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# PREFERRED OPTION REPORT TO DISTRICT PLAN COMMITTEE

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**DATE:** 6 March 2018

**TOPIC NAME:** Natural Environment

**SCOPE DESCRIPTION:** Natural Environment - Outstanding Natural Features and Landscapes

**TOPIC LEAD:** Andrew Mactier

**PREPARED BY:** Boffa Miskell Ltd (Claire Kelly, James Bentley and Stephanie Styles)

## EXECUTIVE SUMMARY

<i>Issue(s)</i>	<p>The key issues for this topic are:</p> <ul style="list-style-type: none"><li>• Does the District Plan give effect to the Canterbury Regional Policy Statement (CRPS) and current best practice in terms of identifying and protecting Outstanding Natural Features and Landscapes (ONFL)?</li><li>• Should the District Plan identify and manage Visual Amenity Landscapes (VAL)?</li><li>• How best to protect and manage adverse effects of subdivision, use and development on the values of ONFL/VAL.</li></ul>
<i>Preferred Option</i>	<p>Option 2 (the findings of the landscape planning assessment and planning assessment are adopted in full) as it will improve clarity, increase protection of ONFL where necessary, align with current best practice approaches and give effect to the CRPS.</p>
<i>DPC Decision</i>	<p><i>“That the Committee notes the report.”</i></p> <p><i>“That the Committee endorses the Preferred Option (Option 2) for Outstanding Natural Features and Landscapes for further development.”</i></p>

## 1.0 Introduction

This report provides a summary of the planning and landscape planning assessment of the key issues relating to Outstanding Natural Features and Landscapes (ONFL) and should be read in conjunction with the technical report “*Selwyn District Landscape Study: Landscape Characterisation and Evaluation Report*”<sup>1</sup> which contains the specialist review of landscapes within the district, and the *Outstanding Natural Features and Landscapes: Planning Analysis* report. These reports are attached as **Appendix 1** and **Appendix 2** respectively.

The technical report provides a district-wide landscape characterisation, by which the district's landscapes are classified into broad land-types and character areas, drawing from land typing analysis conducted by Landcare Research on a regional scale. It also comprises an evaluation of the district's different landscape values, including the identification of landscapes in accordance with Sections 6 and 7 of the Resource Management Act (RMA).

The report then recommends which areas should be identified as ONFL and provides an understanding of threats to their values that should be considered in the development of rules within the District Plan, including advice on which activities are likely to cause adverse effects on the identified values. It also identifies other sensitive areas that should have specific management mechanisms applied through the District Plan rules, such as VAL.

The technical report has informed an understanding of the landscape values of the district in terms of the planning approaches to a framework for provisions within the District Plan. The specialist advice has closely influenced recommendations around what amendments are necessary to align provisions with current best practice landscape protection and management outcomes for Selwyn District.

## 2.0 Summary of Issues

The Operative District Plan identifies ONFL and forestry exclusion areas on the planning maps and contains a range of provisions that provide for the identification and protection of landscape values. However, the operative District Plan is not based on a district wide study of landscape areas (being based mainly on a series of area or issue specific projects) and thus the current landscape layers have been identified on an ad hoc basis and not in the context of the entire district. There is a need to ensure that the identification of ONFL areas is based on up to date criteria as directed by the CRPS and is carried out comprehensively.

In addition, the analysis indicates that the operative rules and assessment matters are not fully efficient or effective at protecting ONFL from some activities that can impact adversely on landscape values. Furthermore, the VAL and ONL areas on the Port Hills overlap, creating a confusing and overly complex planning framework. It is further complicated by the wording used in the issues and policies sections not being consistent.

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<sup>1</sup> Boffa Miskell Ltd, 15 September 2017.

The key issues for this topic are:

- Does the District Plan give effect to the CRPS and current best practice in terms of identifying and protecting ONFL?
- Should the District Plan identify and manage VAL?
- How best to protect and manage adverse effects of subdivision, use and development on the values of ONFL/VAL

### 3.0 Statement of Operative District Plan approach

The Planning Maps in the Operative District Plan identify the following landscape areas:

- ONL areas within the Port Hills, Inner Plains, Malvern Hills, and High Country;
- VAL area on the Port Hills (overlapping with part of the ONL area);
- ONF area encompassing Lake Ellesmere / Te Waihora; and
- Forestry exclusion areas within the Malvern Hills.

