

Section 42A Hearing Report

Proposed Otago Regional Policy Statement 2021

Chapter 14:

NFL – Natural features and landscapes

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14. Contents

14.	NFL – Natural features and Landscapes.....	5
14.1.	Introduction	5
14.2.	Author	6
14.3.	General themes.....	7
14.3.1.	The relationship of NFL provisions with other chapters of the pORPS.....	7
14.3.2.	Natural features and landscapes and Kāi Tahu cultural values	13
14.4.	Definitions.....	15
14.4.1.	Highly valued natural features and landscapes	16
14.4.2.	Afforestation	18
14.5.	NFL-O1 – Outstanding and highly valued natural features and landscapes.....	19
14.5.1.	Introduction	19
14.5.2.	Submissions.....	19
14.5.3.	Analysis	20
14.5.4.	Recommendation.....	21
14.6.	NFL-P1 – Identification of outstanding and highly valued natural features and landscapes	21
14.6.1.	Introduction	21
14.6.2.	Submissions.....	21
14.6.3.	Analysis	23
14.6.4.	Recommendation.....	26
14.7.	NFL-P2 – Protection of outstanding natural features and landscapes	27
14.7.1.	Introduction	27
14.7.2.	Submissions.....	27
14.7.3.	Analysis	29
14.7.4.	Recommendation.....	31
14.8.	NFL-P3 – Maintenance of highly valued natural features and landscapes.....	31
14.8.1.	Introduction	31
14.8.2.	Submissions.....	32
14.8.3.	Analysis	33
14.8.4.	Recommendation.....	35
14.9.	NFL-P4 – Restoration	35
14.9.1.	Introduction	35
14.9.2.	Submissions.....	35
14.9.3.	Analysis	36

14.9.4.	Recommendation.....	36
14.10.	NFL-P5 – Wilding conifers and APP5 - Species prone to wilding conifer spread	36
14.10.1.	Introduction	36
14.10.2.	Submissions.....	37
14.10.3.	Analysis	38
14.10.4.	Recommendation.....	40
14.11.	NFL-P6 – Coastal features and landscapes	40
14.11.1.	Introduction	40
14.11.2.	Submissions.....	40
14.11.3.	Analysis	41
14.11.4.	Recommendation.....	41
14.12.	NFL-M1 – Identification	41
14.12.1.	Introduction	41
14.12.2.	Submissions.....	41
14.12.3.	Analysis	42
14.12.4.	Recommendation.....	42
14.13.	NFL-M2 – Regional plans.....	43
14.13.1.	Introduction	43
14.13.2.	Submissions.....	43
14.13.3.	Analysis	43
14.13.4.	Recommendation.....	43
14.14.	NFL-M3 – District plans.....	43
14.14.1.	Introduction	43
14.14.2.	Submissions.....	44
14.14.3.	Analysis	44
14.14.4.	Recommendation.....	44
14.15.	NFL-M4 – Other incentives and mechanisms	44
14.15.1.	Introduction	44
14.15.2.	Submissions.....	45
14.15.3.	Analysis	45
14.15.4.	Recommendation.....	46
14.16.	NFL-E1 – Explanation	46
14.16.1.	Introduction	46
14.16.2.	Submissions.....	46
14.16.3.	Analysis	46
14.16.4.	Recommendation.....	46

14.17.	NFL-PR1 – Principal reasons.....	47
14.17.1.	Introduction	47
14.17.2.	Submissions.....	47
14.17.3.	Analysis	47
14.17.4.	Recommendation.....	47
14.18.	Anticipated Environmental Results.....	48
14.18.1.	Introduction	48
14.18.2.	Submissions.....	48
14.18.3.	Analysis	48
14.18.4.	Recommendation.....	48
14.19.	APP9 – Identification criteria for outstanding and <i>highly valued natural features, landscapes</i> and seascapes	48
14.19.1.	Introduction	48
14.19.2.	Submissions.....	48
14.19.3.	Analysis	49
14.19.4.	Recommendation.....	50
	References	51

