landscape areas.
DPR-0301	UWRG	040	NFL	Neither Support Nor Oppose	Not specified
DPR-0301	UWRG	024	NFL	Neither Support Nor Oppose	Not specified
<i>DPR-0407</i>	<i>Forest & Bird</i>	<i>FS348</i>	<i>NFL</i>	<i>Support</i>	<i>Accept the submission</i>
DPR-0358	RWRL	192	NFL	Support	Retain as notified
DPR-0358	RWRL	407	Non-notification clauses	Oppose	Insert the following words, or words to the like effect, to all controlled and restricted discretionary activity rules: <u>Applications shall not be limited or publicly notified, on the basis of effects associated specifically with this rule and the associated matters of control or discretion.</u>
<i>DPR-0032</i>	<i>CCC</i>	<i>FS193</i>	<i>Non-notification clauses</i>	<i>Oppose In Part</i>	<i>Do not limit notification where neighbouring properties, communities, or the wider district are potentially directly affected and the adverse effects are potentially more than minor or where the Act requires notification.</i>

Submitter ID	Submitter Name	Submission Point	Plan Reference	Position	Decision Requested
DPR-0298	Trices Road	FS924	Non-notification clauses	Support	Accept submission
DPR-0371	CIAL	FS045	Non-notification clauses	Support In Part	Accept in part
DPR-0375	Waka Kotahi	FS328	Non-notification clauses	Oppose	Retain relevant provisions without a non-notification clause.
DPR-0414	Kāinga Ora	FS118	Non-notification clauses	Support	Not Specified
DPR-0453	LPC	FS045	Non-notification clauses	Support In Part	Accept in part
DPR-0456	Four Star & Gould	FS014	Non-notification clauses	Support	Accept submission
DPR-0363	IRHL	432	Non-notification clauses	Oppose	Insert the following words, or words to the like effect, to all controlled and restricted discretionary activity rules: <u>Applications shall not be limited or publicly notified, on the basis of effects associated specifically with this rule and the associated matters of control or discretion.</u>
DPR-0032	CCC	FS227	Non-notification clauses	Oppose In Part	Do not limit notification where neighbouring properties, communities, or the wider district are potentially directly affected and the adverse effects are potentially more than minor or where the Act requires notification.
DPR-0298	Trices Road	FS958	Non-notification clauses	Support	Accept submission
DPR-0371	CIAL	FS148	Non-notification clauses	Support In Part	Accept in part
DPR-0375	Waka Kotahi	FS329	Non-notification clauses	Oppose	Retain relevant provisions without a non-notification clause.
DPR-0414	Kāinga Ora	FS152	Non-notification clauses	Support	Not Specified
DPR-0422	NCFE	FS205	Non-notification clauses	Support In Part	Allow the submission on controlled activity. Disallow the submission point that notification is not required for all restricted discretionary applications.
DPR-0453	LPC	FS146	Non-notification clauses	Support In Part	Accept in part

Submitter ID	Submitter Name	Submission Point	Plan Reference	Position	Decision Requested
DPR-0456	Four Star & Gould	FS048	Non-notification clauses	Support	Accept submission
DPR-0374	RIHL	478	Non-notification clauses	Oppose	Insert the following words, or words to the like effect, to all controlled and restricted discretionary activity rules: <u>Applications shall not be limited or publicly notified, on the basis of effects associated specifically with this rule and the associated matters of control or discretion.</u>
DPR-0032	CCC	FS265	Non-notification clauses	Oppose In Part	Do not limit notification where neighbouring properties, communities, or the wider district are potentially directly affected and the adverse effects are potentially more than minor or where the Act requires notification.
DPR-0298	Trices Road	FS992	Non-notification clauses	Support	Accept submission
DPR-0371	CIAL	FS079	Non-notification clauses	Support In Part	Accept in part
DPR-0375	Waka Kotahi	FS330	Non-notification clauses	Oppose	Retain relevant provisions without a non-notification clause.
DPR-0414	Kāinga Ora	FS186	Non-notification clauses	Support	Not Specified
DPR-0453	LPC	FS079	Non-notification clauses	Support In Part	Accept in part
DPR-0456	Four Star & Gould	FS082	Non-notification clauses	Support	Accept submission
DPR-0384	RIDL	199	NFL	Support	Retain as notified.
DPR-0384	RIDL	511	Non-notification clauses	Oppose	Insert the following words, or words to the like effect, to all controlled and restricted discretionary activity rules: <u>Applications shall not be limited or publicly notified, on the basis of effects associated specifically with this rule and the associated matters of control or discretion.</u>
DPR-0032	CCC	FS300	Non-notification clauses	Oppose In Part	Do not limit notification where neighbouring properties, communities, or the wider district are potentially directly affected and the adverse effects are potentially more than minor or where the Act requires notification.
DPR-0298	Trices Road	FS1019	Non-notification clauses	Support	Accept submission

Submitter ID	Submitter Name	Submission Point	Plan Reference	Position	Decision Requested
DPR-0371	CIAL	FS112	Non-notification clauses	Support In Part	Accept in part
DPR-0375	Waka Kotahi	FS331	Non-notification clauses	Oppose	Retain relevant provisions without a non-notification clause.
DPR-0414	Kāinga Ora	FS220	Non-notification clauses	Support	Not Specified
DPR-0453	LPC	FS112	Non-notification clauses	Support In Part	Accept in part
DPR-0456	Four Star & Gould	FS116	Non-notification clauses	Support	Accept the submission

Analysis

- 8.2 RWRL, IRHL, RIHL and RIDL¹⁰ seek non-notification clauses for each rule and rule requirement that has a restricted discretionary activity status. The relief sought by these submitters is consistent across the PDP. I do not consider sweeping exemptions to notification requirements to be sound planning practice as there may be occasions when activities give rise to adverse effects where specific parties or the community should be consulted. This would be tested under s95 RMA on a case by case basis depending on the circumstances of any resource consent application. I recommend that the request for blanket non-notification clauses is rejected, notwithstanding that in some specific cases I may recommend notification clauses for other reasons.
- 8.3 ESAI¹¹ seek that the number of maps and overlays is reduced so that provisions may be rationalised, particularly as this applies to the edge of Lake Ellesmere/Te Waihora and within the environs of the Rakaia and Selwyn rivers. The edge of Lake Ellesmere/Te Waihora and mouth of the Selwyn River do contain several overlays. This includes NFL, SASM (Nga Turanga Tupuna and Wahi Tapu) and high natural character within the coastal environment. The mouth of the Rakaia River contains NFL, Wahi Tapu and very high and outstanding natural character within the coastal environment. All of these overlays, to a greater or lesser degree, apply restrictions that are more stringent than the underlying zone. I recommend this submission point is accepted in part for the following reasons:
- 8.3.1 These overlays reflect different natural and cultural values that are matters of national importance under s6 RMA. The area of concern for the submitter, which is predominantly in the coastal environment, is in an area where district and regional councils are required to map or otherwise identify ONL (NZCPS Policy 15) and outstanding and high natural character (NZCPS Policy 13). In addition NZCPS Policy 17 and CRPS Policy 13.3.1 requires that local authorities work with local rūnanga to identify significant historic and cultural heritage. Whilst this may increase the visual complexity of the planning maps, it also provides a greater degree of transparency as to what the values are of a particular area whilst complying with higher order planning documents. There are also differences in the overlays

¹⁰ DPR-0358:400 RWRL, 0363:425 IRHL, 0374:471 RIHL, 0384:504 RIDL

¹¹ ESAI DPR-0212:056

– for example the mapping of ‘natural character’ is inferring a bias towards the natural science attributes with some experiential aspects, whilst natural as in ‘natural landscapes’ is referring more to the visual or aesthetic aspects of naturalness (i.e. it looks natural), rather than ecological intactness¹².

- 8.3.2 From a practical standpoint, where there are overlaps, the provisions need to be read together and the more restrictive provisions will apply. For example, in the Rakaia River ONL permitted earthworks disturbance area/volume is 100m² and 100m³ per 12 month period (NFL-R2). This is the same threshold as if the activity takes place in mapped outstanding, very high or high natural character within the small extent of the coastal environment near the mouth of the Rakaia River (CE-R5). As the site is also a Wahi Tapu site, further restrictions apply on depth and whether the land has been previously disturbed, reflecting that there is a higher risk of disturbing physical heritage. Overall, the areas where there are overlapping areas of NFL, SASM and natural character are relatively small and in marginal areas unlikely to see significant development pressure and therefore it is unlikely that a multitude of different overlay rules will be triggered that often.
- 8.3.3 It is also worth noting that the use of an E-Plan format makes it easier to see what provisions apply where compared to previous paper based plans. The format allows the reader to look at property specific district plan chapters.
- 8.3.4 I asked Mr Bentley to review the boundaries of ONL and natural character mapping in the Coastal Environment with the submitter’s point in mind. Mr Bentley has recommended some minor adjustments, most notably where the values are inextricably entwined and the linework slightly deviates. This does not negate the fact that the identification of the inland coastal environment boundary, the ONL and areas of high, very high and outstanding natural character are different, and retain a different methodology and in areas, the overlays do differ. I therefore recommend that the mapping changes recommended by Mr Bentley are adopted.
- 8.4 UWRG¹³ seek objectives and policies to address cross-boundary recognition of Rakaia and Waimakariri ONL in neighbouring district council areas. UWRG more broadly seek consistent provisions so they align with other councils in Canterbury – for example they cite the Mackenzie District where Plan Change 13 applies across the Mackenzie Basin area. I recommend this submission point is rejected. Whilst Council has worked with neighbouring authorities to develop the PDP (including talking into account neighbouring approaches to managing ONL to ensure consistency), there is no need to include specific objectives and policies to ensure integration with other planning authorities. The CRPS is the appropriate planning document to ensure cross boundary integration within the Canterbury Region and district and regional plans are required to give effect to this.
- 8.5 RWRL and RIDL¹⁴ seek that the NFL chapter is retained as notified. I recommend these submissions are accepted in part as I am recommending amendments to provisions in the chapter.

¹² https://www.selwyn.govt.nz/_data/assets/pdf_file/0004/282244/SDC_Coastal_Environment_Study_20180319-FINAL.pdf (P10)

¹³ UWRG DPR-0301:024 and 040

¹⁴ RWRL DPR-0358:192, RIDL DPR-0384:199

Recommendation

- 8.7 I recommend for the reasons given above, that the Hearings Panel amend the maps of ONL and natural character as set out in **Appendix 2**.
- 8.8 It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix 1**.
- 8.9 The scale of change does not require a s32AA evaluation.

9. Objectives

NFL-O1

Submissions

- 9.1 Seven submissions points and 10 further submission points were received in relation to NFL-O1.

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0260	CRC	112	Support	Retain as notified.
DPR-0301	UWRG	FS049	Support	Allow
DPR-0301	UWRG	029	Support	Retain as notified.
DPR-0407	Forest & Bird	FS337	Support	Accept the submission
DPR-0372	DHL	073	Support In Part	Retain as notified
DPR-0381	CDL	FS038	Support	Allow
DPR-0486	CDL	FS038	Support	Allow
DPR-0388	CFSL	036	Support In Part	Retain as notified
DPR-0381	CDL	FS037	Support	Allow
DPR-0486	CDL	FS037	Support	Allow
DPR-0390	RIL	056	Support In Part	Retain as notified.
DPR-0381	CDL	FS039	Support	Allow
DPR-0486	CDL	FS039	Support	Allow
DPR-0407	Forest & Bird	043	Support	Retain as notified
DPR-0301	UWRG	FS121	Support	Allow in full
DPR-0422	NCFE	160	Support in Part	Amend as follows: The outstanding natural features and landscapes of Selwyn <u>District</u> are protected from inappropriate subdivision, use and development.
DPR-0407	Forest & Bird	FS390	Oppose	Reject the submission

Analysis

- 9.2 NCFE¹⁵ seek a minor change to include the word 'District' in the wording of the Objective. The convention throughout the PDP has been to refer to 'Selwyn' rather than 'Selwyn District' and for the sake of consistency I recommend this be maintained here and the submission point is rejected.

¹⁵ NCFE DPR-0422:160

- 9.3 CRC¹⁶, UWRG¹⁷, DHL¹⁸, CFSL¹⁹, RIL²⁰ and Forest and Bird²¹ support the objective and seek that it is retained as notified. As no amendments are being sought, I recommend these submission points are accepted.

Recommendation

- 9.4 I recommend, for the reasons given above, that the Hearings Panel retain the provision as notified.
- 9.5 It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix 1**.

NFL-O2

Submissions

- 9.6 Eight submissions points and seven further submission points were received in relation to NFL-O2.

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0260	CRC	113	Support	Retain as notified.
DPR-0301	UWRG	FS050	Support	Allow
DPR-0301	UWRG	030	Support In Part	Amend as follows: The values of the visual amenity significant <u>natural</u> landscapes of Selwyn are maintained and, where possible, enhanced. Alternatively, amend as follows: The <u>naturalness</u> values of the visual amenity landscapes of Selwyn are maintained and, where possible, enhanced.
DPR-0032	CCC	FS071	Oppose	Retain NFL-O2 as notified
DPR-0407	Forest & Bird	FS338	Support	Accept the submission
DPR-0372	DHL	074	Support	Retain as notified
DPR-0390	RIL	057	Support In Part	Retain as notified.
DPR-0407	Forest & Bird	044	Support In Part	Amend as follows: The <u>natural</u> values of visual amenity Selwyn's <u>rural character</u> landscapes of Selwyn are maintained and where possible, enhanced.
DPR-0301	UWRG	FS122	Support	Allow in full
DPR-0422	NCFE	161	Oppose	Delete as notified and replace with: <u>The natural character of the District's lakes, rivers, wetlands and the coastal environment is preserved.</u>
DPR-0032	CCC	FS072	Oppose	Retain NFL-O2 as notified
DPR-0407	Forest & Bird	FS391	Oppose	Reject the submission
DPR-0441	Trustpower	124	Support In Part	Amend the VAL overlay so that it follows the property boundary and does not cover Trustpower assets.
DPR-0446	Transpower	092	Oppose	Amend Objective NFL-O2 as follows: The values of the visual amenity landscapes of Selwyn are maintained and, where possible, <u>enhanced where possible.</u>

16 CRC DPR-0260:112

17 UWRG DPR-0301:029

18 DHL DPR-0372:073

19 CFSL DPR-0388:036

20 RIL DPR-0390:056

21 Forest and Bird DPR-0407:043

Analysis

- 9.7 UWRG²² seek that the term ‘significant natural landscape’ be applied instead of ‘visual amenity landscape’, or alternatively ‘naturalness’ be inserted into the wording of the objective as ‘amenity’ is a broad term and ‘naturalness’ should be emphasised. I recommend this submission point is rejected. Case law²³ has established that, unlike ONFL’s, there is no presumption that landscapes which contribute to amenity and environmental quality should be retained in their current state. However change must be carefully managed to ensure that overall amenity and environmental quality is maintained or enhanced. This is consistent with RMA s7(c) and 7(f) relating to the maintenance and enhancement of amenity values and the maintenance and enhancement of the quality of the environment. This is in contrast to NFL-O1 which relates to landscapes protected by s6(b) where a high degree of naturalness is important.
- 9.8 Forest and Bird²⁴ seek that the term ‘rural character landscape’ replace ‘visual amenity landscape’ similar to the approach taken in Queenstown Lakes District. The submitter states that this would include VAL characteristics as well as the openness of rural land that is vulnerable to subdivision and non-farming activities. I recommend this submission point is rejected. The underlying zone for the majority of areas with VAL or ONL, GRUZ, includes controls on rural density and industrial and commercial activities that are likely to undermine rural character. There is therefore no need to use a different mechanism to achieve what is already managed in the GRUZ provisions and conflating VAL with rural character may serve to dilute the protection in the PDP afforded to VAL.
- 9.9 NCCF²⁵ seek that the approach to VAL’s is deleted and replaced with a general statement that the natural character of the district’s lakes, rivers, wetlands and coastal environment is preserved. The submitter states that there is no requirement to identify and protect VAL’s and protecting rural amenity values could be included in GRUZ to apply generally across that zone. I recommend this submission point is rejected for the following reasons:
- 9.9.1 The submitter refers to *Wilkinson vs Hurunui DC*²⁶ which found that in the case of the Hurunui District, there was a lack of justification or rationale to support the mapping of land in the District as a ‘Significant Landscape’. However the court judgement does not preclude the mapping of VAL but does explicitly state that they must be properly supported by evidence and a robust s32 analysis.
- 9.9.2 The PDP must give effect to the CRPS. Whilst not a mandatory requirement, Policy 12.3.3 of CRPS states that local authorities may set out provisions that provide for the appropriate management of other landscapes (that are not outstanding), including protection from inappropriate subdivision, use and development where this is warranted.
- 9.9.3 I believe that the PDP is consistent with both *Wilkinson vs Hurunui DC* and the CRPS as the PDP includes appropriate justification and rationale for the inclusion and protection of VAL.

22 UWRG DPR-0301:030

23 *Wakatipu Environmental Society Inc v Queenstown Lakes District Council* [2000] NZRMA 59, at [91].

24 Forest and Bird DPR-0407:044

25 NCCF DPR-0422:161

26 *Wilkinson v Hurunui District Council* Environment Court, Christchurch, 29/2/2000, C50/2000

- 9.10 Trustpower²⁷ seek an amendment to VAL near Coleridge Power Station. Please refer to discussion on the scheduling of areas of VAL which is dealt with towards the end of this report (Section 14).
- 9.11 Transpower²⁸ seek a rewording of the Objective so that maintenance and enhancement be achieved where possible. The submitter is concerned that maintenance of VAL without qualification would frustrate the development of the National Grid which would not be able to meet this objective. I recommend this submission point is accepted in part for the following reasons:
- 9.11.1 The EI Chapter contains policy on the location of important infrastructure in NFL and VAL. Under the National Planning Standards, provisions on EI must be located in the EI Chapter however cross referencing is permitted. Where cross referencing to other provisions in the PDP occurs, the relevant objectives and policies of that chapter apply when assessing an application for resource consent.
- 9.11.2 An issue identified in the EI Chapter through submissions and addressed in the reporting officer's right of reply report (including through legal advice) was that the more directive policy in NFL to 'avoid' certain effects could effectively 'override' the more enabling policy in the EI Chapter to provide for important infrastructure. To avoid this unintended outcome, there is a need to include wording in the NFL Chapter to ensure consistency with the EI Chapter. It is noted that the use of the word 'avoid' has been subject to a body of case law and the meaning of higher order planning documents and protection of s6 matters generally. It is likely that whether a particular proposal involving important infrastructure is appropriate will need to be determined on a case by case basis with this in mind.
- 9.11.3 The specific relief to amend the wording of the objective to maintain the values of VAL where possible is not required in my view, as how these values are to be maintained is outlined by the policies. However the policies of the NFL Chapter as notified do not achieve this and require redrafting to address the issue identified above (this is addressed in more detail in NFL-P1 below).
- 9.12 CRC²⁹, DHL³⁰ and RIL³¹ seek that the objective is retained as notified. As I am not recommending any amendments, I recommend these submission points are accepted.

Recommendation

- 9.13 I recommend, for the reasons given above, that the Hearings Panel retain the provision as notified. It is noted that changes to NFL-P1 and P2 are recommended as a result of submission points discussed above.
- 9.14 It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix 1**.

27 Trustpower DPR-0441:124

28 Transpower DPR-0446:092

29 CRC DPR-0260:113

30 DHL DPR-0372:074

31 RIL DPR-0390:057

10. Policies

NFL-P1

Submissions

10.1 19 submissions points and 27 further submission points were received in relation to NFL-P1.

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0207	SDC	035	Oppose In Part	Amend as follows: Recognise the values of the identified outstanding natural features and landscapes described in NFL-SCHED1 and protect these values from adverse effects by: ... h. avoiding buildings and structures, excluding ancillary structures and public amenity buildings, in close proximity to the key visual corridors of State Highway 73 and the Midland railway line; ...
DPR-0260	CRC	114	Support	Retain as notified.
DPR-0301	UWRG	FS051	Support	Allow
DPR-0301	UWRG	031	Oppose In Part	Amend as follows: Recognise the values of the identified outstanding natural features and landscapes described in NFL-SCHED1 and protect these values from adverse effects by: a.; b. <u>avoiding subdivision, use and development that potentially adversely affects outstanding natural features and landscapes;</u> b.c.; e. d. managing building <u>location</u> density and form to ensure it remains at a low level and predominantly concentrated within existing building nodes, and maintains a predominance of vegetation cover and sense of low levels of human occupation; e.e.; e. f. avoiding buildings and structures that break the intrude into a skyline; enabling activities that maintain the qualities of the landscape or landform silhouette; f. g. ensure buildings and structures are constructed from materials with <u>all claddings and trim having low reflectance values (refer to guideline),</u> and are designed to minimise glare and light spill and the need for earthworks, and are mitigated by plantings to reduce their visual impact where appropriate; g-h.; h. i. avoiding buildings in close proximity to the key visual corridors of State Highway 73 and the Midland railway line; i. j. recognising and providing protection for Ngāi Tahu <u>tāngata whenua</u> values in locations of special significance to tāngata whenua; j. k. recognising the existence of working pastoral

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
				farms and their contribution to the openness <u>and naturalness</u> of outstanding natural features and landscapes; k.l. recognising the existing Porters Ski and Recreation Area and providing for its ongoing use and development, while ensuring that the outstanding natural landscapes values of the Area are recognised and protected from inappropriate <u>subdivision, use and development.</u>
DPR-0407	Forest & Bird	FS339	Support	Accept the submission
DPR-0353	Hort NZ	169	Support	Retain as notified
DPR-0367	Orion	059	Support In Part	Amend NFL-P1 by adding the following: Recognise the values of the identified outstanding natural features and landscapes described in NFL-SCHED1 and protect these values from adverse effects by: <u>l. Recognise that, due to locational, operational and technical requirements, network utilities may need to be located within areas with natural environment values.</u>
DPR-0101	Chorus, Spark and Vodafone	FS002	Support	Accept original submission point
DPR-0407	Forest & Bird	FS628	Oppose	Reject aspects of the submission which do not directly relate to electricity lines and services as critical infrastructure.
DPR-0372	DHL	075	Support In Part	Amend as follows: <u>Recognise the values of the identified outstanding natural features and landscapes described in NFL-SCHED1 and protect these values from adverse effects by: ...</u> <u>l. recognising existing farming activities, including irrigation infrastructure, and providing for its ongoing operation and maintenance, while ensuring that the outstanding landscapes values of the Rakaia River are recognised and protected</u>
DPR-0375	Waka Kotahi	097	Support In Part	Amend Policy to include recognition of infrastructural requirements within landscape areas.
DPR-0381	CDL	011	Oppose In Part	Amend NFL-P1 as follows (or to the effect of) Recognise the values of the identified outstanding natural features and landscapes described in NFL-SCHED1 and protect these values from adverse effects by: a. avoiding strongly discouraging subdivision, use and development in those parts of outstanding natural features and landscapes with limited or no capacity to absorb change, and providing for limited subdivision, use, and development in those areas with potential to absorb change; b. avoiding discouraging use and development that detracts from extensive open views, or detracts from or damages the unique landforms and landscape

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
				<p>features;</p> <p>g. avoiding discouraging activities that are incompatible with the values identified, including plantation forestry, mineral extraction, and large-scale earthworks.</p> <p>h. avoiding discouraging buildings in close proximity to the key visual corridors of State Highway 73 and the Midland railway line;</p> <p>j. recognising the existence of working pastoral farms and their contribution to the openness <u>and character</u> of outstanding natural features and landscapes.</p>
DPR-0301	UWRG	FS059	Oppose	Disallow
DPR-0407	Forest & Bird	FS518	Oppose	Reject the submission
DPR-0388	CFSL	037	Support In Part	<p>Amend as follows:</p> <p>Recognise the values of the identified outstanding natural features and landscapes described in NFL-SCHED1 and protect these values from adverse effects by:</p> <p>...</p> <p><u>l. recognising existing farming activities, including irrigation infrastructure, and providing for its ongoing operation and maintenance, while ensuring that the outstanding landscapes values of the Rakaia River are recognised and protected.</u></p>
DPR-0390	RIL	058	Support In Part	<p>Amend as follows:</p> <p>Recognise the values of the identified outstanding natural features and landscapes described in NFL-SCHED1 and protect these values from adverse effects by:</p> <p>...</p> <p><u>l. recognising existing irrigation infrastructure and providing for its ongoing operation and maintenance, while ensuring that the outstanding landscapes values of the Rakaia River are recognised and protected.</u></p>
DPR-0407	Forest & Bird	045	Support In Part	<p>Amend as follows:</p> <p>Recognise the values of the identified outstanding natural features and landscapes described in NFL-SCHED1 and protect these values from adverse effects by:</p> <p>...</p> <p>b. avoiding <u>subdivision</u>, use and development that detracts from extensive open views, or detracts from or damages the <u>distinctive unique</u> landforms and landscape features, <u>and its natural science values</u>;</p> <p>c. managing building <u>location</u>, density and form to ensure it remains at a low level and predominantly concentrated within <u>existing</u> building nodes, and maintains a predominance of vegetation cover and sense of low levels of human occupation;</p> <p>...</p> <p>j. recognising the existence of working pastoral</p>