The key provisions are contained in the objectives and policies set out in part B1 Natural Resources – B1.4 Outstanding Natural Features and Landscapes.

The objective seeks to recognise and protect ONFL from inappropriate use and development while still enabling people to provide for their economic and social well-being.

The policies recognise particular areas of outstanding landscape value (in the Port Hills, Canterbury Plains, Te Waihora/Lake Ellesmere, Malvern Hills, and High Country), and the values and features that make an area outstanding. The policies also seek to recognise the mix of physical and natural elements within landscapes and provide for these to continue where appropriate but acknowledge that landscapes will change over time, and ensuring that where change occurs, the core values of the landscape are retained. Consequently, there is clear direction to avoid or control activities that can adversely impact on landscape values<sup>2</sup>, whilst recognising that some activities cannot be located elsewhere and that where activities do occur, structures are designed, sited, landscaped and finished in an appropriate manner. In addition, the restoration and enhancement of indigenous vegetation is encouraged as a benefit to landscape values.

The policies also identify:

- areas of significant rural landscape (Between Christchurch City and a line extending from West Melton to Tai Tapu);
- areas requiring control of particular activities i.e. forestry in the high country and avoiding exotic tree planting in the Areas of Outstanding Landscape and the Forestry Exclusion Areas in the high country; and

<sup>2</sup> including clearance of indigenous vegetation; dwellings, large buildings and structures and utilities/infrastructure, and associated access; exotic and indigenous plantations, shelterbelts and amenity planting; subdivision of land; and earthworks.

- areas that merit control to protect wider landscape values i.e. high country areas that form a backdrop to the Areas of Outstanding Landscape.

The rules are contained in several sections of the Rural Volume of the Plan and are summarised as:

- Permitted activity status for small scale earthworks and small-scale buildings/structures.
- Controlled activity status in the Port Hills VAL for new dwellings or alterations / additions / modification to existing dwellings.
- Restricted discretionary or discretionary activity status for activities that do not meet permitted activity standards.
- Non-complying activity status for activities in the Summit Road Protection Area, plantations in ONFL, and some large-scale buildings or utilities.

Key matters identified in the current Plan provisions that need to be addressed in the district plan review process are:

- The current ONFL areas are not based on a comprehensive review of the district but on a series of area or issue specific projects.
- The current ONFL areas are not based on the identification approach set out in the Regional Policy Statement or best practice established by caselaw. In addition, the current identification does not clearly identify the values that make the areas outstanding and which require protection.
- The current VAL applying to the lower Port Hills overlaps with the ONL area, which is confusing for interpretation and application.
- The landscape objectives and policies currently are repetitive, extensive and not particularly directive of the priority to be placed on protection of ONFL.
- The current rules do not cover all activities in all ONFL areas e.g. shelterbelt planting rules only apply in some areas.
- The rules currently are reasonably blunt and would benefit from some greater subtlety e.g. size and purpose of buildings.
- The National Environmental Standard on Plantation Forestry needs to be given effect to in the rules relating to forestry.
- Within ONFL, there are no controls that would limit farming intensification or changing practices (except where this may involve earthworks or indigenous vegetation removal) and protection of some of the ONL areas would necessitate some rules on this issue.

## 4.0 Summary of relevant statutory and/or policy context and other background information

### 4.1 Resource Management Act (RMA)

Section 6(b) of the Resource Management Act 1991 (RMA) requires the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development. Section 7(c) requires the

maintenance and enhancement of amenity values and section 7(f) requires the maintenance and enhancement of the quality of the environment.

## 4.2 Canterbury Regional Policy Statement (CRPS)

All district plans are required to give effect to the applicable Regional Policy Statement<sup>3</sup> and it is considered that the CRPS inherently achieves the purpose of the RMA.