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
				farms and their contribution to the openness <u>and naturalness</u> of outstanding natural features and landscapes; k. recognising the existing Porters Ski and Recreation Area and providing for its ongoing use and development, while ensuring that the outstanding natural landscapes values of the Area are recognised and protected from inappropriate <u>subdivision</u> , use and development.
DPR-0301	UWRG	FS123	Support	Allow in full
DPR-0375	Waka Kotahi	FS113	Support In Part	Amend the rule to include recognition of infrastructure requirements within landscape areas as per the original submission.
DPR-0422	NCFE	162	Support In Part	Delete as notified and replace with: <u>Recognise the values of the identified outstanding natural features and landscapes described in NFL-SCHED1 and protect these values from adverse effects by:</u> <u>and protect ONFs and ONLs as identified in NFL-SCHED1 and on the planning maps by:</u> <u>a. Identifying the core values of ONFs and ONLs, and their capacity to absorb change and the nature of such change; and</u> <u>b. Recognising and providing for the continuation of existing land uses within these areas, including farming, outdoor recreation, infrastructure, network utilities; and</u> <u>c. Ensuring any new subdivision, use and development of land in areas identified as ONFs or ONLs maintains the values of the natural feature or landscape which render it outstanding; and</u> <u>d. Generally avoiding large-scale plantation forestry, large-scale buildings or hardstand areas, or open-cast mining or quarrying in ONLs unless the landscape is identified in NFL-SCHED1 as able to host these activities and maintain its landscape values.</u>
DPR-0407	Forest & Bird	FS392	Oppose	Reject the submission
DPR-0468	NCFG	FS050	Oppose	Oppose proposed rule change
DPR-0427	DoC	051	Support	Retain as notified.
DPR-0301	UWRG	FS193	Support	Allow in full
DPR-0381	CDL	FS051	Oppose	Disallow
DPR-0407	Forest & Bird	FS217	Support	Accept the submission
DPR-0486	CDL	FS051	Oppose	Disallow
DPR-0439	Rayonier	026	Oppose In Part	Amend NFL-P1.g. as follows: g. avoiding activities that are incompatible with the values identified, including <u>plantation forestry</u> afforestation of plantation forestry, mineral extraction, and large-scale earthworks.
DPR-0440	EDS	015	Oppose In Part	Amend to provide greater recognition of the need to avoid adverse effects of vegetation clearance on landscape values.
DPR-0301	UWRG	FS301	Support	Allow in full

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0375	Waka Kotahi	FS114	Oppose	Amend the rule to include recognition of infrastructure requirements within landscape areas as per the original submission.
DPR-0407	Forest & Bird	FS015	Support	Accept the submission
DPR-0441	Trustpower	FS094	Oppose	Reject
DPR-0468	NCFG	FS005	Support	Amend to provide greater recognition of the need to avoid adverse effects of vegetation clearance on landscape values.
DPR-0440	EDS	016	Oppose In Part	Amend to provide greater recognition of the need to avoid adverse effects of plantation forestry on landscape values.
DPR-0301	UWRG	FS302	Support	Allow in full
DPR-0407	Forest & Bird	FS016	Support	Accept the submission
DPR-0441	Trustpower	FS095	Oppose	Reject
DPR-0468	NCFG	FS006	Support	Amend to provide greater recognition of the need to avoid adverse effects of vegetation clearance on landscape values.
DPR-0441	Trustpower	125	Support In Part	Amend as follows: ... <u>l. recognising and providing for existing renewable electricity generation activities and related infrastructure that has a functional need to be located within the ONFL overlay.</u>
DPR-0446	Transpower	094	Oppose	Amend as follows: Recognise the values of the identified outstanding natural features and landscapes described in NFL-SCHED1 and protect these values from adverse effects by: a. <u>x. notwithstanding clauses (a) to (k), providing for important infrastructure where it has a technical, operational or functional need for its design and location and where adverse effects are avoided in the first instance and otherwise remedied or mitigated to the extent practicable.</u>
DPR-0375	Waka Kotahi	FS116	Support	Accept proposed changes.
DPR-0441	Trustpower	FS096	Support	Accept
DPR-0458	KiwiRail	046	Support In Part	Insert as follows: <u>X. recognizing and providing for the existence of the land transport network and the importance of important infrastructure in areas that are considered outstanding natural landscapes.</u>
DPR-0375	Waka Kotahi	FS119	Support	Accept proposed amendment.
DPR-0441	Trustpower	FS097	Support	Accept

Analysis

- 10.2 SDC³² seek an exemption from the policy for ancillary structures and public amenity buildings and the inclusion of structures in the policy (except those aforementioned). This is part of broader relief to exempt these from the ambit of NFL-REQ4 requiring a 300m setback from the rail line and SH73. I recommend this submission point is accepted. Ancillary structures are likely to be of a scale that have only minor effects on the landscape and public amenity buildings are likely to be required to be located near the main road and rail line in order to fulfil their purpose. Structures more broadly should be included in the policy rather than just being narrowly confined to ‘buildings’ (a subset of structures).
- 10.3 UWRG³³ seek that NFL-P1 is strengthened to better protect ONL from activities nearby but not in an ONL. I recommend this submission point is rejected for the following reasons:
- 10.3.1 As Mr Bentley notes in his evidence, the identification of VAL’s in high country areas and around the Banks Peninsular are identified in their own right as valuable landscapes but also to provide a buffer to ONL’s. This would assist in restricting development adjacent to high country and Banks Peninsular ONL where there is a risk that such development may adversely affect the ONL.
- 10.3.2 Although most relevant to activities within the ONL, NFL-P1 does not necessarily limit the consideration of effects to the ONL itself as NFL-P1 (b) discusses *‘avoiding use and development that detracts from extensive open views or detracts from or damages the unique landforms and landscape features’* and (g) *‘avoiding activities that are incompatible with the values identified...’*. This could be applied to activities that are adjacent to ONL, where they are of a scale that are subject to the consent triggers in GRUZ, as well as those activities proposed to fall within the ONL itself.
- 10.4 UWRG³⁴ also seek other changes to NFL-P1 to strengthen protection of ONL’s. This includes: clause ‘c’ to include ‘location’ after ‘building’ and ‘existing’ before ‘building nodes’; clause ‘d’ deleting ‘enabling activities that maintain the qualities of the landscape’; clause ‘e’ to include ‘intrude into’ rather than ‘break’ the skyline, and adding ‘landform silhouette’; clause ‘f’ adding ‘all cladding and trim’ in relation to material reflectance and ‘lightspill’ after glare; clause ‘h’ deleting ‘close’ before proximity; clause ‘i’ deleting ‘Ngai Tahu’ in favour of ‘tangata whenua’, clause ‘j’ adding ‘naturalness’; and clause ‘k’ adding subdivision. Taking each in turn:
- 10.4.1 I do not agree that the addition of ‘location’ is required as it is already explicit in the clause that development is to be predominantly concentrated within building nodes. I also do not consider ‘existing’ is needed as the policy needs to anticipate that new building nodes may be created.
- 10.4.2 I do not agree with deleting ‘enabling activities that maintain the qualities of the landscape’ as this clause is consistent with the overall approach and s6 RMA to only avoid inappropriate

32 SDC DPR-0207:035

33 UWRG DPR-0301:031

34 UWRG DPR-0301:031

activities in ONL. Activities that maintain the quality of the landscape are not likely to be inappropriate and should therefore be enabled.

- 10.4.3 I do not agree with the change in wording to clause 'e' to use 'intrude' rather than 'break' the skyline and adding 'landform silhouette' as this does not add anything to the clause and the use of the term 'landform silhouette' adds an additional term that could create uncertainty as to what it means.
- 10.4.4 The proposed changes to clause 'f' I consider are also unnecessary as they contain detail that is already implicit in the policy wording and the use of the term 'lightspill' is not supported as the provisions of the NFL Chapter manage 'glare' not lightspill.
- 10.4.5 The proposed change to clause 'h' is unnecessary as the corresponding rule does at face value regulate building and structures in 'close' proximity to SH73 and the rail line (300m).
- 10.4.6 The proposed change to 'i' is not supported as this does not add anything and 'Ngai Tahu' is used as a synonym for tangata whenua elsewhere in the PDP.
- 10.4.7 I do not agree to the change to 'j' as whilst working pastoral farms contribute to the 'openness' of ONL it is not always the case that they contribute to its 'naturalness'.
- 10.4.8 I agree that 'subdivision' should be included in clause 'k' as this is relevant to managing development and its effects on ONL at Porters.
- 10.5 Orion³⁵, Trustpower³⁶, Transpower³⁷, KiwiRail³⁸ and Waka Kotahi³⁹ are seeking an additional limb to the policy to recognise infrastructure and the functional and operational constraints that exist that may require it to be located in VAL or ONL. I recommend these submission points are accepted in part for the following reasons:
- 10.5.1 As discussed above in NFL-O2, an issue identified in the EI Chapter through submissions and addressed in the reporting officer's right of reply report (including through legal advice) was that the more directive policy in NFL to 'avoid' certain effects could effectively 'override' the more enabling policy in the EI Chapter. This could severely restrict the development of important infrastructure and is not what is intended in the PDP under SD-IR-O2. To avoid this unintended outcome, there is a need to include wording in the NFL Chapter to ensure consistency with the EI Chapter.
- 10.5.2 As a consequence of this and taking into account the legal advice received, I recommend including a new policy in NFL-to ensure consistency with the EI Chapter accounting for the needs of important infrastructure. It is noted that an overall assessment of whether a particular proposal is appropriate will need to be determined on a case by case basis having regard to the direction of higher order documents, various case law and Part 2 of the RMA.

35 Orion DPR-0367:059

36 Trustpower DPR-0441:125

37 Transpower DPR-0446:094

38 KiwiRail DPR-0458:046

39 Waka Kotahi DPR-0375:097

- 10.6 DHL⁴⁰, CFSL⁴¹, RIL⁴² seek that the policy better recognise existing farming activities, including irrigation infrastructure and provide for its ongoing operation and maintenance. This overlaps considerably with their relief sought for a new policy to achieve a similar outcome. I recommend this submission point is accepted in part for reasons explained in [10.34] below.
- 10.7 CDL⁴³ submits that as the rule framework does not prohibit anything, there is no need to use the word ‘avoid’. The submitter proposes the use of ‘discouraging’ or ‘strongly discouraging’ instead. I recommend this submission point is rejected for the following reasons:
- 10.7.1 The use of the word ‘avoid’ is consistent with terminology in the RMA, notably the purpose (part 5(2)(c)). Following the well publicised ‘King Salmon’ case⁴⁴, there has been a build-up of case law on the use of the word ‘avoid’ and its application in the plan making and resource consent decision making process. Where the word ‘avoid’ is used in relation to an activity or effect where an effect is expected to always arise in defined circumstances, then the use of a prohibited activity is likely to be appropriate. An example might be to protect a resource where any adverse effects are intolerable. However in this case, what is to be avoided are particular effects, and determining whether any particular activity will have those effects requires case-by-case consideration. This suggests a non-complying activity is more appropriate to make this assessment.
- 10.7.2 .Non-complying rather than prohibited activity status is more appropriate for activities such as structures, earthworks and plantation forestry because the extent to which these activities will cause an adverse effect on the values of an ONL requires judgement on a case by case basis. The use of the ‘avoid’, which is understood through King Salmon to mean ‘not allow’ means that on assessment against policy and the values and characteristics of an ONL, an activity may be considered ‘inappropriate’ as it causes adverse effects on these values and characteristics, conflicts with the objectives and policies of the Plan and thus effectively must be declined. Whilst a non-complying activity is subject to additional thresholds/tests under s104D RMA, activities that are not found to cause adverse effects in this way may have a pathway to being granted consent.
- 10.8 Forest and Bird⁴⁵ consider that the policy does not adequately give effect to CRPS Policy 12.3.4 and should be amended to include significant reference to avoiding adverse effects on natural science values of ONL. They seek the inclusion of ‘natural science’ values in clause ‘b’. They also request several other wording changes to NFL-P1. I recommend this submission point is accepted in part for the following reasons:
- 10.8.1 The CRPS provides an assessment framework for ONL’s through Policy 12.3.4 which has informed the mapping of ONL’s in Selwyn through the Selwyn Landscape Study 2018. The framework consists of seven separate criteria however, as the CRPS notes, can be grouped

40 DHL DPR-0372:075

41 CFSL DPR-0388:037

42 RIL DPR-0390:058

43 CDL DPR-0381:011

44 Environmental Defence Society Inc v New Zealand King Salmon Company Ltd [2014] NZSC 38, (2014) 17 ELRNZ 442, [2014] 1 NZLR 593, [2014] NZRMA 195

45 Forest and Bird DPR-0407:045

into 'biophysical', 'associative' and 'sensory' values for convenience. Natural science values is a sub-set of 'biophysical' values.

- 10.8.2 NFL-P1 is prefaced by a wording that requires the recognition and protection of values from adverse effects, including natural science values. Although many of the clauses are specific in what effects are to be avoided, clause 'b' takes on a more general nature. To that extent, I agree with the submitter that natural science values are a relevant value however I consider that this aspect is covered by the opening line of the policy and the reference to 'landforms' and 'landscape features' which are broad enough to include consideration of natural science values. I therefore do not agree with the submitter that a change is required.
- 10.8.3 I do however agree with the submitter that, as 'subdivision' confers development rights, this should also be included in 'clause b'. Additionally, as some landforms and features may not be 'unique' as set out in the notified version of clause b, 'distinctive' as proposed by the submitter is a more appropriate wording substitute.
- 10.8.4 I do not agree with changes proposed to clause 'c' or 'j' which mirror those proposed by UWRG for reasons discussed above.
- 10.8.5 I do agree with proposed change to clause 'k', also for reasons discussed above under UWRG.
- 10.9 NCCF⁴⁶ considers that the policy seeks to freeze landscapes in time and will not allow working pastoral farms to be progressive or adaptive in their farming practices. The submitter considers that policies in the PDP should seek to ensure any subdivision, use and development in ONLs maintains the core values which make the landscape or feature outstanding rather than preventing or limiting subdivision, use or development. The submitter proposes wording to be more enabling of existing development and large scale new activities, such as mineral extraction, in areas of ONL which can host these activities and maintain their landscape values. I recommend this submission point is rejected for the following reasons:
- 10.9.1 The Selwyn Landscape Study found that ONL's in Selwyn are vulnerable to a number of activities including mineral extraction, plantation forestry, large-scale buildings and structures. The study also confirmed the core values of each ONL based on criteria in the CRPS and reported in summary in Schedule 1 of the NFL Chapter in the PDP.
- 10.9.2 Given the results of the Study, the capacity to absorb change in each ONL without affecting these core values was deemed to be limited and any significant activities proposed are likely to need to be assessed on a case by case basis with a site specific landscape assessment. NFL-P1 clause 'a' recognises that some level of change is appropriate - hence the PDP providing for limited subdivision, use and development in areas of ONL with the potential to absorb change. Clause 'j' recognises that pastoral farms are part of the existing environment and the rules generally provide for it.
- 10.9.3 I consider that the planning provisions as notified generally strike the right balance between enabling existing rural production activities and small-scale subdivision, use and development whilst requiring more significant activities to demonstrate that they will not compromise the

46 NCCF DPR-0422:162

core values of the ONL. This approach recognises that in general, most ONL is vulnerable to large-scale change and it is not possible to identify areas within ONL where these activities may be appropriate, rather they need to be considered by exception through a site specific assessment.

- 10.10 Rayonier⁴⁷ oppose the policy because they state that it is not clear from the mapping, but it may be that a small part of plantation forestry is within the ONL Malvern Hills. They seek that clause 'g' is amended to limit its application to 'afforestation' of plantation forestry. Under the NES-PF, district plans are able to impose rules that are more stringent than the NES-PF for afforestation of plantation forestry in ONL. I recommend this submission point is accepted in part to the extent that I recommend that NFL-R5 is amended to clarify that this only applies to the establishment of new and expansion of existing plantation forestry. This would clearly link it to afforestation and bring it into line with the wording of GRUZ-R24, with any other plantation forestry activity managed through the NES-PF where the provisions exist on their own terms. Existing forestry plantations would in any case be able to continue under s10 RMA with respect to existing use rights.
- 10.11 EDS⁴⁸ seek that the policy is amended to provide greater recognition of the need to avoid adverse effects of vegetation clearance and a new sub-clause should be utilised for plantation forestry in an ONL. Whilst provisions on vegetation clearance are contained in the EIB Chapter, where there are specific rules governing vegetation clearance in the high country areas, I agree with the submitter that indigenous vegetation may form part of the values identified in ONL. However for the sake of Plan efficiency, it is preferable to not include a policy seeking to avoid the adverse effects of vegetation clearance in the NFL Chapter as this may unintentionally void provisions in the EIB Chapter. I therefore recommend that point 15 is rejected. I do not consider it necessary that plantation forestry is given its own clause as this does not really add anything to the policy. I recommend that submission point 16 is rejected.
- 10.12 CRC⁴⁹, HortNZ⁵⁰ and DoC⁵¹ seek that the policy is retained as notified. As I am recommending amendments, I recommend these submission points are accepted in part.

Recommendations and amendments

- 10.13 I recommend, for the reasons given above, that the Hearings Panel:
- a) Amend clause 'h' to include 'structures' but not 'ancillary structure' or 'public amenity structures'.
 - b) Amend clause 'k' to include 'subdivision'.
 - c) Insert a new policy to recognise the operational and locational constraints of important infrastructure.
 - d) Amend clause 'b' to delete 'unique' in favour of 'distinctive' and insert 'subdivision'.

47 Rayonier DPR-0439:027

48 EDS DPR-0440:015 and 016

49 CRC DPR-0260:114

50 HortNZ DPR-0353:169

51 Doc DPR-0427:051

- e) Amend NFL-P1(j) to recognise the ongoing operational and maintenance requirements of working pastoral farms (refer to Proposed New Policies below).
- f) Amend NFL-R5 to recognise that the rule is managing the establishment and expansion of plantation forestry.

10.14 It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix 1**.

10.15 The scale of change requires a s32AA evaluation in respect to inserting a new policy.

Section 32AA evaluation

Effectiveness and efficiency

10.16 The insertion of a new policy to recognise the operational and locational constraints of important infrastructure gives effect to the NPS-ET and NPS-REG. It also gives effect to the RMA s5 more generally and the NZCPS (Policy 6) more specifically in terms of recognising that the provision of infrastructure is important to community social, economic and cultural wellbeing. The insertion of the policy is a more efficient means of ensuring the needs of important infrastructure is met across the PDP in terms of how the policy framework is intended to work, that important infrastructure may be appropriate even in areas subject to S6 RMA when assessed against the operational and technical constraints that important infrastructure is subject to.

Costs and Benefits

10.17 The benefits of this approach are that it enables consideration of the operational and technical constraints of important infrastructure across the PDP in a consistent manner.

Risk of acting or not acting

10.18 Risks of not acting are that it could impose additional costs on important infrastructure providers by having an inconsistent planning framework where the operational and technical constraints of important infrastructure are recognised in the EI Chapter but not in the NFL Chapter which may significantly hinder consideration of important infrastructure as it would fail the gateway test as a non-complying activity.

Conclusion

10.19 Including a policy recognising the operational and technical constraints of important infrastructure gives effect to higher order planning documents and promotes plan efficiency by ensuring there is a consistent policy framework for important infrastructure.

NFL-P2

Submissions

10.20 13 submission points and 14 further submission points were received in relation to NFL-P2.

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0260	CRC	115	Support	Retain as notified.
DPR-0301	UWRG	FS052	Support	Allow

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0301	UWRG	032	Oppose In Part	Amend as follows: Recognise the values of the identified visual amenity <u>significant natural</u> landscapes described in NFL-SCHED2 and maintain these values by: a.; c. avoiding use and development that breaks the skyline <u>or intrudes on a landform summit</u> ; and d. recognising the existence of working pastoral farms and their contribution to the openness <u>and naturalness</u> of visual amenity landscapes.
DPR-0407	Forest & Bird	FS340	Support	Accept the submission
DPR-0353	Hort NZ	170	Oppose In Part	Amend as follows: d. recognising the existence of working pastoral primary production farms and their contribution to the openness of visual amenity landscapes.
DPR-0372	DHL	076	Support	Retain as notified
DPR-0375	Waka Kotahi	098	Support In Part	Amend Policy to include recognition of infrastructural requirements within landscape areas.
DPR-0441	Trustpower	FS098	Support	Accept
DPR-0381	CDL	012	Oppose In Part	Amend NFL-P1 as follows (or to the effect of): Recognise the values of the identified visual amenity landscapes described in NFL-SCHED2 and maintain these values by: a. avoiding discouraging visually prominent development; b. managing subdivision, use and development to ensure that it does not result in over domestication of the landscape; c. avoiding discouraging use and development that breaks the skyline; and d. recognising the existence of working pastoral farms and their contribution to the openness of visual amenity landscapes.
DPR-0301	UWRG	FS060	Oppose	Disallow
DPR-0407	Forest & Bird	FS519	Oppose	Reject the submission
DPR-0390	RIL	059	Support	Retain as notified.
DPR-0422	NCFF	163	Oppose	Delete as notified and replace with: <u>Within ONLs in particular and Rural zones generally, maintain rural landscape and amenity values by:</u> a. <u>Managing building density and form to ensure it remains at a low level with a predominance of vegetation cover; and</u> b. <u>Avoiding buildings and structures on skylines and prominent ridgelines unless they have a functional need to be located there; and</u> c. <u>Ensuring buildings and structures are constructed from materials with low reflectance values and designed to minimise glare whenever practicable; and</u> d. <u>Maintaining expansive views and open vistas, while recognising the practical need for shelter planting for crops and livestock health; and</u> e. <u>Requiring activities within Rural zones to be associated with or ancillary to the utilisation of natural</u>

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
				<u>resources in the area; and</u> f. <u>Recognising the need for land use change within Rural zones in response to changes in commodity markets, primary production technology and environmental conditions.</u>
DPR-0407	Forest & Bird	FS393	Oppose	Reject the submission
DPR-0439	Rayonier	027	Oppose In Part	Amend as follows: Recognise the values of the identified visual amenity landscapes described in NFL-SCHED2 and maintain these values by: e. <u>recognition of the existence of existing plantation forestry and their cycles of activities that contribute to the working landscape</u> or such similar words.
DPR-0440	EDS	017	Oppose In Part	Amend to provide greater recognition of the need to avoid adverse effects of vegetation clearance on VALs.
DPR-0301	UWRG	FS303	Support	Allow in full
DPR-0407	Forest & Bird	FS017	Support	Accept the submission
DPR-0441	Trustpower	FS099	Oppose	Reject
DPR-0468	NCFG	FS020	Support	Supports submission
DPR-0440	EDS	018	Oppose In Part	Amend NFL-P2 to provide greater recognition of the need to avoid adverse effects of plantation forestry on VALs.
DPR-0301	UWRG	FS304	Support	Allow in full
DPR-0407	Forest & Bird	FS018	Support	Accept the submission
DPR-0468	NCFG	FS021	Support	Supports submission
DPR-0441	Trustpower	126	Support In Part	Amend as follows: ... e. <u>recognising and providing for existing renewable electricity generation activities and related infrastructure that has a functional need to be located within the visual amenity overlay.</u>
DPR-0446	Transpower	095	Oppose	Amend as follows: <u>Except as provided by NFL-PX, recognise</u> Recognise the values of the identified visual amenity landscapes described in NFL-SCHED2 and maintain these values by: a.
DPR-0375	Waka Kotahi	FS117	Support	Accept proposed amendments.

Analysis

10.21 UWRG⁵² seek a number of amendments to the policy including the deletion of ‘visual amenity’ and replacement with ‘significant natural’ landscapes, an amendment to clause (c) to insert a reference to ‘intrusions on landform summit’ and the insertion of ‘naturalness’ in clause d. I recommend this submission point is rejected. ‘Naturalness’, as I discuss in NFL-O2, is not an appropriate term for these types of landscapes as it has been established that landscapes which contribute to amenity and environmental quality will not necessarily be retained in their current state however change must be carefully managed to ensure that overall amenity and environmental quality is maintained

⁵² UWRG DPR-0301:032

or enhanced. This is consistent with RMA s7(c) and 7(f) relating to the maintenance and enhancement of amenity values and the maintenance and enhancement of the quality of the environment. The amendment to clause 'c' is not required in my opinion as any use that will intrude on a landform summit will also break the skyline.

- 10.22 HortNZ⁵³ seek that 'pastoral farms' is replaced with 'primary production farms' and raise concerns that reference to the 'openness' of visual amenity landscapes implies that buildings and structures are not expected at all. I recommend this submission point is rejected. The present wording recognises that the pastoral farming is an intrinsic part of the landscape. Reference to 'primary production' implies a multitude of uses from horticulture to mineral extraction and plantation forestry which do not contribute to this 'openness'. The use of the word 'openness' does not preclude buildings and structures at all however it does recognise that the characteristics of VAL in Selwyn is predominantly open and this is, in part, due to pastoral farming activities. Openness is part of the overall amenity of these landscapes to be maintained.
- 10.23 Waka Kotahi⁵⁴, Trustpower⁵⁵ and Transpower⁵⁶ seek an additional limb to the policy to recognise infrastructure and the functional and operational constraints that exist that may require it to be located in VAL or ONL. I recommend these submission points are accepted in part for reasons given in NFL-P1.
- 10.24 CDL⁵⁷ submits that as the rule framework does not prohibit anything, there is no need to use the word 'avoid'. The submitter proposes the use of 'discouraging' or 'strongly discouraging' instead. I recommend this submission point is rejected for reasons given in NFL-P1 [10.6].
- 10.25 NCF⁵⁸ seek that the approach to VAL's is deleted as there is no specific duty to protect or identify VAL or enhance amenity values under the RMA and that provisions to protect rural amenity values are better addressed through the GRUZ. I recommend this submission point is rejected for reasons explained in NFL-O2 [9.8].
- 10.26 Rayonier⁵⁹ oppose the policy because they state that existing plantation forestry in the Malvern Hills could be compromised and the impact of this has not been evaluated in the s32 report and that such a provision, other than for afforestation, would not be in compliance with the NES-PF. I recommend this submission point is accepted in part to the extent that I recommend that NFL-R5 is amended to clarify that this only applies to the establishment of new and expansion of existing plantation forestry. This would clearly link it to afforestation and bring it into line with the wording of GRUZ-R24, with any other plantation forestry activity managed through the NES-PF where the provisions exist on their own terms. Existing forestry plantations would in any case be able to continue under s10 RMA with respect to existing use rights.

53 HortNZ DPR-0353:170

54 Waka Kotahi DPR-0375:098

55 Trustpower DPR-0441:126

56 Transpower DPR-0446:095

57 Coleridge Downs DPR-0381:012

58 NCF DPR-0422:163

59 Rayonier DPR-0439:027

10.27 EDS⁶⁰ seek that the policy is amended to provide greater recognition of the need to avoid adverse effects of vegetation clearance and plantation forestry on VAL. In terms of plantation forestry, the NES-PF clause 13 effectively permits afforestation of plantation forestry in VAL, unless restricted by district plan rules however the most stringent activity class available is a controlled activity under clause 15. Amending the policy to ‘avoiding’ adverse effects on VAL from plantation forestry implies a more stringent approach which cannot be implemented through corresponding NFL-R5. Whilst provisions on vegetation clearance are contained in the EIB Chapter where there are specific rules governing vegetation clearance in the high country areas I agree with the submitter that vegetation does form part of the values identified in VAL. However for the sake of Plan efficiency, it is preferable to not include a policy seeking to avoid the adverse effects of vegetation clearance in the NFL Chapter as this may unintentionally void provisions in the EIB Chapter. I therefore recommend that submission points 17 and 18 are rejected.

10.28 CRC⁶¹, DHL⁶² and RIL⁶³ seek that the policy is retained as notified. As I am recommending an amendment, I recommend these submission points are accepted in part.

Recommendation and amendments

10.29 I recommend, for the reasons given above, that the Hearings Panel amend the policy, as set out in **Appendix 2**, to:

- a) Recognise the operational and locational constraints that may require infrastructure to locate in VAL through a new policy.
- b) Amend NFL-P2(d) to recognise the ongoing operational and maintenance requirements of working pastoral farms (refer to ‘Proposed New Policies’ below).

10.30 It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix 1**.

10.31 The scale of change requires a s32AA evaluation.

Section 32AA evaluation

10.32 Please refer to the s32AA evaluation in NFL-P1 as the nature of the recommendation is the same.

Proposed New Policies

Submissions

10.33 Four submissions points and six further submission points were received in relation to proposed new policies in the NFL Chapter.

Submitter ID	Submitter Name	Submission Point	Plan Reference	Position	Decision Requested
DPR-0372	DHL	077	New	Oppose	Insert as follows: <u>Recognise that there may be working farmland and other rural production activities occurring in areas identified as outstanding</u>

⁶⁰ EDS DPR-0440:017 and 018

⁶¹ CRC DPR-0260:115

⁶² DHL DPR-0372:076

⁶³ RIL DPR-0390:059

Submitter ID	Submitter Name	Submission Point	Plan Reference	Position	Decision Requested
					<u>natural features and landscapes, or visual amenity landscapes, and that those activities have a functional and operational need to be in that landscape.</u>
DPR-0381	CDL	FS035	New	Support	Allow
DPR-0486	CDL	FS035	New	Support	Allow
DPR-0388	CFSL	038	New	Neither Support Nor Oppose	Insert as follows: <u>Recognise that there may be working farmland and other rural production activities occurring in areas identified as outstanding natural features and landscapes, or visual amenity landscapes, and that those activities have a functional and operational need to be in that landscape.</u>
DPR-0381	CDL	FS034	New	Support	Allow
DPR-0486	CDL	FS034	New	Support	Allow
DPR-0390	RIL	060	New	Support	Insert as follows: <u>NFL-PX: Recognise that there may be working farmland and other rural production activities occurring in areas identified as outstanding natural features and landscapes, or visual amenity landscapes, and that those activities have a functional and operational need to be in that landscape.</u>
DPR-0381	CDL	FS036	New	Support	Allow
DPR-0486	CDL	FS036	New	Support	Allow
DPR-0446	Transpower	096	New	Oppose	Insert new NFL Policy as follows: <u>Seek to avoid adverse effects of the development and upgrade of the National Grid on the values of the identified visual amenity landscapes described in NFL-SCHED2 and, where avoidance is not possible remedy or mitigate adverse effects to the extent practicable."</u>

Analysis

10.34 DHL⁶⁴, CFSL⁶⁵ and RIL⁶⁶ seek that the PDP recognises existing farming properties within ONL and VAL and that a specific policy is required to recognise that they have a functional and operational need to be in that landscape. I note that policies NFL-P1 and P2 recognise the existence of pastoral farming activities as being a part of the landscape. Whilst I do not consider that a new policy is required, these policies could be strengthened to recognise the ongoing operational and maintenance requirements of working pastoral farms within ONL and VAL, which is the essence of what they seek (refer also to relief sought by the submitter in NFL-P1). This would also tie the policy into rules that permit repair and maintenance activities and support those activities associated with existing farming activities where a resource consent is required. I therefore recommend these submission points are accepted in part.

64 DHL DPR-0372:077

65 CFSL DPR-0388:038

66 RIL DPR-0390:060

10.35 Transpower⁶⁷ seek a new policy to recognise that, within VAL, National Grid infrastructure will seek to avoid adverse effects and where not possible, remedy or mitigate them. I recommend this submission point is accepted in part for reasons explained in NFL-P1 above [10.5].

Recommendations and amendments

10.36 I recommend, for the reasons given above, that the Hearings Panel amend NFL-P1 and NFL-P2, as set out in **Appendix 2**, to:

- a) Insert a new policy that recognises the operational and functional constraints of important infrastructure.
- b) Amend NFL-P1(j) and NFL-P2(d) to recognise the ongoing operational and maintenance requirements of working pastoral farms.

10.37 It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix 1**.

10.38 The scale of change requires a s32AA evaluation.

Section 32AA evaluation

10.39 Please refer to the s32AA evaluation in NFL-P1 as the nature of the recommendation is the same.

11. Rules

NFL-R1 Buildings and Structures

Submissions

11.1 14 submissions points and nine further submission points were received in relation to NFL-R1.

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0032	CCC	030	Support In Part	Amend the rules for the Banks Peninsula ONL to provide for a similar range and size of buildings as permitted activities as that contained in the Christchurch District Plan.
DPR-0032	CCC	044	Support	Retain as notified
DPR-0032	CCC	045	Support	Retain as notified
DPR-0104	Lukas Travnicek	004	Oppose	Delete as notified.
<i>DPR-0032</i>	<i>CCC</i>	<i>FS073</i>	<i>Oppose</i>	<i>Retain NFL-R1 as notified</i>
<i>DPR-0301</i>	<i>UWRG</i>	<i>FS008</i>	<i>Oppose</i>	<i>Disallow in full</i>
<i>DPR-0407</i>	<i>Forest & Bird</i>	<i>FS556</i>	<i>Oppose</i>	<i>Reject the submission</i>
DPR-0212	ESAI	057	Support In Part	Retain as notified, should the overlay arrangements not be rationalised as proposed in DPR-212.056.
DPR-0367	Orion	060	Support In Part	Amend as follows: 1. Buildings and structures, including ancillary structures (<u>excluding important infrastructure</u>).
<i>DPR-0375</i>	<i>Waka Kotahi</i>	<i>FS110</i>	<i>Support</i>	<i>Adopt submitters amendment</i>

⁶⁷ Transpower DPR-0446:096

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0407	Forest & Bird	FS629	Oppose	Reject aspects of the submission which do not directly relate to electricity lines and services as critical infrastructure.
DPR-0441	Trustpower	FS100	Support	Accept
DPR-0372	DHL	078	Oppose In Part	Amend as follows: 3. Buildings and structures Where: ... <u>b. it is irrigation infrastructure</u> ... 4. When compliance with any of NFL-R1.3a. is not achieved: NC-RDIS
DPR-0388	CFSL	039	Oppose In Part	Amend as follows: 3. Buildings and structures Where: a. ... <u>b. it is irrigation infrastructure</u> Activity status when compliance not achieved: 4. When compliance with any of NFL-R1.3a. is not achieved: NC-RDIS ...
DPR-0390	RIL	061	Oppose In Part	Amend NFL-R1.3 as follows: 3. Buildings and structures Where: a. it is an ancillary structure <u>b. it is irrigation infrastructure</u> And where this activity complies with the following rule requirements: Activity status when compliance not achieved: 4. When compliance with any of NFL-R1.3a. is not achieved: NC-RDIS 5.
DPR-0422	NCFE	164	Support In Part	Retain as notified.
DPR-0407	Forest & Bird	FS394	Oppose	Reject the submission
DPR-0422	NCFE	165	Oppose In Part	Amend activity status to restricted discretionary.
DPR-0407	Forest & Bird	FS395	Oppose	Reject the submission
DPR-0441	Trustpower	FS101	Support	Accept
DPR-0441	Trustpower	127	Support In Part	Retain as notified provided that the relief sought for NATC-REQ2 is accepted.
DPR-0441	Trustpower	128	Support In Part	Amend the Rakaia River ONL Overlay to match the Trustpower property boundary. Refer to the original submission for image provided.
DPR-0446	Transpower	097	Oppose	Amend as follows: <u>VAL Overlay</u> <u>ONL Overlay</u> <u>Activity status: PER</u> <u>6. National Grid buildings and structures.</u> <u>Where:</u> <u>a. it is for the operation, maintenance or upgrading of existing National Grid structures.</u>

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
				<u>Activity status when compliance not achieved</u> 7. Activity status when compliance not achieved: DIS

Analysis

- 11.2 CCC⁶⁸ seek an amendment to align NFL-R1.1 (rules for buildings and structures) as they relate to the Banks Peninsular ONL with rules for similar activities contained in the Christchurch District Plan. The submitter states the rules are too permissive compared to the Christchurch District Plan. They seek that the rules for this ONL are amended to provide for a similar range and size of buildings as permitted activities as the Christchurch District Plan. I recommend this submission point is rejected for the following reasons:
- 11.2.1 The rules in each plan have to be assessed and considered in the context of the direction within that plan and it cannot be assumed that the rules and standards in the Christchurch District Plan are the most appropriate/ necessary to achieve the outcomes sought in the PDP. In contrast to the area of Port Hills in Christchurch where there is a high degree of land in public ownership or private reserve, the area of the Port Hills in Selwyn District has a greater degree of land in private ownership (not in reserve). The PDP therefore takes a more enabling approach, recognising that there is a need to enable small scale development of a domestic/residential nature whilst protecting the values of the ONL.
- 11.2.2 The PDP still recognises the greater sensitivities found in the Banks Peninsular ONL (as compared to the High Country ONL) through the Selwyn Landscape Study by restricting height to 4m, distance from a building node to a maximum of 100m and building coverage to 300m² for every 20ha of site area as well as requiring a 100ha site area for each new residential unit.
- 11.2.3 I consider this is a pragmatic approach – the height of 4m will restrict residential units to a single storey only and the limits on building coverage, building nodes and minimum site area will serve to reduce the risk of overdevelopment and the dominance of built structures and maintain the openness and naturalness of the ONL. Whilst I acknowledge that is desirable that the rules align between the different jurisdictions, the PDP needs to recognise that the context is Selwyn is different to that of Christchurch, there is different land ownership and some residential development is already established on the lower slopes of the Port Hills.
- 11.3 Lukas Travnicek⁶⁹ seeks the deletion of the rule as in his view, Mt White station needs to be as self-sufficient as possible and all buildings including non-ancillary structures are important whether it be for storage, operations or stock. He seeks that this provision is deleted. Mt White Station falls within the Waimakariri Catchment ONL rather than the Waimakariri River ONL. The riverine ONL (such as the Waimakariri River) restrict buildings to only ancillary structures. As a high country station, Mt White would not be restricted in the same way and buildings could still be constructed to certain dimensions. I also note that the delineation of the riverine ONL avoids existing farming activities as

68 CCC DPR-0032:030

69 Lukas Travnicek DPR-0104:004

far as possible and tends to follow the vegetation cover adjacent to the bank edge of the waterway rather than improved pasture. I therefore recommend the submission point is rejected.

- 11.4 Orion⁷⁰ seek that NFL-R1 specifically excludes important infrastructure as this is addressed in the EI Chapter. The EI Chapter does address important infrastructure but it cross references through to compliance with NFL-R1 for some activities. This does not include the operation, maintenance and repair of existing network utilities (EI-R6) but generally includes expansion and newly established network infrastructure outside of transport corridors. As I discuss in NFL-P1, there is an identified risk that the more directive policy in NFL to 'avoid' certain effects could effectively 'override' the more enabling policy in the EI Chapter which recognises the operational and technical constraints of infrastructure operators. To avoid this unintended outcome, I acknowledge there is a need to include wording in the NFL Chapter policies to ensure consistency with the EI Chapter. I consider that this should provide some relief to network infrastructure operators so that where a resource consent is triggered under the NFL Chapter, this should recognise and provide for important infrastructure. I do not consider that a change to NFL-R1 is required however and therefore recommend the submission point is rejected.
- 11.5 Transpower⁷¹ seek that there is a specific clause in NFL-R1 that permits the operation, maintenance or upgrading of National Grid structures that are located in VAL or ONL. The structure of the EI Chapter would generally permit repair and maintenance (EI-R6) of network utilities without requiring compliance with NFL-R1 with upgrading (and newly established) electricity transmission infrastructure specifically a discretionary activity under EI-R20⁷². If a resource consent was triggered under the terms of the NFL Chapter, I consider that the recommended amendment to include wording in the NFL Chapter policies to ensure consistency with the more enabling policies in the EI Chapter would provide relief to the submitter. I do not consider that a change to NFL-R1 is required however and therefore recommend the submission point is rejected.
- 11.6 DHL⁷³, CFSL⁷⁴ and RIL⁷⁵ seek that irrigation infrastructure is exempt from the setback rule (NFL-REQ4). RIL note that irrigation infrastructure includes intakes and minor in-river works as might be required to take water from the Rakaia River. If this relief is not accepted then they seek that the non-complying activity status should be amended to a restricted discretionary activity status. I note the submitters point about the division between Council and CRC responsibilities. I am recommending a note that provides some clarification on this for plan users in response to a submission point from CRC. In terms of exempting irrigation infrastructure from NFL-R1.3, the submitters raise a similar point in NFL-REQ4 which is the relevant rule requirement attached to this rule governing setback requirements. I agree with the submitters for reasons explained under NFL-REQ4 where I consider an exemption is most appropriately included rather than at the rule level in NFL-R1. I therefore recommend the submission points are accepted in part.

70 Orion DPR-0367:060

71 Transpower DPR-0446:097

72 The S42a report for the EI Chapter recommends the deletion of 'expansion' from EI-R20. Transmission structures would therefore be dealt with under the terms of EI-R11 although this requires compliance with NFL-R1 through EI-REQ12.

73 DHL DPR-0372:078

74 CFSL DPR-0388:039

75 RIL DPR-0390:061

- 11.7 Trustpower⁷⁶ seek an amendment to ONL near Coleridge Power Station. Please refer to discussion on the scheduling of areas of ONL which is dealt with towards the end of this report (Section 14).
- 11.8 NCF⁷⁷ support the principle of controls on building and structures in GRUZ but not any particular controls for VAL which they seek is deleted. They also seek that failure to meet permitted rules for ancillary structures is a restricted discretionary, not a non-complying activity. I recommend these submission points are rejected for reasons given in NFL-O2 with respect to the point on VAL and the fact that an ancillary structure that is not permitted under NFL-R1.3a is not by definition an ancillary structure and therefore a non-complying activity status is appropriate given that that a structure or building could be any dimension under NFL-R1.3 without the ‘ancillary structure’ qualifier.
- 11.9 CCC⁷⁸ seek NFL-R1.3 and 1.4 are retained as notified. ESAI⁷⁹ seek NFL-R1 is retained as notified should the overlays not be rationalised as sought in their submission point 56. As I am not recommending amendments, I recommend these submission points are accepted.
- 11.10 Trustpower⁸⁰ seek that NFL-R1 is retained as notified provided relief sought for NATC-REQ2 is accepted. I recommend this submission point is accepted in part, noting that whether this relief is accepted by the Panel is not known at the time of writing.

Recommendation

- 11.11 I recommend, for the reasons given above, that the Hearings Panel retain the provision as notified.
- 11.12 It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix 1**.

NFL-R2 Earthworks

Submissions

- 11.13 20 submissions points and 24 further submission points were received in relation to NFL-R2.

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0032	CCC	046	Support	Retain as notified
DPR-0032	CCC	050	Support In Part	Amend the rules for the Banks Peninsula ONL to provide for a similar range and size of buildings as permitted activities as that contained in the Christchurch District Plan.
DPR-0101	Chorus, Spark and Vodafone	028	Support	Retain as notified.
DPR-0144	The Stations	003	Oppose	Amend as follows: Earthworks Activity status: PER 1. Earthworks Where: The earthworks: ... c. are for the installation of underground infrastructure and ancillary utility equipment. <u>d. do not permanently alter the profile, contour or height of the land.</u>

⁷⁶ Trustpower DPR-0441:128

⁷⁷ NCF DPR-0422:165

⁷⁸ CCC DPR-0032:044 and 045

⁷⁹ ESAI DPR-0212:057

⁸⁰ Trustpower DPR-0441:127

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0301	UWRG	FS018	Oppose	Disallow in full
DPR-0407	Forest & Bird	FS586	Oppose	Reject the submissions
DPR-0422	NCCF	FS144	Support	Allow the submission point.
DPR-0212	ESAI	058	Support In Part	Amend as follows: b. are for maintenance and repair of existing fence lines, roads, <u>drains, underground infrastructure</u> or tracks; or c. are for the installation of underground telecommunication lines, <u>rural activity infrastructure</u> and ancillary structures
DPR-0375	Waka Kotahi	FS109	Support	Include an amendment as per our original submission.
DPR-0212	ESAI	059	Oppose In Part	Amend the rule status for NFL-R2.3 to Restricted Discretionary activity and insert appropriate matters of discretion.
DPR-0345	PAR	022	Oppose In Part	Amend NFL-R2.6.b. by adding: <u>ix. ski area management and operations</u>
DPR-0391	CHATL	FS003	Support	We wish the submission point to be allowed in full as requested by Porters Alpine Resort
DPR-0407	Forest & Bird	FS807	Oppose	Reject the submissions
DPR-0345	PAR	023	Oppose In Part	Delete NFL-R2.10.b. as notified and replace with: <u>b.it is for the following activities:</u> <u>i. installing infrastructure for wastewater disposal;</u> <u>ii ground preparation for planting of indigenous vegetation</u>
DPR-0407	Forest & Bird	FS808	Oppose	Reject the submissions
DPR-0345	PAR	024	Oppose In Part	Amend NFL-R2.18.b. by adding: <u>viii. ski area management and operations</u>
DPR-0407	Forest & Bird	FS809	Oppose	Reject the submissions
DPR-0367	Orion	061	Support In Part	Amend as follows: 1. Earthworks c. are for the installation of underground infrastructure, and ancillary utility equipment, or <u>d. are for the replacement, maintenance, repair and upgrading of an existing utility pole.</u>
DPR-0407	Forest & Bird	FS630	Oppose	Reject aspects of the submission which do not directly relate to electricity lines and services as critical infrastructure.
DPR-0372	DHL	079	Oppose	Amend as follows: Activity status: PER 1. Earthworks Where: The earthworks: ... c. are for the installation of underground infrastructure and ancillary utility equipment. <u>or</u> <u>d. are for the installation or operation of irrigation infrastructure; or</u> <u>e. are done pursuant to an authorisation under the Flood Protection bylaw.</u>
DPR-0375	Waka Kotahi	FS111	Support In Part	Amend the rule to provide for transport infrastructure as per the original submission.
DPR-0441	Trustpower	FS102	Support	Accept
DPR-0375	Waka Kotahi	099	Support In Part	Amend Rule to include provision for transport infrastructure.
DPR-0381	CDL	013	Support	Retain as notified.

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0407	Forest & Bird	FS520	Oppose	Reject the submission
DPR-0381	CDL	014	Support	Retain as notified.
DPR-0407	Forest & Bird	FS521	Oppose	Reject the submission
DPR-0388	CFSL	040	Oppose	Amend as follows: 1. Earthworks Where: ... <u>d. are for the installation or operation of irrigation infrastructure; or</u> <u>e. are done pursuant to an authorisation under the Flood Protection bylaw.</u>
DPR-0390	RIL	062	Oppose	Amend NFL-R2.1 as follows: 1. Earthworks Where: The earthworks: a. c. are for the installation of underground infrastructure and ancillary utility equipment. ; or <u>d. are for the installation or operation of irrigation infrastructure; or</u> <u>e. are done pursuant to an authorisation under the Flood Protection and Drainage Bylaw 2013 (amended January 2019), or any successor document.</u>
DPR-0422	NCCF	166	Support In Part	Amend activity status to restricted discretionary.
DPR-0381	CDL	FS055	Support	Allow
DPR-0407	Forest & Bird	FS396	Oppose	Reject the submission
DPR-0486	CDL	FS055	Support	Allow
DPR-0422	NCCF	299	Support In Part	Delete the provision on VALs.
DPR-0407	Forest & Bird	FS626	Oppose	Reject the submission
DPR-0427	DoC	052	Support	Retain as notified.
DPR-0301	UWRG	FS194	Support	Allow in full
DPR-0381	CDL	FS052	Support	Allow
DPR-0407	Forest & Bird	FS218	Support	Accept the submission
DPR-0486	CDL	FS052	Support	Allow
DPR-0441	Trustpower	129	Oppose	Amend as follows: ... c.; or <u>d. are for the operation, maintenance, repair or upgrade of existing renewable electricity generation activities and related infrastructure.</u>
DPR-0375	Waka Kotahi	FS115	Support	Amend the rule to include recognition of infrastructure requirements within landscape areas as per the original submission.
DPR-0446	Transpower	098	Oppose	Amend as follows: 1. Earthworks Where: The earthworks: a. c. are for the installation of underground infrastructure and ancillary utility equipment; or <u>d. for the safe operation or maintenance of the National</u>

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
				<p><u>Grid.</u></p> <p>....</p> <p>Activity status:N <u>DIS</u></p> <p>3. Earthworks</p> <p><u>Where:</u></p> <p><u>a. The earthworks are for the operation, maintenance, development or upgrade of the National Grid.</u></p> <p>Activity status when compliance not achieved:N/<u>ANC</u></p> <p>4. Earthworks</p> <p>Where:</p> <p>The earthworks:</p> <p>....</p> <p>c. are for the installation of underground telecommunication lines and ancillary structures; or</p> <p><u>d. for the safe operation or maintenance of the National Grid.</u></p>
DPR-0375	Waka Kotahi	FS118	Support In Part	Amend the rule to include recognition of infrastructure requirements within landscape areas as per the original submission.