Chapter 12 of the Canterbury Regional Policy Statement 2013<sup>4</sup> (CRPS) includes objectives seeking to identify and protect outstanding natural features and landscapes, and identify and manage other landscapes<sup>5</sup>, whilst ensuring consistency of assessment and management. The policies set an expectation that ONFL will be identified at a district level, based on the identified landscapes at a regional scale and require consistency of identification by providing a set of criteria which address biophysical, sensory and associative values. The policies also seek to ensure management methods in district plans:

- achieve the protection of ONFL from inappropriate subdivision, use and development, and
- provide for the identification and management of other important landscapes for natural character, historic cultural, historic heritage and amenity purposes.

## 4.3 Mahaanui Iwi Management Plan (IMP)

The focus within the IMP for landscapes is on cultural landscapes, which are described as a culturally meaningful and effective framework for the identification, protection and management of sites and places of significance, the multiple values associated with those sites and places, and the relationship of tāngata whenua to them.

The main area of the IMP that addresses this issue is chapter 5.8 Ngā Tūtohu Whenua which contains an objective that *‘Cultural landscapes are recognised and provided for as a planning tool to protect wāhi tapu and wāhi taonga, the multiple values associated with these sites and places (traditional and contemporary), and the relationship of tāngata whenua to them’*. This chapter also sets out policies around the recognition of cultural landscapes, and protection and recognition of cultural landscapes of particular importance.

Cultural landscapes are being addressed through a separate district plan review workstream being undertaken by Mahaanui Kurataiao Ltd.

## 4.4 Other Documents of Particular Relevance

The National Environmental Standard on Plantation Forestry<sup>6</sup>. This puts in place standards for forestry activities and has implications for landscape areas as it includes activity status for forestry in ONFL (restricted discretionary) and VAL (controlled).

<sup>3</sup> Resource Management Act, section 75 Contents of District Plans “(3) A district plan must give effect to—(c) any regional policy statement”.

<sup>4</sup> Revised February 2017.

<sup>5</sup> “other landscapes” is the term used in the CRPS which is applied in various areas as visual amenity landscapes, significant landscapes, rural amenity landscapes or similar. These ‘other landscapes’ may also have particular cultural, history or other values.

<sup>6</sup> This will come into force from 1 May 2018.

The Port Hills Fire Recovery Plan anticipates that a response to fire issues will be covered by the District Plan Review and specifically mentions the need to consider minimising fire risk through design, provision for water storage requirements for firefighting purposes, and issues around landscaping and fuel build-up. Managing wild fire risk is currently subject to a separate workstream under the Natural Hazards Topic, however these overlapping matters will need to be integrated as the District Plan Review progresses.

## 5.0 Summary of alternative management responses – Other Districts

The following plans were reviewed to understand different approaches to identifying and managing ONFL and VAL: Ashburton District Plan, Waimakariri District Plan, Hurunui District Plan, Christchurch District Plan, Proposed Queenstown Lakes District Plan and the Proposed Dunedin District Plan.

The objectives and policies in all the plans reviewed have a strong similarity and alignment with the requirements of the RMA and their relevant RPS. Generally, the intent of all plans is to identify areas of outstanding landscape value and to document the values/characteristics/qualities of these identified areas. Following identification, all the plans reviewed seek to ensure protection of the values from inappropriate activities.

The approach to identification of landscape areas varies, with some plans taking a simple approach and only identifying ONFL, whilst others have layers of complexity and identify additional areas e.g. visual amenity landscapes, rural amenity areas or significant landscapes.

Most of the plans provide for a low level of change and small-scale activities i.e. small-scale buildings and maintenance and upkeep of tracks as a permitted activity. They also generally apply a restricted discretionary or discretionary activity status to most activities, enabling an assessment of impacts on values and the ability to decline an inappropriate application.

In all plans reviewed, the most stringent activity status is non-complying, with this usually applied to large scale activities with high potential for visual change, including forestry, mining/quarrying, and large buildings. This approach clearly identifies activities considered to be generally inappropriate and/or that are likely to generate significant adverse effects.

However, it is noted that the same activity can have different activity status across plans e.g. earthworks as a restricted discretionary, discretionary and non-complying activity in various plans. This variation could reflect that each area has identified different values and threats that require distinct management approaches or that different local priorities are being expressed. It also clearly shows that there is no consistent approach to similar issues.

## 6.0 Summary of Options to address Issues

### 6.1 OPTION 1: Status quo

This option would involve a continuation of the current approach with identification of ONL, ONF, VAL and Forestry Exclusion areas. There would continue to be objectives, policies and rules applying to these areas.