Analysis

- 11.14 CCC⁸¹ support NFL-R2.2 in principle but considers that the rule is too permissive compared to the Christchurch District Plan. They seek that the rules for this ONL are amended to provide for a similar range and size of buildings as permitted activities as the Christchurch District Plan. I recommend this rejected for reasons discussed in NFL-R1 above [11.2].
- 11.15 The Stations⁸² seek an additional clause to recognise that there is a need to use rocks and boulders to create structures to protect land from weathering. In their view, this does not alter the profile, contour or height of the land and should be enabled. Mr Bentley is of a view that any disturbance relating to rocks and boulders can affect the integrity and profile of the landscape and is unsure how landscape values will be protected if this is permitted.
- 11.16 I agree with Mr Bentley that in some areas of ONL, rocks are a significant feature of the landscape and moving them would change the characteristics and values of that ONL. There is also a risk of cumulative effects if rocks are continually moved to create new structures. I consider it appropriate that they be taken for the repair and maintenance of existing erosion protection structures as this is likely to be small in scale and repairing/maintaining something that already exists. I do not however recommend permitting this activity to create new structures without more evidence on the volumes that are needed to undertake this activity. I recommend the submission point is accepted in part.
- 11.17 ESAI⁸³ seek that NFL-R2.1b and c include installation, repair, maintenance and replacement of underground farm infrastructure such as pipework and guidance wires. They consider it should also allow for the maintenance and repair of existing drains. I note that clause 'c' already enables the

81 CCC DPR-0032:050

82 The Stations DPR-0144:003

83 ESAI DPR-0212:058

installation of underground infrastructure (and therefore already accords with the submitter's relief in this regard)⁸⁴. I recommend the submission point is accepted in part for the following reasons:

- 11.17.1 I note Rule EI-R6 permits the operation, maintenance and repair of network utility infrastructure with no requirement to comply with the earthwork thresholds in the NFL Chapter. I agree though with the premise that there may be installed on-farm infrastructure that is not considered to be a network utility operation which requires earthworks for repair and maintenance, including replacement. The fact that NFL-R2.1c permits the installation of underground infrastructure should, in my opinion, mean that the rule also permits its repair and maintenance under NFL-R2.1b.
- 11.17.2 In terms of drains, EI-R26 permits the establishment, expansion, maintenance and repair of artificial waterways and structures, though there is no exemption from the earthwork thresholds in the NFL Chapter. Therefore I also agree with the submitter that it is reasonable that the maintenance and repair of drains should be included within clause 'b' as a necessary activity.
- 11.17.3 NFL-R2.4 (earthworks in the VAL overlay) should be made consistent with NFL-R2.1 in terms of exemptions from the earthwork thresholds. Currently only the installation of underground telecommunication lines is permitted in VAL which is more stringent than NFL-R2.1 in ONL where the installation of any underground infrastructure is permitted. However VAL does not have the same values and characteristics as ONL. I also note that the text changes sought by the submitter relate to the drafting of NFL-R2.4 although the thrust of the submission point references NFL-R2.1.
- 11.18 ESAI⁸⁵ seek that NFL-R2.3 relating to earthworks in the Te Waihora/Lake Ellesmere Overlay are a restricted discretionary rather than non-complying activity. Te Waihora/Lake Ellesmere is an important resource and includes ONL, High Natural Character and SASM overlays. According to the Selwyn Landscape Study, earthworks were rated as a key threat to the visual sensitivity of the ONL and large scale earthworks a significant threat to native vegetation around the lake. As such, a non-complying activity status is appropriate given the likelihood of adverse effects and this is consistent with NFL-P1 in terms of avoiding use in those parts of an ONL with limited or no capacity to absorb change and s6(b) RMA more generally in terms of avoiding inappropriate subdivision, use and development. On the other hand, NFL-P1 also requires that the existence of pastoral farms is recognised and that activities that maintain the qualities of the landscape are enabled.
- 11.19 In essence, I tend to agree with the submitter that a non-complying activity is overly stringent for earthworks that are limited to the repair and maintenance and replacement of existing farm infrastructure, noting that where such infrastructure is classed as a network utility, such repair and maintenance would generally be permitted under EI-R6. As stated earlier, whilst EI-R26 permits the establishment, expansion, maintenance and repair of artificial waterways and structures, there is no exemption from the earthwork thresholds in the NFL Chapter. This complicates earthworks needed to maintain or repair drainage infrastructure which would be assessed as a non-complying activity. Given the limited nature of these activities, I consider that effects on the ONL can be appropriately

⁸⁴ This is also captured by EI-R10 with respect to below ground network utilities and links back here via EI-REQ5.

⁸⁵ ESAI DPR-0212:059

assessed through matters of discretion. I therefore recommend that NFL-R2.3 is amended to a restricted discretionary activity for a limited range of repair and maintenance activities with appropriate matters of discretion.

- 11.20 PAR⁸⁶ seek an additional clause to NFL-R2.6b and NFL-2.18b to account for activities and facilities associated with the management and operation of a ski area, noting that these works may not always involve a structure. The submitter is also seeking a definition for this activity (this is addressed under the SPZ Grasmere, Porters and Terrace Downs Hearing Stream where the Officer is recommending accepting most of this definition). I recommend these submission points are accepted noting that these activities need to be enabled within the SKIZ and are permitted in the SKIZ Chapter.
- 11.21 PAR⁸⁷ seek that NFL-R2.10.b is deleted and replaced with ‘installing infrastructure for wastewater disposal’ and ‘ground preparation for the planting of indigenous vegetation’. The list under this clause currently does not reflect the purpose of earthworks in that sub-area of SKIZ. I therefore recommend the submission point is accepted.
- 11.22 Orion⁸⁸ seek that an additional clause is added to the rule to account for the replacement, maintenance, repair and upgrading of an existing utility pole. The EI Chapter permits the repair, maintenance and operation of network utilities both above ground and underground (EI-R6) without requiring compliance with NFL-R2. Upgrading is addressed through EI-R11 and does require compliance with NFL-R2. I do not consider this will be a significant issue for Orion as firstly this only applies outside the roading corridor and many of Orion’s assets are located within the roading corridor and secondly, the permitted earthworks volumes are on a per site basis and should be facilitative for upgrading linear infrastructure which may expand across many sites. I also note that the recommended amendment to the NFL Policies to ensure consistency with the more enabling policies in the EI Chapter would recognise and provide for important infrastructure where the activity is not permitted, whilst still allowing the effects of the proposal in a sensitive area to be considered. I do not consider that a change to NFL-R2 is required and therefore recommend the submission point is rejected.
- 11.23 DHL⁸⁹, CFSL⁹⁰ and RIL⁹¹ seek that earthworks associated with the installation, maintenance and operation of irrigation infrastructure should be exempt. Concern relates to the Rakaia River where there is sometimes the need to retrain braids to ensure flow meets intake points which is a matter appropriately managed by the regional council. Further, the submitters state that earthworks are often undertaken around the Rakaia River pursuant to flood protection or as permitted activities under the Regional Land and Water Plan and it is important that these are exempt. I note the submitters point about the division between Council and CRC responsibilities. I am recommending a note that provides some clarification on this for plan users in response to a submission point from CRC. I recommend these submission points are accepted in part for the following reasons:

86 PAR DPR-0345:022

87 PAR DPR-0345:022

88 Orion DPR-0367:061

89 DHL DPR-0372:079

90 CFSL DPR-0388:040

91 RIL DPR-0390:062

- 11.23.1 In terms of exempting irrigation infrastructure from NFL-R2, the EI Chapter already permits the repair, maintenance and operation of network utilities both above ground and underground (EI-R6) without requiring compliance with NFL-R2. Additionally the installation of underground infrastructure is a permitted activity (NFL-R2.1c). Works to artificial waterways and associated structures under EI-R26 do however require compliance with NFL-R2.
- 11.23.2 I am recommending that the repair and maintenance of drainage infrastructure is a permitted activity under NFL-R2.1b as well as the repair and maintenance of underground infrastructure.
- 11.23.3 I also note that the recommended amendment to the NFL Policies to ensure consistency with the more enabling policies in the EI Chapter would recognise and provide for important infrastructure (which includes irrigation infrastructure) whilst still allowing the effects of the proposal in a sensitive area to be considered. This should provide some relief to the submitters.
- 11.24 Waka Kotahi⁹² seek that the rule is broadened to include transport infrastructure (beyond ‘roads’). Transport infrastructure (in terms of network infrastructure) is already provided for under the Transport Chapter including the creation of new transport corridors and works within existing a transport corridor. I therefore recommend this submission point is rejected.
- 11.25 NCCF⁹³ seek that the activity status is amended from non-complying to a restricted discretionary activity status as earthworks for rural production activities should not trigger the requirement for a non-complying activity. I am uncertain to which provision this submission point refers to. If this is referring to NFL-R2.3 (in respect of the ONL overlay for Te Waihora/Lake Ellesmere) then I recommend this submission point is accepted in part, consistent with the relief sought by ESAI above.
- 11.26 NCCF⁹⁴ also seek the deletion of NFL-R2.4 relating to earthworks in VAL. This is related to their primary relief to delete provisions in the PDP related to VAL as in their opinion, there is no requirement to identify and protect VAL’s and protecting rural amenity values could be included in GRUZ to apply generally across that zone. I recommend this submission point is rejected, consistent with the discussion under NFL-O2 [9.8].
- 11.27 Trustpower⁹⁵ considers that the rule does not provide for earthworks associated with the ongoing operation, maintenance, repair or upgrade work of the Lake Coleridge HEPS and seek a clause that permits this. The EI Chapter includes a rule EI-R29 that permits renewable electricity generation activities at Lake Coleridge HEPS with reference to compliance with NFL-R2. As notified, operation and maintenance of the HEPS facility would need to comply with the earthwork thresholds in the NFL Chapter to remain a permitted activity. I agree that earthworks from the operation, maintenance and repair of established electricity generation infrastructure should be a permitted activity as this is consistent with the approach for network utilities in EI-R6. Upgrading is more

92 Waka Kotahi DPR-0375:099

93 NCCF DPR-0422:166

94 NCCF DPR-0422:299

95 Trustpower DPR-0441:129

uncertain in terms of the scale and nature of effects and I consider this should remain an activity that requires a resource consent in the NFL Chapter. I note however that the recommended amendment to the NFL Policies to ensure consistency with the more enabling policies in the EI Chapter would recognise and provide for important infrastructure where the activity is not permitted whilst still allowing the effects of the proposal in a sensitive area to be considered. I therefore recommend the submission is accepted in part.

11.28 Transpower⁹⁶ seek that an additional clause is added to the rule to account for the maintenance, repair and upgrading of the National Grid. Similar to the Orion submission point above, the EI Chapter permits the repair, maintenance and operation of network utilities both above ground and underground (EI-R6) without requiring compliance with NFL-R2. Upgrading is addressed through EI-R20 as a discretionary activity (in the same manner as if it was newly established)⁹⁷. I also note that the recommended amendment to the NFL Policies to ensure consistency with the more enabling policies in the EI Chapter would recognise and provide for important infrastructure where the activity is not permitted, whilst still allowing the effects of the proposal in a sensitive area to be considered. I do not consider that a change to NFL-R2 is required and therefore recommend the submission point is rejected.

11.29 CCC⁹⁸ support NFL-R2.3 and seek it is retained as notified. As I am recommending amendments, I recommend this submission point is accepted in part.

11.30 Chorus, Spark and Vodafone⁹⁹, CDL¹⁰⁰ and DoC¹⁰¹ seek that the rule is retain as notified. As I am recommending amendments, I recommend these submission points are accepted in part.

Recommendations and amendments

11.31 I recommend, for the reasons given above, that the Hearings Panel:

- a) Amend NFL-R2.1, clause 'a' to include the maintenance and repair of 'erosion control structures', 'underground infrastructure' and 'drains'.
- b) Amend NFL-R2.3 so that the maintenance and repair of 'underground infrastructure', 'drains', 'fence lines', 'roads' or 'tracks' is a restricted discretionary rather than non-complying activity (with appropriate matters of discretion).
- c) Amend NFL-R2.6b and NFL-2.18b to account for activities and facilities associated with the management and operation of a ski area.
- d) Delete NFL-R2.10.b and replace with 'installing infrastructure for wastewater disposal' and 'ground preparation for the planting of indigenous vegetation'
- e) Insert a clause d in NFL-R2.1 to permit earthworks from the operation, maintenance and repair of the Coleridge HEPS.

96 Transpower DPR-0446:098

97 The S42a report for the EI Chapter recommends the deletion of 'expansion' from EI-R20. Transmission structures would therefore be dealt with under the terms of EI-R11 although this requires compliance with NFL-R2 through EI-REQ5.

98 CCC DPR-0032:046

99 Chorus, Spark and Vodafone DPR-0101:028

100 CDL DPR-0381:013 and 014

101 DoC DPR-0427:052

- f) Delete 'Ancillary Utility Equipment' from NFL-R2.1c and replace with 'Ancillary Structure' (refer to Chapter 7 – Definitions).

11.32 It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix 1**.

11.33 The scale of change requires a s32AA evaluation.

Section 32AA evaluation

Effectiveness and efficiency

11.34 The changes proposed promote plan efficiency as they recognise that existing infrastructure which is in place needs to be maintained and repaired and that it is appropriate that this be enabled in the PDP. Whilst the notified rules in the EI and NFL Chapters generally serve to permit repair and maintenance activities, gaps have been identified within the rule framework (for instance renewable energy generation at HEPS, because renewable energy generation activities are not considered to be network utilities and thus do not benefit from the permissive approach to the repair and maintenance of network utilities).

Costs and Benefits

11.35 The benefits of the changes proposed would be to permit a wider range of repair and maintenance activities and avoid the costs of resource consent. In the case of Te Waihora/Lake Ellesmere, the change to a restricted discretionary activity would provide a more certain consenting pathway for repair and maintenance activities than the notified non-complying activity status. This would also promote the efficiency of infrastructure activities by enabling repair and maintenance to occur more quickly and/or with more certainty.

Risk of acting or not acting

11.36 Not acting would mean that necessary repair and maintenance activity would be subject to more costs through the resource consent process and through associated delays.

Conclusion

11.37 The changes proposed will promote the overall approach to infrastructure in the PDP which is to enable repair and maintenance activities. This is more efficient than requiring resource consent in most cases because as the infrastructure is already in place, the effects are known and are not as significant as the establishment of or expansion of infrastructure. A bespoke approach for Te Waihora/Lake Ellesmere is recommended due to the sensitive of the lake environment however a more certain consenting pathway of a restricted discretionary rather than non-complying activity signals that works are anticipated, albeit with an appropriate assessment of effects.

NFL-R3 Horticultural Planting, Woodlots, Shelterbelts

Submissions

11.38 11 submission points and ten further submission points were received in relation to NFL-R3.

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0104	Lukas Travnicek	006	Oppose	Delete as notified.
<i>DPR-0301</i>	<i>UWRG</i>	<i>FS010</i>	<i>Oppose</i>	<i>Disallow in full</i>
<i>DPR-0407</i>	<i>Forest & Bird</i>	<i>FS558</i>	<i>Oppose</i>	<i>Reject the submission</i>
DPR-0260	CRC	117	Support In Part	Remove the Waimakariri and Rakaia River ONL Overlays from NFL-R3.1.
DPR-0292	Paul Christian	003	Oppose	Amend to make shelter belts a complying activity and woodlots a discretionary activity.
DPR-0353	Hort NZ	166	Oppose	Delete as notified
<i>DPR-0381</i>	<i>CDL</i>	<i>FS066</i>	<i>Support</i>	<i>Allow</i>
<i>DPR-0486</i>	<i>CDL</i>	<i>FS066</i>	<i>Support</i>	<i>Allow</i>
DPR-0372	DHL	080	Oppose	Delete as notified.
<i>DPR-0032</i>	<i>CCC</i>	<i>FS074</i>	<i>Oppose</i>	<i>Retain NFL-R3 as notified</i>
DPR-0372	DHL	081	Oppose	Delete as notified.
DPR-0381	CDL	015	Oppose In Part	Provide an additional Controlled activity rule for Shelterbelts in the Malvern Hills and Rakaia Catchment VALs, similar to NFL-R5.2 for plantation forests. For example: <u>Malvern Hills VAL</u> <u>Rakaia Catchment VAL</u> <u>Activity status: CON</u> <u>5 Shelterbelts</u> <u>Matters of Control:</u> <u>6. The exercise of control is reserved over the following matters:</u> <u>a. The visual amenity effects arising from the design, length, size, and siting of shelterbelts; and</u> <u>b. how any plantings reflect and complement the land development patterns and shapes of the landscape.</u> Refer to original submission for full decision requested.
<i>DPR-0407</i>	<i>Forest & Bird</i>	<i>FS522</i>	<i>Oppose</i>	<i>Reject the submission</i>
DPR-0388	CFSL	041	Oppose	Delete as notified.
<i>DPR-0032</i>	<i>CCC</i>	<i>FS075</i>	<i>Oppose</i>	<i>Retain NFL-R3 as notified</i>
DPR-0388	CFSL	042	Oppose	Delete as notified
DPR-0422	NCCF	167	Oppose	Delete as notified.
<i>DPR-0407</i>	<i>Forest & Bird</i>	<i>FS397</i>	<i>Oppose</i>	<i>Reject the submission</i>
DPR-0427	DoC	053	Support	Retain as notified.
<i>DPR-0301</i>	<i>UWRG</i>	<i>FS195</i>	<i>Support</i>	<i>Allow in full</i>
<i>DPR-0407</i>	<i>Forest & Bird</i>	<i>FS219</i>	<i>Support</i>	<i>Accept the submission</i>

Analysis

11.39 CRC¹⁰² state that the Waimakariri and Rakaia River overlays are included in both R3.1 and R3.3 and that as R3.3 is the most restrictive Rule (non-complying) it would override Rule R3.1, making the inclusion of them in R3.1 redundant. They seek the deletion of the Waimakariri and Rakaia River overlays form 3.1. The Waimakariri and Rakaia River Catchment ONL overlays are different to the Waimakariri and Rakaia ONL overlays. As the values and sensitivity of these ONL has been assessed

¹⁰² CRC DPR-0260:117

to be different, the approach to protecting them in the PDP is also different. I therefore recommend the submission point is rejected.

- 11.40 Lukas Travnicek¹⁰³, HortNZ¹⁰⁴, DHL¹⁰⁵, CFSL¹⁰⁶ and NCFE¹⁰⁷ oppose NFL-R3 and seek the rule's deletion (or in the alternative for DHL and CFSL the removal of shelterbelts from the rule). Paul Christian¹⁰⁸ seeks that woodlots and shelterbelts are a discretionary activity within the Te Waihora Lake Ellesmere ONL overlay. CFSL¹⁰⁹ and DHL¹¹⁰ also seek, specifically in relation to the Rakaia River ONL overlay, the application of this rule is excluded as in their view shelterbelts are necessary to protect animals and buildings from wind.
- 11.41 The Selwyn Landscape Study recognised shelterbelts as a key threat to the panoramic views of the high country within the Waimakariri Basin from SH73 and the railway line. It recommended that they are avoided along with other activities such as plantation forestry that could potentially screen these views. Other ONL's were also assessed and the Study concluded similar findings in terms of the need to avoid shelterbelts due to their linear form and limited viewshafts as well as their contribution to the encroachment of weeds which could undermine indigenous vegetation that contributes to the values of the ONL. VAL's were also assessed for likely threats from use and development activities and again, shelterbelts were found to be a detractor on visual amenity with some element of control recommended. An important factor to consider is the cumulative effects of these activities on ONL – whilst one shelterbelt, orchard or woodlot may not be significant, the proliferation of these activities may have unacceptable effects on the values and characteristics of ONL. In riverine and Banks Peninsular ONL, even one of these plantings may give rise to significant effects due to the more sensitive nature of these environments.
- 11.42 The PDP approach is to restrict those plantings in the key viewshafts along SH73 and the railway line, the Banks Peninsular ONL and the more sensitive riverine ONL's (as this may also contribute to the encroachment of weeds) through a non-complying activity status. Outside of these most sensitive areas, the activity status is discretionary. It is also worth noting that the delineation of the riverine ONL avoids improved pasture as far as possible (noting that viewing the maps at a fine grain may show coverage of improved pasture) and tends to follow the vegetation cover adjacent to the bank edge of the waterway. Given the nature of ONL's in Selwyn District, the open landscapes and their sensitivity to screening I consider a non-complying activity and discretionary activity are appropriate and therefore recommend these submission points are rejected.
- 11.43 CDL¹¹¹ seek that effects from shelterbelts within the Malvern Hills and Rakaia Catchment VAL are managed via a controlled activity, similar to plantation forestry, with appropriate matters of control. The submitter does raise a valid point that plantation forestry is a controlled activity, which is the most restrictive consent activity status that can be applied under the NES-PF, whilst a woodlot,

103 Lukas Travnicek DPR-0104:006

104 HortNZ DPR-0353:166

105 DHL DPR-0372:080

106 CFSL DPR-0388:041 and 042

107 NCFE DPR-0422:167

108 Paul Christian DPR-0292:003

109 CFSL DPR-0388:042

110 DHL DPR-0372:081

111 CDL DPR-0381:015

shelterbelt or orchard are discretionary activities. This could lead to the perverse situation where a woodlot smaller than 1ha is subject to a stricter consent standard than a plantation forest over 1ha despite the effects of the latter likely being greater.

- 11.44 I also note that the purpose of VAL is not necessarily to retain them in their current state, however change must be carefully managed to ensure that overall amenity and environmental quality is maintained or enhanced as set out in the objective. A controlled activity would still enable Council to place conditions on the size and shape of plantings to reduce their prominence within the VAL. I agree with the submitter that the two matters of control, which mirror the matters of control for plantation forestry under NFL-R5, are appropriate when applied to shelterbelts, woodlots and horticultural planting and recommend the submission in accepted in part.
- 11.45 NCFE¹¹² oppose controls on planting within the VAL. This is related to their primary relief to delete provisions in the PDP related to VAL as in their opinion, there is no requirement to identify and protect VAL's and protecting rural amenity values could be included in GRUZ to apply generally across that zone. I recommend this submission point is rejected noting though that I am recommending a controlled activity for planting in the VAL.
- 11.46 DoC¹¹³ seek that the rule is retained as notified. As I am recommending amendments, I recommend this submission point is accepted in part.

Recommendations and amendments

- 11.47 I recommend, for the reasons given above, that the Hearings Panel:
- a) Amend NFL-R3.4 to a controlled activity status with relevant matters of control.
- 11.48 It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix 1**.
- 11.49 The scale of change requires a s32AA evaluation.

Section 32AA evaluation

Effectiveness and efficiency

- 11.50 Amending planting in VAL to a controlled activity is more efficient as it aligns with the approach for plantation forestry which is also a controlled activity which is the most restrictive activity status allowed under the NES-PF for afforestation in VAL. This ensures a consistent approach by requiring the same activity status regardless of the planting size. The retention of controls means that, whilst the activity must be granted, the appearance of planting can be controlled in order to maintain or enhance the existing environment of the VAL.

Costs and Benefits

- 11.51 Whilst the cost of a resource consent will be retained there will be more certainty for applicants as the consent must be granted subject to conditions. A cost could be that the activity proliferates in VAL and does not maintain or enhance the VAL. However this could happen with plantation forestry

112 NCFE DPR-0422:167

113 DoC DPR-0427:053

under the NES-PF, an activity with potentially greater effects than other planting activity. It is expected that adequate controls will help to maintain the character of the VAL.

Risk of acting or not acting

11.52 Not acting would make the PDP less effective as it would require the imposition of a greater activity status for planting, other than plantation forestry, than plantation forestry itself. The latter could be considered to have greater visual effects than the former which is smaller in scale. This could represent a perverse planning outcome and undermine the effectiveness of the plan.

Conclusion

11.53 The recommended change represents a more consistent and effects based approach than that in the notified PDP. It aligns the consent status of other planting activity with that for plantation forestry as set out in the NES-PF.

NFL-R4 Mineral Extraction

Submissions

11.54 Three submissions points and four further submission points were received in relation to NFL-R4.

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0032	CCC	031	Support	Retain as notified
DPR-0422	NCFE	168	Support In Part	Amend activity status to discretionary.
DPR-0032	CCC	FS076	Oppose	Retain NFL-R4 as notified
DPR-0407	Forest & Bird	FS398	Oppose	Reject the submission
DPR-0427	DoC	054	Support	Retain as notified
DPR-0301	UWRG	FS196	Support	Allow in full
DPR-0407	Forest & Bird	FS220	Support	Accept the submission

Analysis

11.55 NCFE¹¹⁴ seek that the activity status for mineral extraction in ONL is amended to a discretionary activity except in specific ONL's where mineral extraction is not compatible with maintaining ONL values. They also seek that the provision as it relates to VAL's are deleted. This is related to their primary relief to delete provisions in the PDP related to VAL as in their opinion, there is no requirement to identify and protect VAL's and protecting rural amenity values could be included in GRUZ to apply generally across that zone.

11.56 The Selwyn Landscape Study has identified mineral extraction as a key threat to the values of each identified ONL. This is recognised in NFL-P1 where mineral extraction at any scale is to be avoided as an activity that is incompatible with the values of ONL. Therefore I do not agree with the submitter that mineral extraction in an ONL should be a discretionary activity as this does not implement NFL-P1.

11.57 Mineral extraction in VAL is not subject to the same specific policy imperative although there is a requirement to avoid visually prominent development which would clearly apply to large scale commercial mineral extraction. Mineral extraction also includes farm quarries which is a permitted

114 NCFE DPR-0422:168

activity in GRUZ up to 1,500m² in size. Given the distinction made in the PDP between the management of farm quarries and commercial mineral extraction as well as recognition that VAL includes a working pastoral landscape where change may occur but must be carefully managed to ensure that overall amenity and environmental quality is maintained or enhanced, I consider it appropriate that farm quarries no greater than 1,500m² are a discretionary activity.

11.58 I therefore recommend the submission is accepted in part to the extent that farm quarries to a size of 1,500m² in VAL are a discretionary, rather than non-complying activity.

11.59 CCC¹¹⁵, CRC¹¹⁶ and DoC¹¹⁷ seek that the provision is retained as notified. As I am recommending an amendment, I recommend that the submission point is accepted in part.

Recommendations and amendments

11.60 I recommend, for the reasons given above, that the Hearings Panel:

- a) Amend NFL-R4.1 to a discretionary activity status for farm quarries up to 1,500m² in size in VAL.

11.61 It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix 1**.

11.62 The scale of change does not require a s32AA evaluation.

NFL-R5 Plantation Forestry

Submissions

11.63 Ten submissions points and 12 further submission points were received in relation to NFL-R5.

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0032	CCC	032	Support	Retain as notified
DPR-0212	ESAI	060	Oppose In Part	Amend NFL-R5 Plantation Forest for ONL Overlay Te Waihora/Lake Ellesmere to read: Activity Status: PER <u>X. Plantation Forest</u> <u>Where:</u> <u>a. The activity replaces an existing plantation forest activity; or</u> <u>b. The activity is the maintenance or replacement of an existing woodlot.</u>
<i>DPR-0032</i>	<i>CCC</i>	<i>FS077</i>	<i>Oppose</i>	<i>Retain NFL-R5 as notified</i>
<i>DPR-0372</i>	<i>DHL</i>	<i>FS022</i>	<i>Support</i>	<i>Accept the submission.</i>
DPR-0260	CRC	119	Support	Retain as notified.
<i>DPR-0032</i>	<i>CCC</i>	<i>FS079</i>	<i>Support</i>	<i>Retain NFL-R5 as notified</i>
DPR-0301	UWRG	033	Neither Support Nor Oppose	Not specified.
<i>DPR-0407</i>	<i>Forest & Bird</i>	<i>FS341</i>	<i>Support</i>	<i>Accept the submission</i>
DPR-0381	CDL	016	Support	Retain as notified.
<i>DPR-0407</i>	<i>Forest & Bird</i>	<i>FS523</i>	<i>Oppose</i>	<i>Reject the submission</i>
DPR-0407	Forest & Bird	046	Oppose	Amend activity status for plantation forestry in VAL areas to NC.

115 CCC DPR-0032:031

116 CRC DPR-0260:118

117 DoC DPR-0427:054

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0301	UWRG	FS124	Support	Allow in full
DPR-0439	Rayonier	FS013	Oppose	Decline
DPR-0422	NCCF	169	Support In Part	Amend activity status to discretionary, except in specific ONLs where plantation forestry is identified as not maintaining outstanding landscape values.
DPR-0032	CCC	FS078	Oppose	Retain NFL-R5 as notified
DPR-0407	Forest & Bird	FS399	Oppose	Reject the submission
DPR-0422	NCCF	300	Oppose In Part	Not specified.
DPR-0407	Forest & Bird	FS627	Oppose	Reject the submission
DPR-0427	DoC	055	Support	Retain as notified.
DPR-0301	UWRG	FS197	Support	Allow in full
DPR-0407	Forest & Bird	FS221	Support	Accept the submission
DPR-0439	Rayonier	028	Oppose	Amend by provision by deleting 'Plantation Forest' and replacing with 'afforestation of Plantation Forest'.

Analysis

- 11.64 ESAI¹¹⁸ note that there are several areas of woodlots/plantation forestry located along the banks of the Rakaia River which are used for erosion protection and fundraising which play an important role in the District. The ability to undertake planting activity, in their view, is critical. The submitter is proposing a rule in the ONL Overlay Te Waihora/Lake Ellesmere permitting the replacement of plantation forestry and the replacement and maintenance of existing woodlots. In my view, neither activity would be restricted by this rule as both activities would be subject to existing use rights under s10 RMA. In addition, replanting under the NES-PF is a permitted activity regardless of whether the activity takes place in ONL (Subpart, 8 NES-PF). I therefore recommend the submission point is rejected.
- 11.65 UWRG¹¹⁹ query whether the NES-PF overrides VAL provisions and considers that the NFL mapping may need to be extended as it predates the NES-PF. It is not possible to prevent afforestation in VAL however district plans can place conditions on the establishment of the activity under Clause 15 (3) and (4) of the NES-PF through a controlled activity status. This does not apply to land that is already used for plantation forestry provided plantation forestry harvesting has taken place within the last five years. The Selwyn Landscape Study dates to October 2017 (with an update in December 2018), whilst the NES-PF was published in August 2017 (although came into force in May 2018). The Selwyn Landscape study was therefore undertaken contemporaneously with the development of the NES-PF. As no change is required from this submission point I recommend that procedurally the submission point is rejected.
- 11.66 Forest and Bird¹²⁰ seek that plantation forestry is a non-complying activity rather than controlled activity in VAL as the NES-PF states that afforestation must not occur within a VAL if restricted by the relevant rules. They also seek a reference to the management of fire risk. While clause 13 in the NES-PF means that afforestation in a VAL is not permitted if there is a consent requirement within a district plan, under Clause 15 (3) of the NES-PF, consent for afforestation in VAL may only be as a

¹¹⁸ ESAI DPR-0212:060

¹¹⁹ UWRG DPR-0301:033

¹²⁰ Forest and Bird DPR-0407:046

controlled activity with the matters of control restricted to effects on amenity. There is no ability under the NES-PF for the district plan rules to be more stringent, as sought by the submitter. Fire risk is not managed directly through the NES-PF although I note that there are setbacks from afforestation near sensitive activities (Sub-part 1, Clause 14 of the NES-PF). As no change can I believe be made, I recommend the submission point is rejected.

- 11.67 NCCF¹²¹ seek that the activity status for plantation forestry in ONL is amended to a discretionary activity except in specific ONL's where plantation forestry is not compatible with maintaining ONL values. They also seek that the provision as it relates to VAL's are deleted. This is related to their primary relief to delete provisions in the PDP related to VAL as in their opinion, there is no requirement to identify and protect VAL's and protecting rural amenity values could be included in GRUZ to apply generally across that zone.
- 11.68 The Selwyn Landscape Study has identified plantation forestry as a key threat to the values of each identified ONL. This is recognised in NFL-P1 where plantation forestry at any scale is to be avoided as an activity that is incompatible with the values of ONL. Therefore I do not agree with the submitter that plantation forestry in an ONL should be a discretionary activity as this does not implement NFL-P1. I also do not agree that VAL's should be deleted from the rule for the reasons explained in NFL-O2. I therefore recommend the submission point is rejected.
- 11.69 Rayonier¹²² submit that 'plantation forestry' should be deleted and replaced with 'afforestation of plantation forestry' on the basis that there may be confusion as to the extent that the PDP can restrict plantation forestry activities under the NES-PF. I recommend this submission is accepted in part by clarifying that this only applies to the establishment of new and expansion of existing plantation forestry. This would clearly link it to afforestation and bring it into line with the wording of GRUZ-R24, with any other plantation forestry activity managed through the NES-PF where the provisions exist on their own terms and the PDP only imposes rules that are more stringent than the NES-PF where this is necessary and provided for by the regulations. It is noted that 'afforestation' includes other requirements under the NES-PF for this activity such as setbacks, which are not covered by the PDP.
- 11.70 CCC¹²³, CRC¹²⁴, CDL¹²⁵ and DoC¹²⁶ submit that the rule is retained as notified. As I am recommending amendments, I recommend the submission points are accepted in part.

Recommendation and amendments

- 11.71 I recommend, for the reasons given above, that the Hearings Panel, as set out in **Appendix 2**:
- a) Amend NFL-R5.1 and 5.2 to the 'establishment of a new, or expansion of an existing plantation forest'.
- 11.72 It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix 1**.

121 NCCF DPR-0422:169 and 300

122 Rayonier DPR-0439:028

123 CCC DPR-0032:032

124 CRC DPR-0260:119

125 CDL DPR-0381:016

126 DoC DPR-0427:055

11.73 The scale of change does not require a s32AA evaluation.

SUB-R23 Subdivision and Natural Features and Landscapes

Submissions

11.74 Seven submissions points and 32 further submission points were received in relation to SUB-R23.

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0212	ESAI	079	Oppose	Amend Activity Status in SUB-R23.3 to Controlled.
DPR-0260	CRC	127	Support	Retain as notified.
DPR-0157	The Williams	FS922	Oppose In Part	Reject in part the amendments sought.
DPR-0209	M Singh	FS537	Oppose	Reject the submission in part.
DPR-0298	Trices Road	FS032	Oppose In Part	Reject submission
DPR-0461	Dunweavin	FS409	Oppose	Reject submission
DPR-0492	Kevler	FS750	Oppose	Reject Submission
DPR-0493	Gallina & Heinz-Wattie	FS048	Oppose	Reject submission in part being the amendments sought and the notified provisions sought to be retained
DPR-0358	RWRL	225	Support In Part	Amend to insert a non-notification clause.
DPR-0157	The Williams	FS427	Support In Part	Accept the submission in part
DPR-0209	M Singh	FS514	Support In Part	Accept the submission in part
DPR-0298	Trices Road	FS471	Support In Part	Accept submission in part
DPR-0461	Dunweavin	FS518	Support In Part	Accept submission in part
DPR-0492	Kevler	FS829	Support	Accept submission in part
DPR-0493	Gallina & Heinz-Wattie	FS494	Support In Part	Accept the submission in part.
DPR-0363	IRHL	214	Support In Part	Amend the provision to insert a non-notification clause.
DPR-0157	The Williams	FS759	Support In Part	Accept the submission in part
DPR-0209	M Singh	FS685	Support In Part	Accept the submission in part
DPR-0298	Trices Road	FS638	Support In Part	Accept submission in part
DPR-0461	Dunweavin	FS678	Support In Part	Accept the submission in part. Reject the submission seeking removal of the UGO
DPR-0492	Kevler	FS293	Support In Part	Accept the submission in part. Reject the submission seeking removal of the UGO.
DPR-0374	RIHL	220	Support In Part	Amend the provision to insert a non-notification clause.
DPR-0157	The Williams	FS574	Support In Part	Accept the submission in part
DPR-0209	M Singh	FS941	Support In Part	Accept the submission in part
DPR-0298	Trices Road	FS789	Support In Part	Accept submission in part
DPR-0461	Dunweavin	FS821	Support In Part	Accept the submission in part. Reject the submission seeking removal of the UGO.

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0492	Kevler	FS137	Support In Part	Accept the submission in part. Reject the submission seeking removal of the UGO.
DPR-0493	Gallina & Heinz-Wattie	FS698	Support In Part	Accept the submission in part.
DPR-0384	RIDL	232	Support In Part	Amend the provision to insert a non-notification clause.
DPR-0414	Kāinga Ora	117	Support	Retain as notified
DPR-0157	The Williams	FS183	Oppose In Part	Reject the submission in part
DPR-0209	M Singh	FS373	Oppose In Part	Reject the submission in part
DPR-0298	Trices Road	FS143	Oppose In Part	Reject submission
DPR-0461	Dunweavin	FS170	Oppose In Part	Reject submission
DPR-0492	Kevler	FS539	Oppose In Part	Reject submission points in part
DPR-0493	Gallina & Heinz-Wattie	FS163	Oppose In Part	Reject the submission points in part.
DPR-0565	SSH	FS054	Support In Part	Support the submission subject to amendments to the MDRZ boundary at Rolleston to include properties on the east side of George Street including no. 30 George Street & any other amendments/changes to the relevant provisions as are consistent with enabling our MDH proposal.
DPR-0422	NCFE	212	Support In Part	Amend as follows: Activity Status: DISRDIS 3. Subdivision within the Outstanding Natural Landscape Overlay. This rule does not apply to any site located wholly within the Porters Ski Zone. This rule does not apply to any subdivision under SUB-R12 or SUB-R15. Matters for discretion: 4. The exercise of discretion in relation to SUB-R23.3. is restricted to the following matters: NFL-MAT3 Buildings and Structures in Outstanding Natural Landscapes and Visual Amenity Landscapes
DPR-0407	Forest & Bird	FS136	Oppose	Reject the submission

Analysis

11.75 ESAI¹²⁷ oppose the discretionary activity status and seek a controlled activity status on the basis that there are large areas of land within ONL which are held in large certificates of title that contain only land partly covered by the overlay and it is unreasonable to attribute a discretionary status in such circumstances. NCFE¹²⁸ seek that the activity status is amended to restricted discretionary as they do not consider it necessary for the activity to be a full discretionary status and a consent authority still has the ability to decline a consent or impose conditions. S6 RMA and direction in the CRPS is to avoid inappropriate subdivision, use and development on ONL. The use of the term 'avoid' might imply a non-complying activity but, as the effects of subdivision can vary considerably, I consider a

¹²⁷ ESAI DPR-0212:079

¹²⁸ NCFE DPR-0422:212

discretionary consent strikes the right balance as this will allow a consent authority the greatest discretion to consider effects, having regard to the values and characteristics of the ONL. If the subdivision is on a site which is partly in and partly out of the ONL overlay, it is still relevant to test the effects on the ONL in this way noting that if the subdivision is taking place on that part of the site outside the ONL with any effects on the ONL being assessed as negligible (because access or servicing can avoid the ONL for example) it is unlikely to be inappropriate. I therefore recommend the submission points are rejected.

11.76 RWRL, IRHL, RIHL and RIDL¹²⁹ are seeking that the provision is amended to insert non-notification clauses. I recommend these submission points are rejected, consistent with discussion on this matter in Section 8 of this report.

11.77 CRC¹³⁰ and Kainga Ora¹³¹ seek that the provision is retained as notified. As I am not recommending any amendments, I recommend the submission points are accepted.

Recommendation

11.78 I recommend, for the reasons given above, that the Hearings Panel retain the provision as notified.

11.79 It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix 1**.

Proposed New Rules

Submissions

11.80 Five submissions points and 23 further submission points were received in relation to this subtopic.

Submitter ID	Submitter Name	Submission Point	Plan Reference	Position	Decision Requested
DPR-0260	CRC	116	New	Support In Part	Add an advice note or other mechanism that provides clarity that these rules do not apply within the beds of lakes and rivers or within the CMA.
DPR-0372	DHL	FS031	New	Support	Accept the submission.
DPR-0390	RIL	FS004	New	Support	Accept the submission.
DPR-0422	NCFE	FS034	New	Support	Allow the submission point.
DPR-0421	Richard & Anna Hill	002	New	Oppose In Part	Insert a new rule to facilitate the management of wilding pines in areas that are at high risk of reinvasion of wilding pines.
DPR-0301	UWRG	FS069	New	Oppose	Disallow
DPR-0407	Forest & Bird	FS419	New	Oppose	Reject the submission
DPR-0468	NCFG	010	New	Oppose	Insert new rule that requires landowners to obtain a discretionary resource consent to intensify pasture inside ONL areas.
DPR-0212	ESAI	FS076	New	Oppose	Disallow in full
DPR-0301	UWRG	FS314	New	Support	Allow in full
DPR-0372	DHL	FS073	New	Oppose	Reject the submission.
DPR-0381	CDL	FS078	New	Oppose	Disallow
DPR-0407	Forest & Bird	FS373	New	Support	Accept the submission

¹²⁹ IRHL DPR-0363:214, RWRL DPR-0358:225, RIHL DPR-0374:220, RIDL DPR-0384:232

¹³⁰ CRC DPR-0260:127

¹³¹ Kainga Ora DPR-0414:117

Submitter ID	Submitter Name	Submission Point	Plan Reference	Position	Decision Requested
DPR-0422	NCCF	FS139	New	Oppose	Disallow the submission point.
DPR-0486	CDL	FS078	New	Oppose	Disallow
DPR-0468	NCFG	011	New	Oppose	Insert a new rule that triggers the need for a discretionary resource consent to clear indigenous vegetation in ONLs.
DPR-0301	UWRG	FS315	New	Support	Allow in full
DPR-0372	DHL	FS074	New	Oppose	Reject the submission.
DPR-0381	CDL	FS079	New	Oppose	Disallow
DPR-0390	RIL	FS017	New	Oppose	Reject the submission.
DPR-0407	Forest & Bird	FS374	New	Support	Accept the submission
DPR-0422	NCCF	FS140	New	Oppose	Disallow the submission point.
DPR-0486	CDL	FS079	New	Oppose	Disallow
DPR-0468	NCFG	012	New	Neither Support Nor Oppose	Request that Council publicly notifying revised rules as soon as possible and give them immediate legal effect while they go through the RMA Schedule 1 process.
DPR-0301	UWRG	FS316	New	Support	Allow in full
DPR-0372	DHL	FS075	New	Oppose	Reject the submission.
DPR-0390	RIL	FS018	New	Oppose	Reject the submission.
DPR-0407	Forest & Bird	FS375	New	Support	Accept the submission

Analysis

- 11.81 CRC¹³² seek that an advice note is added or other mechanism to clarify that activities in the beds of lakes and rivers are regulated under the Regional Land and Water Plan. I recommend this submission point is accepted as I agree there may be some ambiguity surrounding this issue particularly in relation to riverine ONL and Te Waihora/Lake Ellesmere.
- 11.82 Richard and Anna Hill¹³³ seek a new rule to facilitate the management of wilding pines. Whilst I agree wilding pines are an important issue, it is one that is primarily addressed both through national control strategies and regionally through the regional council's Regional Pest Management Plan 2018-38. In addition, the NES-PF includes regulations on managing the risk from wilding pines on newly afforested land (NES-PF regulation 11). I therefore recommend this submission point is rejected as no rule is required.
- 11.83 NCFG¹³⁴ oppose the apparent lack of rules that relate to pastoral intensification and agricultural conversions in ONL, a key threat in their view, and seek that a new rule is inserted that requires landowners to obtain a discretionary resource consent to intensify pasture in ONL. The submitter refers to Plan Change 13 in the Mackenzie District Plan as an exemplar of how this issue should be addressed. NCFG are also proposing that 'converted' pasture land is mapped in the Hills and High Country and Major Rivers area which would provide clarity for landowners and drive the extent to which protection is required. They also seek that vegetation clearance in ONL is a discretionary activity and that such rules are notified as soon as possible and are given immediate legal effect.

132 CRC DPR-0260:116

133 DPR-0421:001 Richard and Anna Hill

134 NCFG DPR-0468:010, 011 and 012

11.84 I note that the Selwyn Landscape Study did identify a change in farming practice (e.g. dairy conversions) as a key threat in the Front Range, Rakaia Catchment, Malvern Hills and Waimakariri Catchment ONL's. The 'alternative approach' proposed by NCFG and submitted on here was considered through the recommendations of the Biodiversity Working Group and recommended by that Group to Council during the development of the PDP. Ultimately due to the costs, complexity and time involved this was not adopted. It is also noted that various building and structure rules in the NFL Chapter limit the size of farms which may practically restrict conversion into more intensive forms of farming (as larger dairy sheds or farm buildings may be required for example). This issue is addressed more fully through the S42a report for the EIB Hearing Stream.

11.85 I do not agree with the proposed change to include vegetation clearance rules in NFL Chapter as this would be confusing (the rules should be in the EIB Chapter). Whilst I consider that indigenous vegetation forms part of the characteristics and values of ONL, for the sake of Plan efficiency, it is preferable that provisions seeking to manage vegetation clearance are contained in the EIB Chapter. I therefore recommend that submission points 10, 11 and 12 by the submitter are rejected noting that these matters will in any case be looked at in more detail through the EIB Hearing Stream through the submitter's points on that Chapter.

Recommendations and amendments

11.86 I recommend, for the reasons given above, that the Hearings Panel:

- a) Amend the NFL Chapter by including an advice note that the Regional Land and Water Plan applies to works in the beds of lakes and rivers.

11.87 It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix 1**.

11.88 The scale of change does not require a s32AA evaluation.

12. Rules Requirements

NFL-REQ1 Building and Structure Height

Submissions

12.1 Four submissions points and two further submission points were received in relation to NFL-REQ1.

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0372	DHL	082	Support	Retain as notified
DPR-0422	NCFE	170	Oppose	Amend activity status to discretionary.
DPR-0407	Forest & Bird	FS400	Oppose	Reject the submission
DPR-0422	NCFE	171	Oppose In Part	Amend as follows: 1. The maximum height of any building or structure for residential activity or rural production within a Building Node... 2. The maximum height of any building or structure outside a Building Node is 4m.
DPR-0407	Forest & Bird	FS401	Oppose	Reject the submission
DPR-0446	Transpower	099	Oppose	Amend to include specific provision for the National Grid.

Analysis

- 12.2 NCFE¹³⁵ seek that the activity status for this rule requirement is amended from a non-complying to discretionary activity. I consider that a non-complying activity status is appropriate given the findings of the Selwyn Landscape Study that the proliferation of prominent buildings and structures are likely to be a threat to the openness of ONL in the District. A non-complying activity is consistent with policy in NFL-P1 to avoid development that detracts from this openness as well as in sensitive areas of ONL without the capacity to absorb change. The proposed development or use would have to demonstrate how it is consistent with NFL Policy and that these adverse effects can be avoided. I note that the PDP adopts the recommendation of the Landscape Planning Assessment¹³⁶ to include a greater allowance for building height for rural production activities (except in Banks Peninsular ONL).
- 12.3 NCFE¹³⁷ also seek that reference to a 'building node' is deleted as in their view there are sufficient controls through building footprint and coverage requirements. The PDP has taken a more balanced approach to building footprint and height rules than the Operative District Plan. They are significantly more permissive for residential and rural production activities (except in the Banks Peninsular ONL which is deemed to be a more sensitive ONL). This has been balanced through the tying of these more permissive height and building footprint limits to locational ('building node') requirements. This approach is designed to encourage the clustering of building and structures which is less visually intrusive than buildings and structures spread around the landscape. I consider that this is an appropriate and logical balance and therefore recommend the submission point is rejected.
- 12.4 Transpower¹³⁸ seek that an additional clause is added to the rule requirement to account for the maintenance, repair and upgrading of the National Grid. As discussed, the EI Chapter permits the repair, maintenance and operation of network utilities both above ground and underground (EI-R6) without requiring compliance with NFL-R1. Upgrading is addressed through EI-R20 as a discretionary activity (in the same manner as if it was newly established)¹³⁹. I also note that the recommended amendment to the NFL Policies to ensure consistency with the more enabling policies in the EI Chapter would recognise and provide for important infrastructure where the activity is not permitted, whilst still allowing the effects of the proposal in a sensitive area to be considered. I do not consider that a change to NFL-REQ1 is required and therefore recommend the submission point is rejected.
- 12.5 DHL¹⁴⁰ seek that the provision is retained as notified. As I am not recommending any changes, I recommend this submission point is accepted.

Recommendation

- 12.6 I recommend, for the reasons given above, that the Hearings Panel retain the provision as notified.

135 NCFE DPR-0422:170

136 https://www.selwyn.govt.nz/__data/assets/pdf_file/0020/251183/Landscape-Planning-Assessment-Final-Page-1-37.pdf

137 NCFE DPR-0422:171

138 Transpower DPR-0446:099

139 The S42a report for the EI Chapter recommends the deletion of 'expansion' from EI-R20. Transmission structures would therefore be dealt with under the terms of EI-R11 although this requires compliance with NFL-R1 through EI-REQ12.

140 DHL DPR-0372:082

12.7 It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix 1**.

NFL-REQ2 Building Footprint

Submissions

12.8 Four submissions points and three further submission points were received in relation to NFL-REQ2.

Submitter ID	Submitter Name	Submission Point	Plan Reference	Position	Decision Requested
DPR-0372	DHL	083	NFL-REQ2	Oppose In Part	Amend as follows: 1. The maximum building footprint for a residential activity or rural production activity within a Building Node is 300 <u>500</u> m ² for any individual building. 2. The maximum building footprint for a residential activity or rural production activity outside a Building Node is 100 <u>300</u> m ² for any individual building. Activity status when compliance not achieved: When compliance with NFL-REQ2 is not achieved: NC <u>RDIS</u>
DPR-0032	CCC	FS080	NFL-REQ2	Oppose	Amend NFL-REQ2 consistent with CCC's primary submission
DPR-0388	CFSL	043	NFL-REQ2	Oppose	Amend as follows: 1. The maximum building footprint for a residential activity or rural production activity within a Building Node is 300 <u>500</u> m ² for any individual building. 2. The maximum building footprint for a residential activity or rural production activity outside a Building Node is 100 <u>300</u> m ² for any individual building. Activity status when compliance not achieved: When compliance with NFL-REQ2 is not achieved: NC <u>RDIS</u>
DPR-0032	CCC	FS081	NFL-REQ2	Oppose	Amend NFL-REQ2 consistent with CCC's primary submission
DPR-0422	NCFF	301	NFL-REQ2	Oppose In Part	Amend as follows: 1. The maximum building footprint for a residential activity or rural production activity within a Building Node is 300m ² for any individual building. 2. The maximum building footprint for a residential activity or rural production activity outside a Building Node is 100m² for any individual building
DPR-0407	Forest & Bird	FS785	NFL-REQ2	Oppose	Reject the submission
DPR-0446	Transpower	100	NFL-REQ2	Oppose	Amend to include specific provision for the National Grid.

Analysis

12.9 DHL¹⁴¹ and CFSL¹⁴² seek that the activity status for this rule requirement is amended from a non-complying to a restricted discretionary activity and the size increased to a 500m² building footprint within a building node and 300m² outside of a building node. I recommend this submission is accepted in part for the following reasons:

12.9.1 I consider that a non-complying activity status is generally appropriate given the findings of the Selwyn Landscape Study that the proliferation of prominent buildings and structures are likely to be a threat to the openness of ONL in the District.