**Effectiveness in Addressing Issue:** This option will partly address the issues identified above in section 2.0, but will not give full effect to the CRPS or reflect current best practice. The ONFL in the Plan have not been identified as part of a comprehensive study using criteria in the CRPS and best practice methodologies. Furthermore, the overlap of the VAL and ONL boundaries would remain on the Port Hills and this could continue to cause unnecessary confusion. The rules may continue to enable the establishment of inappropriate activities in the High-Country, such as buildings on skylines or prominent ridges.

In addition, the provisions would not give effect to the NES on Plantation Forestry. With the introduction of the NES on Plantation Forestry, the forestry exclusion areas may not be able to be retained. However, many of these areas have broader values that are not currently addressed by the provisions in the Plan. Consequently, their importance and value including as a backdrop or foreground to the ONFL may be lost.

The Plan would continue to contain objectives, policies and rules that seek to manage the effects on activities on the values of ONFL but these would not be aligned with up to date approaches.

**Risks:** That the Plan does not follow best practice or give full effect to the CRPS and given the issues identified above, attracts many submissions.

**Budget or Time Implications:** None as no work would be required. However, it may be that a significant number of concerns and issues are raised through submissions. This could lead to protracted hearing times and even appeals to the Environment Court with subsequent time and cost implications.

**Stakeholder and Community Interests:** Landowners in the ONFL/VALs, Government Agencies such as DOC and special interest groups such as Forest and Bird.

**Recommendation:** This option is not recommended as it does not give full effect to the CRPS and current best practice.

### 6.2 OPTION 2: Adopt the findings of the Landscape Study and Planning Analysis in full

This option would involve the inclusion of a comprehensive set of eight ONL areas and four VAL areas each based on a district wide assessment and application of the CRPS criteria to identify values. There would also be a review and update of the current objectives, policies and rules to improve clarity within the provisions, increase protection of ONL where necessary, align with current best practice approaches and give effect to the CRPS.

Based upon the findings of the Landscape Study and Planning Analysis, it is recommended that the provisions are reviewed and amended where necessary. It is also recommended that a number of provisions remain essentially unchanged or are only slightly refined/modified to fit with a restructured approach aligned with recommended new ONL / VAL areas.

In summary, it is recommended to:

- clearly identify the ONL and VAL areas on the planning maps, with a graphic differentiation between ONL and VAL areas.
- draft objectives and policies, based on the existing provisions, to protect the values of ONL and maintain and enhance the VAL values from inappropriate subdivision, use and development.
- draft rules, based on the existing provisions, to more effectively manage the adverse effects on the identified values of ONL's and VALs.

The draft rules to be developed are recommended to focus on the following activities which have been identified in the Landscape Study as most likely to impact on identified values:

- Earthworks and quarrying / mining
- Pastoral intensification and agricultural conversion
- Vineyards and orchards
- Woodlots, shelterbelts and plantation forestry
- Buildings and signs

**Effectiveness in Addressing Issues:** This option will address all the key issues identified above.

This approach to content and intent for the proposed plan provisions will not significantly differ from the operative plan but will allow for refinement of the current provisions. This option will ensure that the proposed plan provides greater clarity, direction and protection of ONL, where necessary, to give effect to the CRPS. Furthermore, the provisions will be supported by a robust and comprehensive assessment of the district's landscapes, and expert technical landscape planning advice. This more sophisticated approach will better protect the identified values of the ONL as sought by the CRPS.

This option also enables the confusing overlap between the ONL and VAL in the Port Hills to be addressed thus providing clearer management of landscape values in this area. It also recommends that VAL's are identified and specifically managed through provisions in the Plan – this is addressed in more detail in Option 3 below.

**Risks:** The option may mean that resource consents are required for a wider range of activities.

Consequently, landowners may oppose the provisions and the decision on the provisions is appealed to the Environment Court. However, this risk can be mitigated through engagement with landowners.

**Budget or Time Implications:** Need to engage with landowners to ensure an understanding of the process, statutory drivers and the implications of the provisions.

**Stakeholder and Community Interests:** Federated Farmers, individual landowners, Government Agencies such as DOC and special interest groups.