12.9.2 The Landscape Planning Assessment¹⁴³ recommended that farm buildings are provided with a moderate increase in height and building footprint compared to other types of building and additionally that it is considered appropriate to enable consideration of larger buildings that are necessary for farming, in the more expansive areas, through a consent process. Whilst this has been adopted for the purposes of height controls (in terms of greater permitted limits for rural production activities) under NFL-REQ1, this is not the case for building footprint where the rule requirement does not distinguish between rural and residential activity. I consider that there is a case for NFL-REQ2 to recognise this distinction also.

12.9.3 The difference between 300m² and 500m² is not that great however combined with the permitted height, a 500m² building (or cluster of) 12m in height may have undue prominence if not properly managed. I consider that a compromise would be for a rural production activity that is greater than 300m² in footprint but no more than 500m² to be a restricted discretionary activity. This would apply within a building node (except in the Banks Peninsular ONL).

12.10 NCFE¹⁴⁴ seek that reference to a 'building node' is deleted as in their view there are sufficient controls through building footprint and coverage requirements. I recommend this submission point is rejected for reasons given in NFL-REQ1 above [12.3].

12.11 Transpower¹⁴⁵ seek that an additional clause is added to the rule requirement to account for the maintenance, repair and upgrading of the National Grid. I recommend this submission point is rejected for reasons discussed above in NFL-REQ1 [12.4].

Recommendation

12.12 I recommend, for the reasons given above, that the Hearings Panel amend the provisions, as set out in **Appendix 2**, to:

- a) Amend building footprint for rural production activities in building nodes (except Banks Peninsular ONL) >300m² but no more than 500m² to restricted discretionary activity.

141 DHL DPR-0372:083

142 CFSL DPR-0388:043

¹⁴³ https://www.selwyn.govt.nz/_data/assets/pdf_file/0020/251183/Landscape-Planning-Assessment-Final-Page-1-37.pdf

144 NCFE DPR-0422:301

145 Transpower DPR-0446:100

12.13 It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix 1**.

12.14 The scale of change requires a s32AA evaluation.

Section 32AA evaluation

Effectiveness and efficiency

12.15 The change recommended better implements NFL-P1 as it recognises that pastoral farms are a feature of the landscape in high country areas and that larger buildings are anticipated to meet the needs of these activities. This is also consistent with other rule requirements that distinguish rural production buildings and structures from buildings and structures for other uses. Combined with permitted height limits of up to 12m, a building with a larger footprint could have undue prominence on the landscape. However carefully restricting this to building nodes as a restricted discretionary activity signals that this activity is anticipated in areas with a greater capacity to accept modification, subject to an appropriate assessment of effects.

Costs and Benefits

12.16 The benefit of this approach is that, whilst a resource consent would still be required, there would be more certainty that the resource consent would be granted. This reduces costs and uncertainty. The costs to the environment would be minimal given the restrictions around when the rule requirement would be triggered and the fact that a resource consent will still need to be obtained, where effects on ONL can be assessed.

Risk of acting or not acting

12.17 The risk of not activity is that the PDP may restrict larger buildings required for rural production activities that are existing in the high country. This could increase costs and uncertainty for pastoral farming activities that may need to establish barn buildings, equipment sheds and the like.

Conclusion

12.18 The proposed change is consistent with the overall approach in the NFL Chapter which is to recognise that pastoral farming activities constitute an important part of the existing environment in the high country. Whilst larger buildings can have adverse effects on ONL and would generally be avoided, rural production activities are afforded a higher threshold of tolerance for this reason. The retention of a resource consent requirement recognises that an inappropriately sited building may give rise to effects on ONL and so further assessment through the consent process is required.

NFL-REQ3 Building Coverage

Submissions

12.19 Two submissions points were received in relation to NFL-REQ3.

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0372	DHL	084	Support	Retain as notified
DPR-0446	Transpower	101	Oppose	Amend to include specific provision for the National Grid.

Analysis

12.20 Transpower¹⁴⁶ seek that an additional clause is added to the rule requirement to account for the maintenance, repair and upgrading of the National Grid. I recommend this submission point is rejected for reasons discussed above in NFL-REQ1 [12.4].

12.21 DHL¹⁴⁷ seek that the provision is retained as notified. As I am not recommending any changes, I recommend this submission point is accepted.

Recommendation

12.22 I recommend, for the reasons given above, that the Hearings Panel retain the provision as notified.

12.23 It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix 1**.

NFL-REQ4 Building and Structure Setbacks

Submissions

12.24 11 submissions points and six further submission points were received in relation to NFL-REQ4.

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0036	Tony Edney	003	Support	Retain as notified.
DPR-0207	SDC	034	Oppose In Part	Amend to include an exemption for 'ancillary structures' and 'public amenity buildings'.
<i>DPR-0372</i>	<i>DHL</i>	<i>FS012</i>	<i>Support</i>	<i>Accept the submission.</i>
DPR-0367	Orion	062	Neither Support Nor Oppose	Amend as follows: 1. The minimum setback for all buildings and structures <u>(except for upgrade of existing utility poles)</u> from each side of the centre line of SH73 or the Midland railway line is 300m.
<i>DPR-0407</i>	<i>Forest & Bird</i>	<i>FS631</i>	<i>Oppose</i>	<i>Reject aspects of the submission which do not directly relate to electricity lines and services as critical infrastructure.</i>
DPR-0372	DHL	085	Oppose In Part	Amend as follows: 1. The minimum setback for all buildings <u>(excluding ancillary structures)</u> from each side of the centre line of SH73 or the Midland railway line is 300m Alternatively: 1. The minimum setback for all buildings and structures from each side of the centre line of SH73 or the Midland railway line is 300m., <u>except for ancillary structures associated with irrigation infrastructure.</u>
DPR-0381	CDL	022	Support In Part	Retain NFL-REQ4.3 as notified
<i>DPR-0407</i>	<i>Forest & Bird</i>	<i>FS529</i>	<i>Oppose</i>	<i>Reject the submission</i>
DPR-0381	CDL	023	Support In Part	Retain NFL-REQ4.4 as notified
<i>DPR-0407</i>	<i>Forest & Bird</i>	<i>FS530</i>	<i>Oppose</i>	<i>Reject the submission</i>
DPR-0381	CDL	024	Support In Part	Retain NFL-REQ 4.5 as notified
<i>DPR-0407</i>	<i>Forest & Bird</i>	<i>FS531</i>	<i>Oppose</i>	<i>Reject the submission</i>
DPR-0388	CFSL	044	Oppose	Amend as follows: 1. The minimum setback for all buildings <u>(excluding</u>

146 Transpower DPR-0446:101

147 DHL DPR-0372:084

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
				<u>ancillary structures</u>) from each side of the centre line of SH73 or the Midland railway line is 300m Alternatively: 1. The minimum setback for all buildings and structures from each side of the centre line of SH73 or the Midland railway line is 300m., <u>except for ancillary structures associated with irrigation infrastructure.</u>
DPR-0390	RIL	063	Oppose	Amend as follows: 1. The minimum setback for all buildings (<u>excluding ancillary structures</u>) from each side of the centre line of SH73 or the Midland railway line is 300m Alternatively: 1. The minimum setback for all buildings and structures from each side of the centre line of SH73 or the Midland railway line is 300m., <u>except for ancillary structures associated with irrigation infrastructure.</u>
DPR-0422	NCFE	172	Oppose	Delete as notified.
DPR-0407	Forest & Bird	FS402	Oppose	Reject the submission
DPR-0446	Transpower	102	Oppose	Amend to include specific provision for the National Grid.

Analysis

12.25 SDC¹⁴⁸ note that as drafted, all buildings and structures including ancillary structures and public amenity buildings would require a resource consent within the 300m setback from SH73 and the railway line. They state that this is not what is intended and would be too onerous. DHL¹⁴⁹, CFSL¹⁵⁰ and RIL¹⁵¹ also seek that ancillary structures are exempt from the setback rule requirement. I agree as the nature of these structures either serve a public benefit (in the case of public amenity structures) or are clearly ancillary to normal farming activities (fences, water troughs and the like) and are unlikely to obstruct view shafts. The definition of ‘ancillary structure’ includes a requirement to comply with the road setback for a number of the sub-categories of ancillary structure. In addition, in the case of irrigators, these are not considered to be ancillary structures under the PDP definition however I accept that irrigation activities as mobile structures associated with rural production need to occur within the 300m setback. I recommend that public amenity structures, ancillary structures as well as stock fences, fences less than 2m in height and irrigators (where no road setback is required under GRUZ) are excluded from the rule requirement.

12.26 NCFE¹⁵² seek that the rule requirement is deleted as in their view, shelterbelts and horticultural planting are an essential component of farming and need to be permitted. Additionally, the submitter states that most farms need certain structures close to the road such as bobby calf pens, stock yards and loading ramps and this would impede rural production. They also oppose the rule requirement applying to VAL. This is related to their primary relief to delete provisions in the PDP

148 SDC DPR-0207:034

149 DHL DPR-0372:085

150 CFSL DPR-0388:044

151 RIL DPR-0390:063

152 NCFE DPR-0422:172

related to VAL as in their opinion, there is no requirement to identify and protect VAL's and protecting rural amenity values could be included in GRUZ to apply generally across that zone. I recommend the submission point is accepted in part for the following reasons:

- 12.26.1 I agree with the submitter that there may be necessary rural production infrastructure that needs to be accommodated (and probably already exists) within the 300m setback. I am recommending that ancillary structures, fencing and irrigators are also exempt from this requirement as above. I also note in the Operative District Plan from where this rule was derived, stock yards were effectively exempt from the application of the rule, an approach that does not seem to have been maintained in the PDP. I therefore recommend that stockyards, animal pens and stock loading ramps are also exempt from the rule requirement. I recommend this part of the submission point is accepted.
- 12.26.2 I do not agree shelterbelts or other planting should be exempt for reasons explained in NFL-R3 [11.35]. I also do not agree that VAL should be deleted (in relation to this rule requirement) for reasons explained in NFL-O2 [9.8]. I recommend these parts of the submission point are rejected.
- 12.27 Orion¹⁵³ seek that the upgrading of network utility poles is exempt from this requirement. I note that the application of this rule requirement only applies outside of a roading corridor, where Orion's assets are often located. I note also that the definition of 'ancillary structure' includes poles up to a height of 8m and 1m in diameter and therefore the exemption of ancillary structures from the setback rule as recommended would enable utility pole structures in this way. I therefore recommend that the submission point is accepted in part.
- 12.28 Transpower¹⁵⁴ seek that an additional clause is added to the rule requirement to account for the maintenance, repair and upgrading of the National Grid. I recommend this submission point is rejected for reasons discussed above in NFL-REQ1 [12.4].
- 12.29 Tony Edney¹⁵⁵ seeks the rule requirement is retained as notified. CDL¹⁵⁶ seek that NFL-REQ4.3, 4.4 and 4.5 are retained as notified. As I am recommending amendments, I recommend these submission points are accepted in part.

Recommendation and amendments

- 12.30 I recommend, for the reasons given above, that the Hearings Panel amend NFL-REQ4, as set out in **Appendix 2** as follows:
- a) Exclude public amenity structures, ancillary structures, irrigation structures, stockyards, animal pens and stock loading ramps from the application of the setback.
- 12.31 It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix 1**.
- 12.32 The scale of change requires a s32AA evaluation.

¹⁵³ Orion DPR-0367:062

¹⁵⁴ Transpower DPR-0446:102

¹⁵⁵ Tony Edney DPR-0036:003

¹⁵⁶ CDL DPR-0381:022, 023 and 024

Section 32AA evaluation

Effectiveness and efficiency

12.33 The proposed change is consistent with the policy framework of the NFL Chapter which is to recognise that rural production activities are a part of the existing environment of the high country. The notified rule requirement would restrict normal farming activities within 300m of the state highway/rail line. The scale of the activities that are proposed to be exempt from the rule requirement are small in nature and are unlikely to interrupt view shafts or break the skyline.

Costs and Benefits

12.34 The benefit to this approach is that normal farming activities would be enabled. The same is true of public amenity structures such as public toilets which need to be sited close to the road to be easily accessible. This avoids the costs of resource consent and uncertainty over whether it will be granted. As stated, the scale of the activities that are proposed to be exempt from the rule requirement are small in nature and are unlikely to interrupt view shafts or break the skyline so the risk to landscape values is small.

Risk of acting or not acting

12.35 Not acting would mean that these activities would require resource consent and this is likely to lead to greater cost and uncertainty.

Conclusion

12.36 Overall the change will reduce costs for activities that are part of the existing environment of the high country and are thus anticipated. The scale of the activities are small enough that it is unlikely that they will adversely affect view shafts and landscape values. The approach is consistent with the policy approach of the NFL Chapter which is to recognise existing farming activities and enable activities that maintain the quality of the landscape.

NFL-REQ5 Building and Structure Appearance

Submissions

12.37 Eight submissions points and three further submission points were received in relation to NFL-REQ5.

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0308	Helen & Pieter Heddell	001	Oppose	Not specified.
DPR-0372	DHL	086	Oppose In Part	Amend as follows: 1. All buildings and structures, <u>except irrigators</u> , in an ONL, excluding within the SKIZ, must be finished in materials with a maximum reflectance value of 30% ... Activity status when compliance not achieved: 3. When compliance with NFL-REQ5.1 is not achieved: NC <u>RDIS</u> ...
DPR-0381	CDL	025	Support In Part	Retain NFL-REQ5.4 as notified
DPR-0407	Forest & Bird	FS532	Oppose	Reject the submission

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0381	CDL	026	Support In Part	Retain NFL-REQ5.5 as notified
<i>DPR-0407</i>	<i>Forest & Bird</i>	<i>FS533</i>	<i>Oppose</i>	<i>Reject the submission</i>
DPR-0381	CDL	027	Support In Part	Retain NFL-REQ5.6 as notified
<i>DPR-0407</i>	<i>Forest & Bird</i>	<i>FS534</i>	<i>Oppose</i>	<i>Reject the submission</i>
DPR-0388	CFSL	045	Support In Part	Amend as follows: 1. All buildings and structures, <u>except irrigators</u> , in an ONL, excluding within the SKIZ, must be finished in materials with a maximum reflectance value of 30% ... Activity status when compliance not achieved: 3. When compliance with NFL-REQ5.1 is not achieved: NC <u>RDIS</u> ...
DPR-0390	RIL	064	Support In Part	Amend as follows: 1. All buildings and structures, <u>except irrigators</u> , in an ONL, excluding within the SKIZ, must be finished in materials with a maximum reflectance value of 30% 2. Activity status when compliance not achieved: 3. When compliance with NFL-REQ5.1 is not achieved: NC <u>RDIS</u> 4.
DPR-0446	Transpower	103	Oppose	Amend to include specific provision for the National Grid.

Analysis

12.38 Helen and Pieter Heddell¹⁵⁷ consider that light reflectance value is no longer a viable or preferred option for paint choice on a building in an ONL. I am unsure what other method the submitter had in mind as no alternative has been proposed. I recommend this submission point is rejected on this basis.

12.39 DHL¹⁵⁸, CFSL¹⁵⁹ and RIL¹⁶⁰ seek that irrigators are exempt from the rule requirement on the basis that it is not practical to be finished in materials with a maximum reflectance value of 30%. They also seek that the rule requirement is amended from a non-complying to restricted discretionary activity status. I recommend this submission point is accepted in part. Whilst I do not agree with the change in activity status as the appearance of structures can have a big overall effect on the values of an ONL (as identified in the Selwyn Landscape Study), I agree it would make sense to exclude irrigators in a similar manner to VAL as having to paint irrigators to have a lower reflectance value depending on whether they are in VAL or ONL is impractical.

157 Helen and Pieter Heddell DPR-0308:001

158 DHL DPR-0372:086

159 CFSL DPR-0388:044

160 RIL DPR-0390:064

12.40 Transpower¹⁶¹ seek that an additional clause is added to the rule requirement to account for the maintenance, repair and upgrading of the National Grid. I recommend this submission point is rejected for reasons discussed above in NFL-REQ1 [12.4].

12.41 CDL¹⁶² seek that NFL-REQ5.4, 5.5 and 5.6 are retained as notified. As I am recommending amendments, I recommend these submission points are accepted in part.

Recommendation and amendments

12.42 I recommend, for the reasons given above, that the Hearings Panel amend NFL-REQ5 as follows:

- a) Exclude irrigators from NFL-REQ5.1

12.43 It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix 1**.

12.44 The scale of change does not require a s32AA evaluation.

NFL-REQ6 Building and Structure Height

Submissions

12.45 Four submissions points and three further submission points were received in relation to NFL-REQ6.

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0367	Orion	063	Neither Support Nor Oppose	Amend as follows: 3. The maximum height for any other Building is 4m, <u>except for the upgrade of existing utility poles.</u>
DPR-0407	Forest & Bird	FS632	Oppose	Reject aspects of the submission which do not directly relate to electricity lines and services as critical infrastructure.
DPR-0381	CDL	028	Support In Part	Retain NFL-REQ6.6 as notified, subject to a numbering correction for the notification rule: Notification: <u>6.7</u> . Any application arising from NFL-REQ6.5 shall not be subject to public or limited notification and shall be processed on a non-notified basis.
DPR-0407	Forest & Bird	FS535	Oppose	Reject the submission
DPR-0381	CDL	029	Support In Part	Retain NFL-REQ 6.7 as notified
DPR-0407	Forest & Bird	FS536	Oppose	Reject the submission
DPR-0446	Transpower	104	Oppose	Amend to include specific provision for the National Grid.

Analysis

12.46 Orion¹⁶³ seek that the upgrading of network utility poles is exempt from the height limitation for buildings in NFL-REQ6.3. I note that there is presumably an error in the rule requirement NFL-REQ6.3 in that it omits 'structures' which is inconsistent with the corresponding rule requirement for ONL (REQ1.2). This means that the terms of EI-R11 apply to the height of network utility structures in VAL without requiring compliance with NFL REQ6. Given there is no scope to change this, this will have

¹⁶¹ Transpower DPR-0446:102

¹⁶² CDL DPR-0381:025, 026 and 027

¹⁶³ Orion DPR-0367:063

to be addressed in a future variation of the PDP. An exemption to ‘Buildings’ as sought by the submitter is not required as ‘structures’ is the more relevant activity and this is already effectively exempt as explained above. I therefore recommend the submission point is rejected.

- 12.47 Transpower¹⁶⁴ seek that an additional clause is added to the rule requirement to account for the maintenance, repair and upgrading of the National Grid. I recommend this submission point is rejected for reasons discussed above in NFL-REQ1 [12.4].
- 12.48 CDL¹⁶⁵ seek that NFL-REQ6.7 is retained as notified and NFL-REQ6.6 is retained as notified subject to the renumbering of the notification clause which is erroneously numbered as ‘6’ to ‘7’. I recommend these submission points are accepted in part as I am recommending an amendment under clause 16(2) RMA to correct this error.

Recommendation and amendments

- 12.49 I recommend, for the reasons given above, that the Hearings Panel retain the provision as notified, subject to a clause 16(2) amendment being undertaken to correct the numbering in clauses 6 and 7 as identified above.
- 12.50 It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix 1**.
- 12.51 The scale of change does not require a s32AA evaluation.

NFL-REQ7 Building Footprint

Submissions

- 12.52 Four submissions points and three further submission points were received in relation to NFL-REQ7.

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0381	CDL	030	Support In Part	Retain NFL-REQ7.3 as notified
DPR-0407	Forest & Bird	FS537	Oppose	Reject the submission
DPR-0381	CDL	031	Support In Part	Retain NFL-REQ7.4 as notified
DPR-0407	Forest & Bird	FS538	Oppose	Reject the submission
DPR-0381	CDL	032	Support In Part	Retain NFL-REQ7.5 as notified
DPR-0407	Forest & Bird	FS539	Oppose	Reject the submission
DPR-0446	Transpower	105	Oppose	Amend to include specific provision for the National Grid.

Analysis

- 12.53 Transpower¹⁶⁶ seek that an additional clause is added to the rule requirement to account for the maintenance, repair and upgrading of the National Grid. I recommend this submission point is rejected for reasons discussed above in NFL-REQ1 [12.4].

¹⁶⁴ Transpower DPR-0446:104

¹⁶⁵ CDL DPR-0381:028 and 029

¹⁶⁶ Transpower DPR-0446:105

12.54 CDL¹⁶⁷ seek that NFL-REQ7.3, 7.4 and 7.5 are retained as notified. As I am not recommending amendments, I recommend this submission point is accepted.

Recommendation

12.55 I recommend, for the reasons given above, that the Hearings Panel retain the provision as notified.

12.56 It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix 1**.

NFL-REQ8 Building Coverage

Submissions

12.57 Four submissions points and three further submission points were received in relation to NFL-REQ8.

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0381	CDL	033	Support In Part	Retain NFL-REQ8.2 as notified
DPR-0407	Forest & Bird	FS540	Oppose	Reject the submission
DPR-0381	CDL	034	Support In Part	Retain NFL-REQ8.3 as notified
DPR-0407	Forest & Bird	FS541	Oppose	Reject the submission
DPR-0381	CDL	035	Support In Part	Retain NFL-REQ8.4 as notified
DPR-0407	Forest & Bird	FS542	Oppose	Reject the submission
DPR-0446	Transpower	106	Oppose	Amend to include specific provision for the National Grid.

Analysis

12.58 Transpower¹⁶⁸ seek that an additional clause is added to the rule requirement to account for the maintenance, repair and upgrading of the National Grid. I recommend this submission point is rejected for reasons discussed above in NFL-REQ1 [12.4].

12.59 CDL¹⁶⁹ seek that NFL-REQ8.2, 8.3 and 8.4 are retained as notified. As I am not recommending amendments, I recommend this submission point is accepted.

Recommendation

12.60 I recommend, for the reasons given above, that the Hearings Panel retain the provision as notified.

12.61 It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix 1**.

NFL-REQ9 Volume and Area of Earthworks

Submissions

12.62 12 submissions points and nine further submission points were received in relation to NFL-REQ9.

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0104	Lukas Travnicek	005	Oppose	Amend earthwork limits to increase them to within the bounds of resource consents obtained.
DPR-0301	UWRG	FS009	Oppose	Disallow in full

¹⁶⁷ CDL DPR-0381:030, 031 and 032

¹⁶⁸ Transpower DPR-0446:106

¹⁶⁹ CDL DPR-0381:033, 034 and 035

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0407	Forest & Bird	FS557	Oppose	Reject the submission
DPR-0144	The Stations	002	Oppose In Part	Delete Rakaia River ONL from NFL-Table 2 and amend to include in NFL-Table 1.
DPR-0301	UWRG	FS017	Oppose	Disallow in full
DPR-0407	Forest & Bird	FS572	Oppose	Reject the submissions
DPR-0468	NCFG	FS002	Oppose	Seeks ONL as notified to be retained
DPR-0212	ESAI	062	Oppose In Part	Amend NFL-REQ9 Volume and Area of Earthworks by inserting the following into NFL-TABLE1: <u>ONL Te Waihora/Lake Ellesmere</u> <u>ONL Rakaia River – Ellesmere Area</u>
DPR-0345	PAR	025	Oppose In Part	Exempt SKIZ from NFL-REQ9 1.a. NFL-Table 1 or provide a hyperlink to NFL-R2
DPR-0407	Forest & Bird	FS810	Oppose	Reject the submissions
DPR-0372	DHL	087	Oppose In Part	If the relief sought in relation to NFL-R2.1 is not granted, amend NFL-Table 2 as follows: <u>Unless it is for the installation or operation of irrigation infrastructure; or is done pursuant to an authorisation under the Flood Protection bylaw.</u> Activity status when compliance not achieved: 2. When compliance with NFL-REQ9.1 is not achieved: NC <u>RDIS</u>
DPR-0381	CDL	020	Support	Retain NFL-Table1, Table2 and Table3 as notified. Retain NFL-REQ9.4 and 9.5 as notified.
DPR-0407	Forest & Bird	FS527	Oppose	Reject the submission
DPR-0407	Forest & Bird	FS528	Oppose	Reject the submission
DPR-0381	CDL	021	Support	Retain NFL-Table1, Table2 and Table3 as notified. Retain NFL-REQ9.4 and 9.5 as notified.
DPR-0388	CFSL	046	Oppose In Part	If the relief sought in relation to NFL-R2.1 is not granted, amend NFL-Table 2 as follows: <u>Unless it is for the installation or operation of irrigation infrastructure; or is done pursuant to an authorisation under the Flood Protection bylaw.</u> Activity status when compliance not achieved: 2. When compliance with NFL-REQ9.1 is not achieved: NC <u>RDIS</u>
DPR-0390	RIL	065	Oppose In Part	Amend as follows: If the relief sought in relation to NFL-R2.1 is not granted, insert below NFL-Table 1 as follows: <u>Unless it is for the installation or operation of irrigation infrastructure; or is done pursuant to an authorisation under the Flood Protection and Drainage Bylaw 2013 (amended January 2019) or any successor document.</u> Amend as follows: 2. When compliance with NFL-REQ9.1 is not achieved: NC <u>RDIS</u>
DPR-0439	Rayonier	029	Oppose	Amend provision to state that it does not apply to plantation forestry activities other than to afforestation.
DPR-0441	Trustpower	130	Support In Part	Retain as notified provided that relief sought for NFL-R2 is accepted.
DPR-0446	Transpower	107	Oppose	Amend as follows: 2. <u>Except as set out in X</u> , When compliance with NFL-REQ9.1 is not achieved: NC

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
				<p><u>X. Where, in respect of earthworks associated with the National Grid, compliance with NFL-REQ9.1 is not achieved: RDIS.</u></p> <p><u>Matters for discretion:</u></p> <p><u>X. The exercise of discretion in relation to NFL-REQ9.X is restricted to the following matters:</u></p> <p><u>a. The extent to which the proposed earthworks impacts on the values of the ONL;</u></p> <p><u>b. Whether the proposed earthworks will integrate into the landscape and the appropriateness of the scale and any mitigation measures, such as planting.</u></p> <p><u>c. The impact of the earthworks on views from public places and roads (including unformed legal roads), ease of accessibility to that place, and the significance of the view point</u></p> <p><u>d. The extent to which the proposal will result in adverse cumulative effects</u></p> <p><u>e. The benefits of the proposed activity that gives rise to the earthworks.</u></p> <p><u>f. The extent to which the proposal has functional needs or operational needs for its location.</u></p> <p><u>g. Technical or operational requirements of the proposed activity.</u></p> <p>....</p> <p><u>5. The exercise of discretion in relation to NFL-REQ9.3 is restricted to the following matters:</u></p> <p><u>a.</u></p> <p><u>g. The benefits of the proposed activity that gives rise to the earthworks.</u></p> <p><u>h. Technical or operational requirements of the proposed activity.</u></p>
DPR-0441	Trustpower	FS103	Support	Accept

Analysis

12.63 Lukas Travnicek¹⁷⁰ seeks that the permitted earthwork limits are increased to within the bounds of resource consents obtained. The submitter considers that earthworks on a high country station are important to ensure appropriate fencing and restrict stock from waterways. I recommend this submission point is rejected. In my view, resource consents exist to assess activities that have more than minor effects (i.e. are not permitted). It would therefore be inappropriate to increase permitted earthworks limits to that where an effect has been determined to be more than minor and requiring further assessment through a resource consent. I am recommending a number of further exemptions from the application of these limits (refer to NFL-R2) which might provide relief to the submitter.

12.64 The Stations¹⁷¹ seek that the Rakaia River ONL is deleted from NFL-Table 2 and instead included in NFL-Table 1. This on the basis that the permitted earthwork limit of 500m³ and 1000m² should apply to both Rakaia River and Rakaia Catchment ONL as the values in the Mt Algidus area and their

¹⁷⁰ Lukas Travnicek DPR-104:005

¹⁷¹ The Stations DPR-0144:002

sensitivity are similar. I recommend this submission point is rejected as the Selwyn Landscape Study has identified a greater degree of sensitivity to earthworks in riverine ONL's and therefore a stricter permitted limit is in my opinion appropriate. I am recommending amendments to the mapping of ONL at Mt Algidus Station as a result of a review by Mr Bentley (refer to Section 15 of this report) which might provide some relief to the submitter.

- 12.65 ESAI¹⁷² seek that the maintenance and repair of drains and rural infrastructure be provided for separately within the Ellesmere Area of the Rakaia River ONL and that ONL Te Waihora/Lake Ellesmere and ONL-Rakaia River – Ellesmere Area are inserted into NFL-Table 1. Taking each in turn, the maintenance and repair of drains and underground infrastructure in ONL Rakaia River would be permitted under amendments recommended to NFL-R2.1 and therefore there is no need to have a permitted earthwork threshold as long as earthworks relate to this activity. The submitter sought a restricted discretionary activity status for earthworks in Te Waihora/Lake Ellesmere which I agree with (for repair and maintenance of farming infrastructure). As no permitted activity applies to this activity, there is no utility in having a permitted earthwork threshold. I therefore recommend the submission point is rejected.
- 12.66 PAR¹⁷³ consider that SKIZ should be excluded from NFL-REQ9 as there are already specific rules pertaining to earthworks in SKIZ in NFL-R2. I recommend this submission point is rejected as there is no need to exclude SKIZ from NFL-REQ9 as it is already excluded in NFL-R2 (Waimakariri Catchment ONL).
- 12.67 DHL, CFSL, RIL¹⁷⁴ seek that earthworks associated with the installation, maintenance and operation of irrigation infrastructure should be exempt from NFL-REQ9. The submitters are concerned about duplication with the Regional Council functions. Further, according to the submitter, earthworks are often undertaken around the Rakaia River pursuant to flood protection or as permitted activities under the Regional Land and Water Plan and it is important that these are exempt. I address this issue in NFL-R2 [11.22] however I do not consider that a change to NFL-REQ9 is required and therefore recommend the submission points are rejected.
- 12.68 Rayonier¹⁷⁵ submit that it should be clarified that this applies to 'afforestation' on the basis that there may be confusion as to the extent that the PDP can restrict plantation forestry activities under the NES-PF. Earthworks are managed under the NES-PF on its own terms and the PDP only imposes rules that are more stringent than the NES-PF where this is necessary and provided for by the regulations. I therefore consider that any change is unnecessary and recommend the submission point is rejected.
- 12.69 Transpower¹⁷⁶ seek that an additional clause is added to the rule requirement to account for the maintenance, repair and upgrading of the National Grid. I recommend this submission point is rejected for reasons discussed above in NFL-REQ1 [12.4].

172 ESAI DPR-0212:062

173 PAR DPR-0345:025

174 DHL DPR-0372:087, CFSL DPR-0388:046,

175 Rayonier DPR-0439:029

176 Transpower DPR-0446:107

12.70 Trustpower¹⁷⁷ seek that the provision is retained as notified subject to relief being granted in NFL-R2. I recommend this submission point is accepted in part as whilst I am recommending the Coleridge HEPS is exempt from earthwork thresholds for repair, maintenance and operation, upgrading may be of a scale that is significant enough to warrant consideration through a resource consent.

12.71 CDL¹⁷⁸ are seeking that NFL-Table 1 – 3 and NFL-REQ9.4 and 9.5 are retained as notified. As I am not recommending any amendments, I recommend these submission points are accepted.

Recommendation

12.72 I recommend, for the reasons given above, that the Hearings Panel retain the provision as notified.

12.73 It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix 1**.

13. Matters of Control or Discretion

NFL-MAT1 Subdivision and Natural Features and Landscapes

Submissions

13.1 Five submissions points and two further submission points were received in relation to NFL-MAT1.

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0032	CCC	047	Support	Retain as notified
DPR-0212	ESAI	080	Oppose	Remove NFL-MAT1 from the Natural Features and Landscapes Chapter and insert it in the Subdivision Chapter.
DPR-0353	Hort NZ	167	Support	Retain as notified
DPR-0407	Forest & Bird	047	Support In Part	Amend as follows: ... <u>5. The extent to whether the proposal will increase fire risk</u>
DPR-0301	UWRG	FS125	Support	Allow in full
DPR-0422	NCFE	173	Oppose	Delete as notified.
DPR-0407	Forest & Bird	FS403	Oppose	Reject the submission

Analysis

13.2 ESAI¹⁷⁹ are seeking that NFL-MAT1 is uplifted into the subdivision chapter. This is part of broader relief seeking to make subdivision within ONL a controlled activity (SUB-R23). The placing of the matter in the NFL Chapter is consistent with the approach taken for other matters of significance (historic heritage etc...) and is consistent with the NPS as it includes appropriate cross referencing between chapters. I therefore recommend the submission point is rejected.

13.3 Forest and Bird¹⁸⁰ seek that seek that a new clause is added to assess the degree to which a building or structure will increase fire risk. The notified NH Chapter and potentially the GRUZ Chapter, if the

177 Trustpower DPR-0441:130

178 CDL DPR-0381:017 - 021

179 ESAI DPR-0212:080

180 Forest and Bird DPR-0407:047

recommendations made in the S42a report for NH are adopted, includes setbacks to manage fire risk from shelterbelts and woodlots and residential units. This is intended to manage wildfire risk. As the NFL Chapter overlays with GRUZ, these provisions would apply. There is also a cross reference to NH-MAT5 in a number of the NFL rule requirements to assess the extent of wildfire risk from screening vegetation around buildings. Provided appropriate setbacks are provided from shelterbelts and woodlots for any residential unit and vice versa, I do not believe it necessary to include a clause assessing fire risk as part of a subdivision resource consent and therefore recommend the submission point is rejected.

- 13.4 NCCF¹⁸¹ seek that the provision is deleted consistent with relief across the NFL Chapter that provisions for VAL are unnecessary. I recommend this submission point is rejected, consistent with discussion under NFL-O2.
- 13.5 CCC¹⁸² and HortNZ¹⁸³ seek that the provision is retained as notified. As I am not recommending any amendments, I recommend the submission points are accepted.

Recommendation

- 13.6 I recommend, for the reasons given above, that the Hearings Panel retain the provision as notified.
- 13.7 It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix 1**.

NFL-MAT2 Earthworks in Porters Ski Zone

Submissions

- 13.8 One submission point was received in relation to NFL-MAT2.

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0032	CCC	048	Support	Retain as notified

Analysis

- 13.9 CCC¹⁸⁴ seek that the provision is retained. As I am not recommending any amendments I recommend this submission point is accepted.

Recommendation

- 13.10 I recommend, for the reasons given above, that the Hearings Panel retain the provision as notified.
- 13.11 It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix 1**.

NFL-MAT3 Buildings and Structures in Outstanding Natural Landscapes and Visual Amenity Landscapes

Submissions

- 13.12 Five submissions points and two further submission points were received in relation to NFL-MAT3.

181 DPR-0422:173 NCCF
 182 CCC DPR-0032:047
 183 HortNZ DPR-0353:167
 184 CCC DPR-0032:048

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0032	CCC	049	Support	Retain as notified
DPR-0353	Hort NZ	168	Support	Retain as notified
DPR-0372	DHL	088	Support	Retain as notified
DPR-0407	Forest & Bird	048	Support In Part	Amend as follows: <u>9. The extent to whether the proposal will increase fire risk.</u>
<i>DPR-0301</i>	<i>UWRG</i>	<i>FS126</i>	<i>Support</i>	<i>Allow in full</i>
DPR-0422	NCFE	175	Support In Part	Delete reference to the VAL Overlay and amend as follows: 1. Whether the proposal is consistent with maintaining the values of the VAL as described in NFL SCHED 2.
DPR-0407	Forest & Bird	FS405	Oppose	Reject the submission

Analysis

13.13 Forest and Bird¹⁸⁵ seek that a new clause is added to assess the degree to which a building or structure will increase fire risk. I recommend this submission point is rejected, consistent with discussion under NFL-MAT1 [13.3].

13.14 NCFE¹⁸⁶ seek that clause 1 is deleted consistent with relief across the NFL Chapter that provisions for VAL are unnecessary. I recommend this submission point is rejected, consistent with discussion under NFL-O2 [9.8].

13.15 CCC¹⁸⁷, HortNZ¹⁸⁸ and DHL¹⁸⁹ seek that the provision is retained as notified. As I am not recommending any amendments, I recommend these submission points are accepted.

Recommendation

13.16 I recommend, for the reasons given above, that the Hearings Panel retain the provision as notified.

13.17 It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix 1**.

NFL-MAT4 Earthworks in Visual Amenity Landscapes

Submissions

13.18 One submission point and one further submission point were received in relation to NFL-MAT4.

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0422	NCFE	174	Oppose	Delete as notified.
DPR-0407	Forest & Bird	FS404	Oppose	Reject the submission

185 Forest and Bird DPR-0407:048

186 NCFE DPR-0422:0175

187 CCC DPR-0032:049

188 HortNZ DPR-0353:168

189 DHL DPR-0372:088

Analysis

13.19 NCCF¹⁹⁰ seek that the provision is deleted consistent with relief across the NFL Chapter that provisions for VAL are unnecessary. I recommend this submission point is rejected, consistent with discussion under NFL-O2 [9.8].

Recommendation

13.20 I recommend, for the reasons given above, that the Hearings Panel retain the provision as notified.

13.21 It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix 1**.

14. Schedules

NFL-SCHED1 - Outstanding Natural Landscape Areas – Values and Attributes

Submissions

14.1 Five submissions points and four further submission points were received in relation to NFL-SCHED1.

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0032	CCC	027	Support	Retain as notified
DPR-0032	CCC	028	Support	Retain as notified
DPR-0381	CDL	044	Oppose In Part	Amend the NFL-SCHED1 Rakaia Catchment ONL as follows: - Remove that part of the Big Ben Range that lies south of Black Hole Stream from, or lessen the area that appears within, the Rakaia Catchment ONL.
DPR-0301	UWRG	FS066	Oppose	Disallow
DPR-0407	Forest & Bird	FS551	Oppose	Reject the submission
DPR-0427	DoC	056	Support	Retain as notified.
DPR-0301	UWRG	FS198	Support	Allow in full
DPR-0407	Forest & Bird	FS222	Support	Accept the submission
DPR-0441	Trustpower	131	Support In Part	Amend as follows: The Rakaia River ONL overlay to match the Trustpower property boundary; and Rakaia Catchment ONL ... Associative ... <u>ix. The Coleridge HEPS forms an intrinsic and historic part of the landscape.</u>

Analysis

14.2 CDL¹⁹¹ seek the amendment of Rakaia Catchment ONL and request that the inclusion of south / south-eastern most parts of Big Ben Range be reviewed, as these areas are currently farmed. Sheep and cattle grazing and finishing occurs regularly over the land, and fences, shelterbelts and other land uses incidental to pastoral farming are prevalent. The submitter requests the removal of that

190 DPR-0422:174 NCCF

191 CDL DPR-0381:044

part of the Big Ben Range that lies south of Black Hole Stream from, or a reduction in the area that appears within, the Rakaia Catchment ONL.

- 14.3 Mr Bentley has reviewed the mapped extent with regards to the part of the Big Ben Range that lies south of Black Hole Stream and considers that the landscape values are sufficiently high, due in part to the local context and due in part to the broader levels of naturalness. Given the requirements under S6(b) RMA and the CRPS, Objective 12.2.1 and Policies 12.3.1 and 12.3.2 to identify ONL and protect them from inappropriate subdivision, use and development I accept his advice and recommend the submission point is rejected.
- 14.4 Trustpower¹⁹² seek an amendment to the Rakaia River ONL overlay, to ensure that the ONL matches the Trustpower property boundary, as it extends into the riverine landscape. In addition they also seek an amendment to the schedule to recognise that the Coleridge HEPS is within the Rakaia Catchment ONL list of values, noting its associative importance in this landscape.
- 14.5 Mr Bentley states that he has reviewed the entire stretch of the Rakaia River ONL overlay and its boundary treatments and agrees with the submitter that the extent of the ONL overlay should be limited in this area to match the ownership boundary. This is based on some modification such as tracks that do reduce the margins of the river in this area. The use of the track, which broadly coincides with the land boundary, as the boundary of the ONL is deemed suitable from his perspective. He also agrees that commentary within the Schedules be included referencing the Coleridge HEP scheme. Again, given the requirements under S6(b) RMA and the CRPS, Objective 12.2.1 and Policies 12.3.1 and 12.3.2 to identify ONL and protect them from inappropriate subdivision, use and development I accept Mr Bentley's advice and recommend the submission point is accepted.
- 14.6 CCC¹⁹³ and DoC¹⁹⁴ seek the schedule is retained as notified. As I am recommending amendments, I recommend these submission points are accepted in part.

Recommendation and amendments

- 14.7 I recommend, for the reasons given above, that the Hearings Panel:
- a) Amend ONL Rakaia River to match Trustpower boundary at Coleridge HEPS scheme and reference the scheme in Schedule 1.
- 14.8 It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix 1**.
- 14.9 The scale of change does not require a s32AA evaluation.

NFL-SCHED2 –Visual Amenity Landscape Areas – Values and Attributes

Submissions

- 14.10 Four submissions points and four further submission points were received in relation to NFL-SCHED2.

192 Trustpower DPR-0441:131

193 DPR-0032:027 and 028 CCC

194 DPR-0427:056 DoC

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0032	CCC	029	Support	Retain as notified
DPR-0381	CDL	045	Oppose In Part	Amend the NFL-SCHED2 Rakaia Catchment ONL area as follows: - Remove the surrounds of the Acheron River gully area from the Rakaia Catchment VAL, or lessen the area that appears within, the Rakaia Catchment VAL
<i>DPR-0301</i>	<i>UWRG</i>	<i>FS067</i>	<i>Oppose</i>	<i>Disallow</i>
<i>DPR-0407</i>	<i>Forest & Bird</i>	<i>FS552</i>	<i>Oppose</i>	<i>Reject the submission</i>
DPR-0422	NCCF	176	Oppose	Delete as notified.
DPR-0032	CCC	FS070	Oppose	Retain NFL-SCHED2 as notified
DPR-0407	Forest & Bird	FS406	Oppose	Reject the submission
DPR-0441	Trustpower	132	Neither Support Nor Oppose	Amend as follows: Rakaia Catchment VAL ... <u>vi. The Coleridge HEPS forms an intrinsic part of the landscape.</u>

Analysis

- 14.11 CDL¹⁹⁵ considers that the NFL-SCHED2 Rakaia Catchment VAL should be clarified to exclude the surrounds of the Acheron River gully area due to existing farming occurring on the land.
- 14.12 Mr Bentley opines that the extent of the VAL in relation to the Acheron River recognises this important landscape as context to the ONL beyond. Despite the land use modification of grazing and forestry present, from a landform perspective, the land is closely associated with the higher and more dramatic ONL beyond. The Acheron River acts as a boundary in the landscape, the land to the east associated more with the mountainous landscape (and ONL) and the land to the west, recognised as being more modified (and therefore no overlay). The VAL recognises the modification between the mountainous ONL and the Acheron River, therefore avoiding ONL extending to the Acheron River.
- 14.13 Given the requirements under S7(c) and (f) RMA and the CRPS, Objective 12.2.2 and Policy 12.3.3 to identify VAL, manage them and, where necessary, protect them from inappropriate subdivision, use and development I accept Mr Bentley's advice not to make a change and recommend the submission point is rejected.
- 14.14 NCCF¹⁹⁶ seek the deletion of the VAL Schedule. This is related to their primary relief to delete provisions in the PDP related to VAL as in their opinion, there is no requirement to identify and protect VAL's and protecting rural amenity values could be included in GRUZ to apply generally across that zone. I recommend this submission point is rejected, consistent with discussion under NFL-O2 [9.8].
- 14.15 Trustpower¹⁹⁷ seek that the VAL overlay as it relates to the Acheron Diversion adjacent to the Coleridge Power Station intake structure follows the property boundary. Mr Bentley states that he is uncertain of where the Acheron Diversion is located, as no map accompanied the submission. He

195 CDL DPR-0381:045

196 NCCF DPR-0422:176

197 Trustpower DPR-0441:132

does note that the VAL overlay as it relates to Lake Coleridge includes the margins of the Lake to the south, which abuts the Rakaia Catchment ONL (and includes all of Lake Coleridge). If the submitter was able to provide a map, Mr Bentley will further review this submission point however due to the lack of information, it is recommended it is rejected.

14.16 CCC¹⁹⁸ request that the schedule is retained as notified. As I am not recommending any changes, I recommend this submission point is accepted.

Recommendation

14.17 I recommend, for the reasons given above, that the Hearings Panel retain the provision as notified.

14.18 It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix 1**.

15. Mapping

Mapping – Outstanding Natural Landscape

Submissions

15.1 20 submissions points and 28 further submission points were received in relation to this subtopic.

Submitter ID	Submitter Name	Submission Point	Plan Reference	Position	Decision Requested
DPR-0070	Jan Inwood	001	Outstanding Natural Landscapes	Neither Support Nor Oppose	Amend the Outstanding Natural Landscape boundary to match the fence line at 11 Colletts Road (which appears to be legally described as Lot 7 BLK X RES 959 BLK III Southbridge SD), near Leeston.
DPR-0097	FHH	002	ONL Waimakiriri Catchment	Oppose In Part	Delete the ONL notation from Flock Hill Station being Lot 2 DP 546766 and Lots 3-4 DP 540423 at 10128 West Coast Road, Lake Pearson.
DPR-0301	UWRG	FS002	ONL Waimakiriri Catchment	Oppose	Disallow in Full
DPR-0104	Lukas Travnicek	001	Outstanding Natural Landscapes	Oppose	Amend ONL layer to exclude Mt White Station, specifically certain areas such as the key homestead area, where the main hub of farming operations is.
DPR-0301	UWRG	FS005	Outstanding Natural Landscapes	Oppose	Disallow in full
DPR-0407	Forest & Bird	FS553	Outstanding Natural Landscapes	Oppose	Reject the submission
DPR-0144	The Stations	001	Outstanding Natural Landscapes	Oppose	Delete ONL Rakaia Catchment and ONL Rakaia River and retain existing mapped ONL areas in the Operative Selwyn District Plan at: - Mt Algidus Station - Glenthorne Station - Lake Coleridge Station

198 CCC DPR-0032:029

Submitter ID	Submitter Name	Submission Point	Plan Reference	Position	Decision Requested
					- Mt Oakden Station - Acheron Station
DPR-0301	UWRG	FS016	Outstanding Natural Landscapes	Oppose	Disallow in full
DPR-0381	CDL	FS073	Outstanding Natural Landscapes	Support	Allow
DPR-0407	Forest & Bird	FS499	Outstanding Natural Landscapes	Oppose	Reject the submissions
DPR-0423	Terrace Downs	FS005	Outstanding Natural Landscapes	Support	Decision for permitted criteria in ONL overlays need to consider all zones where ONL overlay applies.
DPR-0468	NCFG	FS001	Outstanding Natural Landscapes	Oppose	Seeks ONL as notified to be retained
DPR-0486	CDL	FS073	Outstanding Natural Landscapes	Support	Allow
DPR-0207	SDC	107	Outstanding Natural Landscapes	Oppose In Part	Amend the Outstanding Natural Landscape Overlay so it does not cover any of the land indicated as 'Tourism Accommodation Area' or 'Residential Area' on GRAZ-FIG1.
DPR-0391	CHATL	FS006	Outstanding Natural Landscapes	Support	To remove the ONL Overlay from the GRAZ zone at Grasmere
DPR-0212	ESAI	061	Outstanding Natural Landscapes	Oppose In Part	Separate the ONL Rakaia River – Ellesmere Section from the remainder of the ONL Rakaia River.
DPR-0214	Ahuriri Farm & The Graham Family	003	Outstanding Natural Landscapes	Oppose In Part	Oppose ONL changes until further discussion with individual land owners of a certain size and impact can be had and consider the introduction of Transferable Development Rights.
DPR-0422	NCFE	FS185	Outstanding Natural Landscapes	Support	Allow the submission point.
DPR-0301	UWRG	034	Outstanding Natural Landscapes	Neither Support Nor Oppose	Seeks that Council re-maps the ONL areas
DPR-0407	Forest & Bird	FS342	Outstanding Natural Landscapes	Support	Accept the submission
DPR-0301	UWRG	039	Outstanding Natural Landscapes	Neither Support Nor Oppose	Amend the Rakaia River ONL to include the Coastal Marine Area.
DPR-0407	Forest & Bird	FS347	Outstanding Natural Landscapes	Support	Accept the submission

Submitter ID	Submitter Name	Submission Point	Plan Reference	Position	Decision Requested
DPR-0301	UWRG	041	Outstanding Natural Landscapes	Neither Support Nor Oppose	Amend ONL mapping
<i>DPR-0407</i>	<i>Forest & Bird</i>	<i>FS349</i>	<i>Outstanding Natural Landscapes</i>	<i>Support</i>	<i>Accept the submission</i>
DPR-0372	DHL	089	Outstanding Natural Landscapes	Oppose	Amend the Outstanding Natural Landscapes Overlay to exclude any part of existing farmland.
<i>DPR-0381</i>	<i>CDL</i>	<i>FS041</i>	<i>Outstanding Natural Landscapes</i>	<i>Support</i>	<i>Allow</i>
<i>DPR-0486</i>	<i>CDL</i>	<i>FS041</i>	<i>Outstanding Natural Landscapes</i>	<i>Support</i>	<i>Allow</i>
DPR-0387	Hugh & Thomas Macartney & Families	002	Outstanding Natural Landscapes	Oppose	Request that Council halt the progression of these changes until further discussion occurs with landowners. If the Council are determined to make these changes then consider using transferable development rights which are in use in some areas.
DPR-0388	CFSL	047	Outstanding Natural Landscapes	Oppose	Amend Outstanding Natural Landscapes overlay to exclude any part of existing farmland.
<i>DPR-0381</i>	<i>CDL</i>	<i>FS040</i>	<i>Outstanding Natural Landscapes</i>	<i>Support</i>	<i>Allow</i>
<i>DPR-0486</i>	<i>CDL</i>	<i>FS040</i>	<i>Outstanding Natural Landscapes</i>	<i>Support</i>	<i>Allow</i>
DPR-0390	RIL	066	Outstanding Natural Landscapes	Oppose	Amend ONL Rakaia River Overlay to exclude any existing farmland.
<i>DPR-0381</i>	<i>CDL</i>	<i>FS042</i>	<i>Outstanding Natural Landscapes</i>	<i>Support</i>	<i>Allow</i>
<i>DPR-0486</i>	<i>CDL</i>	<i>FS042</i>	<i>Outstanding Natural Landscapes</i>	<i>Support</i>	<i>Allow</i>
DPR-0391	CHATL	001	Outstanding Natural Landscapes	Oppose In Part	Delete ONL overlay from site or create a suitable zone.
DPR-0395	CHATL	002	Outstanding Natural Landscapes	Oppose	Delete Outstanding Natural Landscapes Overlay from Rural Sec 40841 as notified.
DPR-0407	Forest & Bird	049	Outstanding Natural Landscapes	Support In Part	Amend ONL Overlays by extending the ONL below the current contour and by complementing the ONL with a Rural Character Overlay on the remaining areas including the valley floors, including east, north and south to the edge of the Canterbury plains. This would provide greater protection across landscape

Submitter ID	Submitter Name	Submission Point	Plan Reference	Position	Decision Requested
					sequences, and from hill tops to valley floors from inappropriate subdivision, use and development than the current proposed VAL. A similar proposal could apply to the Port Hills area of Selwyn.
DPR-0301	UWRG	FS127	Outstanding Natural Landscapes	Support	Allow in full
DPR-0372	DHL	FS051	Outstanding Natural Landscapes	Oppose	Reject the submission.
DPR-0381	CDL	FS084	Outstanding Natural Landscapes	Oppose	Disallow
DPR-0390	RIL	FS009	Outstanding Natural Landscapes	Oppose	Reject the submission.
DPR-0439	Rayonier	FS014	Outstanding Natural Landscapes	Oppose	Decline
DPR-0486	CDL	FS084	Outstanding Natural Landscapes	Oppose	Disallow
DPR-0421	Richard & Anna Hill	001	Outstanding Natural Landscapes	Oppose In Part	Amend the Outstanding natural landscapes overlay to separately identify those areas that are at high risk of reinvasion of wilding pines.
DPR-0301	UWRG	FS068	Outstanding Natural Landscapes	Oppose	Disallow
DPR-0407	Forest & Bird	FS418	Outstanding Natural Landscapes	Oppose	Reject the submission
DPR-0458	KiwiRail	063	Outstanding Natural Landscapes	Support In Part	Amend Outstanding Natural Landscapes Overlay by removing the area subject to KRH-1.
DPR-0474	Heather & Trevor Taege	001	Outstanding Natural Landscapes	Oppose	Not specified

Analysis

- 15.2 Jan Inwood¹⁹⁹ seeks the amendment of the ONL boundary to match the fence line at 11 Colletts Road (which appears to be legally described as Lot 7 BLK X RES 959 BLK III Southbridge SD), near Leeston. Mr Bentley comments that the extent of the ONL as it relates to Te Waihora/ Lake Ellesmere has been principally guided by the impact of more intensified land use activities. Where land is more modified, which has affected the landscape values associated with the lake's margins, these areas have been excluded, such as built structures, shelterbelts, fencing and the presence of more intensively used farmland. Mr Bentley delineated the ONL by using an apparent fence line with

¹⁹⁹ DPR-0070:001 Jan Inwood

vegetation associated with it at this site however upon review, considers that a more refined boundary could be applied to the fence line mentioned by the submitter. Given Mr Bentley's advice, I recommend this submission point is accepted.