**Recommendation:** This option is recommended as it gives better effect to the CRPS and current best practice.



### 6.3 OPTION 3: Adopt the findings of the Landscape Study and Planning Analysis, but without identification or management of Visual Amenity Landscapes

This option would mean that the findings of the Landscape planning assessment and planning report as described above, would be adopted in part. Given that the CRPS does not require the identification and maintenance of the values of VALs, the Council could decide not to include these areas in the District Plan.

**Effectiveness in Addressing Issue:** This option would have most of the benefits of Option 2 above in addressing the issues and would address the ONL/VAL overlap in the Port Hills, by removing the VAL overlay.

However, the Landscape Study has determined that the high amenity and environmental characteristics and values of some landscapes warrants their inclusion in the Plan as VALs. In other words, whilst not outstanding, their values are important and contribute to the amenity and quality of the rural area of the District. Furthermore, identifying, maintaining and enhancing VALs would assist in managing activities in areas that form a backdrop or foreground to ONL. Their inclusion would also assist the Council in achieving its obligations under s7(c)(maintenance and enhancement of amenity values) and s7(f) (maintenance and enhancement of the quality of the environment).

**Risks:** If VALs are not identified in the Plan, these areas would not be subject to specific management and it may be that the general rural provisions are not sufficient to manage effects on the values of these areas and as a result, their values and characteristics are compromised.

**Budget or Time Implications:** As above.

**Stakeholder and Community Interests:** Landowners, DOC and special interest groups.

**Recommendation:** Whilst it is acknowledged that the CRPS does not require the identification and management of VALs, the landscape planning assessment has identified these as areas of importance with high natural values. Given the reasons outlined above, this option is not preferred.

## 7.0 Preferred Option for further engagement

The Project Team recommends that Option 2 is the most efficient and effective option as it gives full effect to the CRPS, and reflects current best practice in terms of identifying and protecting ONL. Whilst the identification and maintenance of the values of VALs is not required by the CRPS, the Landscape Study has determined that the high amenity and environmental characteristics and values of some areas of the District warrants their inclusion in the Plan as VALs. Their inclusion will assist the Council in achieving its obligations under s7(c)(maintenance and enhancement of amenity values) and s7(f) (maintenance and enhancement of the quality of the environment).

In summary, Option 2 seeks to improve clarity, increase protection where necessary, align with current best practice approaches and give full effect to the CRPS. The changes recommended through Option 2 would include drafting revised provisions that consider:

- Objectives and policies based on the existing provisions, to protect the ONL values of ONL and maintain and enhance the VAL values from inappropriate subdivision, use and development, but which provide greater direction and clarity
- Rules based on the existing provisions, to manage the adverse effects on the identified values of ONL's and VAL's, including:
  - Permit small scale earthworks within ONL and VAL areas e.g. maintenance and repair of existing roads, and control larger scale earthworks.
  - Control quarrying and mining in all ONL and VAL, subject to further to discussion over the level of control relating to the differing scales of such activity.
  - Permit farming generally but manage significant farming change and intensification in areas where such activity would be inappropriate and it would be difficult to enable the change in a way that would adequately protect identified landscape values. Such consideration should be subject to further to discussion over the level of control necessary for such activity.
  - Generally, control all planting including shelterbelts and woodlots, except amenity planting.
  - Provide for plantation forestry as per the NES-PF with specific rules within ONL.
  - Require all buildings in Te Waihora / Lake Ellesmere, Rakaia River and Waimakariri River ONLs to obtain resource consent.
  - Permit small scale buildings subject to controls on location, colour and reflectance values in the other ONL and within the VAL, and require larger scale buildings to obtain consent. However, consideration should be given to including different provisions for buildings necessary for farming purposes.
  - Restrict the overall scale and height of signs in ONL to ensure adequate protection of visual amenity values.
  - All subdivision within an ONL or VAL to be managed to ensure that subdivision that would adversely impact on landscape values (through visual change or change in expectations of activity levels) can be declined.
- Include new definitions in relation to all new rules.

**Appendix 1:**

**Selwyn District Landscape Study: Landscape Characterisation and Evaluation Report**

## **Appendix 2:**

### **Outstanding Natural Features and Landscapes: Planning Analysis**