- 15.3 FHH²⁰⁰ seek to removal the ONL from part of its property to facilitate a proposed Flock Hill Station Visitor Zone. Mr Bentley comments that the ONL overlay essentially includes the entire landscape and this property (or Lot 2 DP 546766 and Lots 3-4 DP 540423 at 10128 West Coast Road, Lake Pearson) is located central to this ONL. This mapped area is consistent with his understanding of 'landscape' in the Guidelines²⁰¹ and the definition in the Landscape Study and acknowledges that land use changes are interwoven into the character of this high-country landscape and that small, isolated more intensive parts of the landscape do not compromise the values or grandeur of the broader mountainous landscape. In his view, the suite of rules proposed would not necessarily compete or erode the broader ONL values and the area of land should be able to be developed in recognition of its unique location. Furthermore, the technical overlay should not be amended to support a particular land holding or zoning within an ONL, but should, through its provisions, recognise this and provide appropriate rules to enable development in these zones to be in accordance with the special values. I accept Mr Bentley's advice and recommend the submission point is rejected.
- 15.4 Lukas Travnicek²⁰² and The Stations seek that the ONL (as proposed) be removed and in the instance of The Stations, that the ONL overlays as they relate to the current Operative SDC Plan, be retained. Mr Bentley comments that a thorough updated District-wide Landscape Study has been undertaken which has reviewed all earlier work. He notes that as outlined within the Selwyn Landscape Study, landscape is the *'cumulative expression of natural and cultural features, patterns and processes in a geographical area, including perceptions and associations'*. The definition of landscape has been woven into the approach of identifying ONLs and is framed by current RMA guidance, case law and best practice. The results of previous landscape studies are included within the current operative SDC Plan; however, no previous landscape study has reviewed the District as a whole, with each having a particular geographic area as its brief²⁰³.
- 15.5 The Rakaia Catchment ONL, the Waimakariri Catchment ONL and the Rakaia River ONL essentially include the entire landscapes of these interconnected landscapes. The Stations are all located within the abovementioned ONLs. Mr Bentley considers that the mapped area is consistent with the understanding and definition of 'landscape' in the Landscape Study and acknowledges that land use changes are interwoven into the character of this high-country landscape. The Landscape Study acknowledges that small, isolated more intensive parts of the landscape do not compromise the values or grandeur of the broader mountainous landscape and cannot be 'cut out' or removed. I accept Mr Bentley's advice, noting that the provisions enable existing farming activities. Mr Bentley

200 DPR-0097:002 FHH

201 Te Tangi a te Manu: Aotearoa New Zealand Landscape Assessment Guidelines', [Final Draft subject to final editing, graphic design, illustrations, approved by Tuia Pito Ora/NZILA 5 May 2021]

202 DPR-0104:001 Lukas Travnicek and DPR-0144:001 The Stations

203 Densem, Graham (2001) Selwyn District Plan Review **High Country Section**: Landscape Recommendations (November 2001) Graham Densem

Landscape Architecture and Landscape Assessment of the **Lower Port Hills** in Selwyn District (May 2006) by Andrew Craig (Peter Rough Landscape Architects). My emphasis.

has recommended a minor mapping change as a result of The Stations submission point and therefore I recommend that The Stations submission point is accepted in part and Lukas Travnicek's is rejected.

- 15.6 SDC²⁰⁴ seek that the ONL overlay is removed from all land indicated as 'Tourism Accommodation Area' or 'Residential Area' on GRAZ-FIG1. Mr Bentley considers that, similar to the above regarding excluding specifically zoned land, the technical overlay should not be amended to support a particular zoning within an ONL, but should, through its provisions, recognise this and provide appropriate rules to enable development in these zones. Whilst I accept Mr Bentley's advice and agree that retaining the ONL layer is the most consistent approach, there lies the potential for confusion for plan users over the interrelationship between NFL and GRAZ and which apply. Consistent with how SKIZ is managed, I recommend excluding relevant NFL rules from application to GRAZ (Buildings and Structures and Earthworks) and relying on the rules in the GRAZ Chapter. I therefore recommend the submission is accepted in part.
- 15.7 As an aside, I note that SKIZ is currently excluded from the rule requirements pertaining to structures and buildings in ONL. However it would be more efficient to exclude SKIZ in NFL-R1 to save repeating this through each rule requirement. I recommend this is done as a Clause 16(2) RMA change.
- 15.8 ESAI²⁰⁵ seek that the maintenance and repair of drains and rural activity infrastructure should be separately provided for within the Ellesmere Area of the ONL-Rakaia River. I recommend this submission point is rejected as I am recommending that this instead be achieved through an amendment to NFL-R2 [11.16] and a mapping change is not required.
- 15.9 Ahuriri Farm and the Graham Family²⁰⁶ and Hugh & Thomas Macartney & Families²⁰⁷ oppose ONL changes until further discussion with individual land owners of a certain size and impact can be had and seek that the Council consider the introduction of Transferable Development Rights. I understand that this engagement has already occurred as prior to notification, Council held five drop-in sessions where affected landowners could meet project staff to discuss the reason for the landscapes review. The project team then conducted 21 site visits to undertake ground-truthing. Whilst I agree with the submitter that transferable development rights may be appropriate in certain situations (for example where environmental enhancements or safeguarding are proposed), the process is quite complicated and further work would need to be undertaken before such an approach is utilised in the PDP. I therefore recommend the submission points are rejected.
- 15.10 UWRG²⁰⁸ query whether the NES-PF overrides VAL provisions and considers that the NFL mapping may need to be extended as it predates the NES-PF. I address this point under VAL below (DPR-0301:035) [15.25].
- 15.11 UWRG²⁰⁹ query why Council has not mapped ONL within the coastal marine area like several other district plans and consider that the ONL Rakaia River should be extended below mean high water springs. Mapping serves to highlight a particular management approach (through policies and rules)

204 SDC DPR-0207:107

205 DPR-0212:061 ESAI

206 DPR-0214:003 Ahuriri Farm and the Graham Family

207 DPR-0387:002 Hugh & Thomas Macartney & Families

208 UWRG DPR-0301:034

209 UWRG DPR-0301:039

however there is no role for the PDP to manage ONL in the coastal marine area, being a function of the regional coastal plan. I therefore recommend this submission point is rejected.

- 15.12 UWRG²¹⁰ seek an explanation as to why some ONLs have ‘cut outs’ within them. Mr Bentley refers to previous responses on maintaining the integrity of landscapes and their interconnectedness. Minor areas of exclusion (and referenced as VAL) are areas at the fringes of the Rakaia Catchment ONL, where the associated landscape values are considered to be no longer outstanding. Typically, these are areas where the ONL meets a non-ONL mapped landscape, and where human modification becomes the more dominant factor, but there is still some aesthetic appeal to render them a VAL. By virtue of this approach, there are not many of these areas. Areas of exclusion from the ONL include the Castle Hill Village area, as this residential (GRZ) and local centre (LCZ) are identified as a node within this broader overlay. Arthurs Pass is another area. As no change is required, for procedural reasons I recommend this submission point is rejected.
- 15.13 DHL, RIL and CFSL²¹¹ state that the ONL Rakaia River Overlay will place considerable restrictions on how the submitters can use some of their existing farmland. The submitters request that the ONL overlay be amended to exclude existing farmland. Mr Bentley comments that the ONL as it relates to the Rakaia River solely relates to the river and its immediate margins. There may be instances where property boundaries extend into the Rakaia River itself or extend into part of the river margins. In some areas, the river margins are easily identifiable (i.e., through cliffs, or defined ‘ridges’), however, in other areas, it is less apparent. More modified paddocks have been removed from the mapping. It appears unclear what part of the ONL these submissions relate to and it would be helpful for the submissions to highlight this. I therefore recommend these submission points are rejected.
- 15.14 CHATL²¹² seeks the removal of the Waimakariri Basin ONL overlay in respect of their land at Castle Hill. The submitter is concerned that the ONL overlay will affect their ability to develop their land into visitor accommodation and subdivision. Mr Bentley has reviewed the submission and notes that the area of land is adjacent to SH73 and the Castle Hill GRZ to the west. The site in question appears undeveloped although a resource consent for a holiday park is already approved. As the site already has approval for development, there is an option for it to be ‘carved out’ to match the zoning.
- 15.15 The submission also seeks to rezone the land to a special purpose zone (Castle Hill Rural Visitor Zone). For reasons already expressed in other submission points (such as DPR-0097 Flock Hill), Mr Bentley does not support any ‘carving out’ of areas within ONL for activities. As the submission is subject to a rezoning request I consider that, subject to the rezoning request, the zone could be recognised in the NFL Chapter in a similar manner to SKIZ (and as proposed, GRAZ). This would accord with Mr Bentley’s opinion that the overlay not be removed but the PDP should provide appropriate rules to enable development in these zones in accordance with the special values. I therefore recommend the submission point is rejected.
- 15.16 Forest and Bird²¹³ seek that the ONL Overlays be amended by extending the ONL below the current contour. Mr Bentley comments that this is fundamentally about the ‘edge’ of ONL’s and whether to

210 UWRG DPR 0301:041

211 DPR-0372:089 DHL, DPR-0390:066 RIL, DPR-0388:047 CFSL

212 DPR-0391:001 and 002 CHATL

213 DPR-0407:049 Forest and Bird

extend them into modified rural land. He notes that there are three questions that need to be considered when identifying and mapping ONL:

- What is the landscape (or feature)?
- Is the landscape or feature sufficiently natural?
- Is the landscape outstanding?

15.17 Mr Bentley states that the Selwyn Landscape Study took an accepted view of ‘naturalness’ and how natural a landscape should be to be considered outstanding. Essentially a natural landscape is one possessing a dominance of natural elements, patterns and processes (for instance soil, hydrology, topography and vegetation), over those created by humans. A grazed paddock, with fencing and farming equipment, would rate lower on the naturalness spectrum²¹⁴ than a hill or open grassland or scrubby landscape where there are no structures. Based on this, the extent of the mapped ONL overlays therefore have been delineated where the level of naturalness is considered to be below ‘moderate-high’, and where landscape values also are diminished.

15.18 I recommend this submission point is rejected based on Mr Bentley’s advice that extending the ONL boundaries to cover certain modified rural land would not align with the methodology used to map ONL’s.

15.19 I note that the submitter is making a similar point about VAL’s and this is dealt with separately below under Mapping – VAL.

15.20 Richard and Anna Hill²¹⁵ seek an amendment to the ONL to separately identify those areas that are at high risk of reinvasion of wilding pines. Whilst I agree wilding pines are an important issue, it is not necessary to spatially identify in the PDP areas that are at risk of reinvasion from wilding pines as the PDP does not manage this issue. This issue is primarily addressed both national control strategies, the NES-PF and regionally through the regional council’s Regional Pest Management Plan 2018-38. I therefore recommend this submission point is rejected.

15.21 KiwiRail²¹⁶ seek that ONL is removed from designated land transport corridors as they are highly modified areas. Specifically they seek removal from KRH-1. I recommend this submission point is rejected consistent with Mr Bentley’s advice to avoid ‘carve outs’ from ONL for specific activities or zones, made on other related submission points above. The ONL would not prevent the submitter from exercising their designation. I am also recommending changes to the policies in the NFL Chapter to ensure that important infrastructure that has a functional or operational need to locate in ONL is accounted for.

214 Based on a seven-point scale. This seven-point scale has been utilised by many landscape studies and helpfully places moderate in the middle from very low (very low levels of naturalness) to very high (very high levels of naturalness). This seven-point scale was provisionally approved in High Country Rosehip Orchards Limited and Mackenzie Lifestyle Limited and ors v Mackenzie District Council [2011] NZEnvC387, paragraph 93. The seven point scale is also recognised within the NZILA’s ‘*Te Tangi a te Manu: Aotearoa New Zealand Landscape Assessment Guidelines*’, [Final Draft subject to final editing, graphic design, illustrations, approved by Tuia Pito Ora/NZILA 5 May 2021].

215 DPR-0421:001 Richard and Anna Hill

216 KiwiRail DPR-0458:063

15.22 Heather and Trevor Taege²¹⁷ query who will be in control of managing ONL. The designation of land as ONL does not restrict pest control, wilding pine removal and the vast majority of conservation activities as carried out by the landowner. As no change is proposed to be made, procedurally I recommend this submission point is rejected.

Recommendation and amendments

15.23 I recommend, for the reasons given above, that the Hearings Panel:

- a) Amend ONL at Lot 7 BLK X RES 959 BLK III Southbridge SD.
- b) Amend ONL/Natural Character near Lake Ellesmere/Te Waihora and mouth of Rakaia River as a consequence of the ESAI submission (refer to Section 8 – General Submissions).
- c) Amend ONL Waimakariri River/Catchment near Mt Algidus Station.
- d) Exclude GRAZ from NFL-R1 and R2.
- e) Exclude SKIZ from NFL-R1.

15.24 It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix 1**.

15.25 The scale of change does require a s32AA evaluation in respect of changes to exclude GRAZ.

Section 32AA evaluation

Effectiveness and efficiency

15.26 The exclusion of GRAZ from NFL rules on buildings and structures is consistent with the approach in the PDP for the SKIZ special purpose zone. Whilst the objectives and policies of the NFL Chapter will still apply to activities in GRAZ, the provisions of the GRAZ Chapter recognise that development is appropriate in this zone where it accords with the special values of the ONL. The zone indicates that this is an area of the ONL with the capacity to absorb some development activity and this development is likely to be appropriate where it aligns with the provisions in the GRAZ Chapter.

Costs and Benefits

15.27 The benefit is that change will ensure the rules in the GRAZ Chapter apply to development activity in the GRAZ zone rather than the NFL Chapter at large. The GRAZ rules provide for appropriate development specific to the characteristics of that area and as such are more appropriate than the NFL Chapter rules in general. This will decrease cost and uncertainty over which plan provisions apply.

Risk of acting or not acting

15.28 As stated, the risk of not acting is that there will be confusion over which plan provisions apply leading to greater uncertainty and costs.

217 Heather and Trevor Taege DPR-0474:001

Conclusion

15.29 The GRAZ rules provide for a certain level of development where there is the capacity to accept a greater degree of change than across the high country ONL as a whole. The change does not mean that the provisions of the NFL Chapter will no longer apply – the objectives and policies will still need to be taken into account – however the provisions of the GRAZ Chapter provide for a level of development that is anticipated in this zone. It is therefore appropriate that this is signaled clearly in the NFL Chapter.

Mapping – Visual Amenity Landscape

Submissions

15.30 Six submissions points and 12 further submission points were received in relation to this subtopic.

Submitter ID	Submitter Name	Submission Point	Plan Reference	Position	Decision Requested
DPR-0301	UWRG	035	Visual Amenity Landscape	Neither Support Nor Oppose	Seeks that Council re-maps the VAL areas
DPR-0407	Forest & Bird	FS343	Visual Amenity Landscape	Support	Accept the submission
DPR-0301	UWRG	042	Visual Amenity Landscape	Neither Support Nor Oppose	Amend VAL mapping.
DPR-0407	Forest & Bird	FS350	Visual Amenity Landscape	Support	Accept the submission
DPR-0381	CDL	041	Visual Amenity Landscape	Oppose In Part	Amend the Malvern Hills VAL as follows: - remove the Russell Range area; or - lessen the amount of Russell Range area that appears within the Malvern Hills VAL.
DPR-0301	UWRG	FS063	Visual Amenity Landscape	Oppose	Disallow
DPR-0407	Forest & Bird	FS548	Visual Amenity Landscape	Oppose	Reject the submission
DPR-0381	CDL	042	Visual Amenity Landscape	Oppose In Part	Amend the Rakaia Catchment VAL as follows: - Remove the CDL pasture area between Peak Hill and Lake Hill (adjoining Lake Coleridge); and - Remove the southern-most half of VAL area adjacent to the Rakaia River, below Peak Hill.
DPR-0301	UWRG	FS064	Visual Amenity Landscape	Oppose	Disallow
DPR-0407	Forest & Bird	FS549	Visual Amenity Landscape	Oppose	Reject the submission
DPR-0407	Forest & Bird	050	Visual Amenity Landscape	Support In Part	Amend VAL Overlays and planning map. Refer to original submission for full decision requested.
DPR-0301	UWRG	FS128	Visual Amenity Landscape	Support	Allow in full

Submitter ID	Submitter Name	Submission Point	Plan Reference	Position	Decision Requested
DPR-0381	CDL	FS085	Visual Amenity Landscape	Oppose	Disallow
DPR-0439	Rayonier	FS015	Visual Amenity Landscape	Oppose	Decline
DPR-0486	CDL	FS085	Visual Amenity Landscape	Oppose	Disallow
DPR-0407	Forest & Bird	059	Visual Amenity Landscape	Support In Part	Replace Visual Amenity Landscapes with Rural Character Landscapes
DPR-0301	UWRG	FS137	Visual Amenity Landscape	Support	Allow in full
DPR-0439	Rayonier	FS018	Visual Amenity Landscape	Oppose	Decline

Analysis

- 15.31 UWRG²¹⁸ query whether the NES-PF overrides VAL provisions and considers that the NFL mapping may need to be extended as it predates the NES-PF. It is not possible to restrict afforestation from occurring in VAL, however conditions can be placed on the establishment of the activity under Clause 15 (3) and (4) of the NES-PF through a controlled activity resource consent. This does not apply to land that is already used for plantation forestry provided plantation forestry harvesting has taken place within the last five years. As no change is required from this submission point I recommend that procedurally the submission point is rejected.
- 15.32 UWRG²¹⁹ seek an explanation as to why some VALs have ‘cut outs’ within them. Mr Bentley addresses this issue and this is discussed further in Mapping – ONL. As no change is required, for procedural reasons I recommend this submission point is rejected.
- 15.33 CDL²²⁰ consider that some landscapes in the area are worthy of VAL status and requests that the Schedule be clarified regarding the Lower Russell Range. Specifically, this submitter requests to amend the Malvern Hills VAL to either remove the Russell Range VAL or reduce it. The submitter also requests that the area of pasture be removed between Peak Hill and Lake Hill (adjoining Lake Coleridge) and that the southern-most half of the Rakaia Catchment VAL adjacent to the Rakaia River, below Peak Hill also be removed.
- 15.34 Mr Bentley has considered both related submission points. He opines that (in relation to DPR-0381:041), the upper parts, and most elevated section of the Russell Range are mapped as ONL (and form part of the Malvern ONL), due primarily to the impressive legible skyline ridge and close association with the higher foothills and high level of naturalness to the north. The lower slopes are identified as VAL, primarily as they relate more to the modified paddocks on the valley bottom. The mapping of the VAL has followed the toe of the Russell Range, so it is geomorphically aligned to the feature. By re-drawing the extent of the VAL it would create an arbitrary line. I accept Mr Bentley’s advice and recommend this submission point is rejected.

²¹⁸ UWRG DPR-0301:035

²¹⁹ UWRG DPR-0301:042

²²⁰ CDL DPR-0381:041 and 042

- 15.35 In relation to DPR-0381:042, he notes that the extent of the ONL and VAL in relation to Peak Hill and Lake Coleridge recognises this important landscape as context to the broader ONL. Despite the land use modification of grazing present in this area, from a landform perspective, the land is closely associated with the higher and more dramatic ONL that surrounds this area. The impressive features of Peak Hill and Lake Coleridge, as well as the Rakaia River, themselves contribute to the identified overlay and landscape values. The scale of these features, coupled with the smaller area of pastureland (accessed by the Algidus Road) recognises this part of the broader and more dramatic landscape to the east, north and west and acts as part of the southern boundary of this landscape. The VAL recognises this modification between the mountainous ONL and the Acheron River, therefore avoiding ONL extending to the Acheron River. I accept Mr Bentley's advice and recommend this submission point is rejected.
- 15.36 In any case, provisions have recognised that pastureland exists within areas of ONL and VAL and that ongoing farming operations can continue.
- 15.37 Forest and Bird²²¹ consider that a Rural Character Overlay (as a replacement for VALs) could compliment ONL on the remaining areas including the valley floors, including east, north and south to the edge of the Canterbury plains. They consider that this would provide greater protection across landscape sequences, and from hill tops to valley floors from inappropriate subdivision, use and development than the current proposed VAL. The submitter also requests that a similar proposal could apply to the Port Hills area of Selwyn.
- 15.38 Mr Bentley states that the VAL areas, are, essentially, landscapes in their own right, however they have, in some areas, been applied as a buffer to ONLs. VALs are landscapes that have been recognised to manage particular parts of the district that are highly valued but fall short of reaching the threshold of being outstanding. Some landscapes may also be very important in terms of their associative values but do not exhibit the predominance of natural attributes that an ONL is required to display due to extensive modifications (which can include historic and current land uses). In the case of Lake Coleridge, a fringe of VAL has been proposed along the southern shores, despite the land uses in this area being reasonably modified. This same approach has been applied to the Malvern Hills, where the hills have been identified and the more modified valley bottom, has been excluded. Based on Mr Bentley's evidence, no change is recommended and therefore I recommend the request to remap as outlined in the submission point is rejected.
- 15.39 In terms of the use of the term 'Rural Character Overlay' in place of VAL, I address this in NFL-P2 but do not consider a change in terminology necessary. I therefore recommend this aspect of the submission point is rejected.

Recommendation

- 15.40 I recommend, for the reasons given above, that the Hearings Panel retain the provision as notified.
- 15.41 It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix 1**.

221 DPR-0407:050 and 059 Forest and Bird

16. Conclusion

- 16.1 For the reasons set out in the Section 32AA evaluations and included throughout this report, I consider that the amended provisions will be efficient and effective in achieving the purpose of the RMA, the relevant objectives of this plan and other relevant statutory documents.