14. NFL – Natural features and Landscapes

14.1. Introduction

1. This section of the report assesses the provisions of the pORPS which establish the planning framework for the management natural features and landscapes within the Otago region. The Otago Region contains many natural features and landscapes which are highly valued for a number of reasons, including their cultural and social importance and their role in supporting domestic and international tourism.
2. Natural features and landscapes are comprised of a range of attributes that result in a place being visually appealing. These can include physical features such as indigenous vegetation, natural watercourses and natural landforms as well as historical associations with a place.
3. Protection of these areas from the potential adverse effects of inappropriate subdivision, use and development, as set out in Section 6(b) of the RMA, is vital to ensure that these areas are retained for the enjoyment of generations of residents and visitors now and into the future.
4. Section 7 of the RMA also sets out other matters that shall be given particular regard in RMA decision making, which includes the maintenance and enhancement of amenity values and the quality of the environment. These features and landscapes, often referred to as amenity landscapes, may not meet the “outstanding” criteria but still contribute to people’s appreciation of the pleasantness, aesthetic coherence and cultural or recreational attributes of an area, as well as the functioning of ecosystems.
5. The relevant provisions for this section are:
 - NFL-O1 – Outstanding and highly valued natural features and landscapes
 - NFL-P1 – Identification
 - NFL-P2 – Protection of outstanding natural features and landscapes
 - NFL-P3 – Maintenance of highly valued natural features and landscapes
 - NFL-P4 – Restoration
 - NFL-P5 – Wilding conifers
 - NFL-P6 – Coastal features and landscapes
 - NFL-M1 – Identification
 - NFL-M2 – Regional Plans
 - NFL-M3 – District Plans
 - NFL-M4 – Other incentives and mechanisms
 - NFL-E1 – Explanation
 - NFL-PR1 – Principal reasons
 - NFL-AER1
 - NFL-AER2
 - NFL-AER3
 - APP5 – Species prone to wilding conifer spread
 - APP9 – Identification criteria for outstanding and highly valued natural features, landscapes and seascapes

6. In addition, the following definitions are relevant to this evaluation:
 - Afforestation
 - Highly valued natural features and landscapes
 - Replanting
 - Plantation forests
 - Wilding conifers
 - Afforestation
7. Together these provisions of the pORPS are designed to protect Outstanding Natural Features (ONF's) and Outstanding Natural Landscapes (ONL's) through their identification using regionally consistent criteria and appropriate management while also recognising other highly valued natural features, landscapes and seascapes (HVNFL) and seeking to maintain or enhance those values.
8. Approximately 200 submission points have been received on the NFL provisions which address a number of themes and seek specific amendments to the provisions. In analysing these submissions, a number of common topics across the provisions were identified which have guided the preparation of this report. Submissions seeking particular relief on provisions that are not captured by one of these topics are assessed on a provision-by-provision basis.

14.2. Author

9. My full name is Andrew Cameron MacLennan. I am an Associate employed by Incite, a planning consultancy. I hold a Bachelor of Science in Land Planning and Development from Otago University and a Master of Resource Management from Massey University. I am an Associate Member of the New Zealand Planning Institute and a member of the Resource Management Law Association.
10. I have 9 years' planning experience working in both local government and the private sector. During this time, I have worked policy planning roles, consent processing roles, and consent applicant roles. My policy planning experience includes working for a range of Councils drafting provisions for regional policy statements, regional plans, coastal plans, and district plans. I have also assisted with the drafting of associated section 32 evaluation reports, section 42A reports and reporting officer roles. I have experience participating in Environment Court processes such as expert conferencing, mediation, and hearings on plans and plan changes. While I have a particular focus on coastal environments and natural hazard management, I have a broad range of experience working on the development of indigenous biodiversity, coastal environment, natural hazards, landscapes, and urban planning provisions.
11. I have been involved in the review of the pORPS 2019 and the preparation of the pORPS since January 2020. I have assisted in the development of the *CE - Coastal Environment Chapter*, *HAZ – Hazards and Risk Chapter*, and the *NFL – Natural Features and Landscapes Chapter*, including assisting with provision drafting, the section 32 evaluation report, and this section 42A report.

14.3. General themes

12. A number of submitters raised issues that fell into two broader topics:

- The relationship of the NFL provisions with other chapters of the pORPS, and
- Natural features and landscapes and Kāi Tahu cultural values

13. This section of the report addresses these submission points.

14.3.1. The relationship of NFL provisions with other chapters of the pORPS

14.3.1.1. Introduction

14. The approach taken to the management of outstanding and highly valued natural features and landscapes in the pORPS is to largely separate the management of these areas between the NFL chapter and the CE chapters. The objective in the NFL chapter applies to the coastal environment, however policy NFL-P6 specifies that natural features and landscapes in the coastal environment are managed by CE-P6. The CE chapter also includes provisions which set out the management of natural features, landscapes and seascapes.¹

15. There are some provisions in other chapters of the pORPS which have effect across the NFL chapter. These provisions set out the need for local authorities to collaborate with Kāi Tahu to identify and map outstanding natural features, landscapes and seascapes;² providing for public access by encouraging landowners to only restrict access where necessary to protect outstanding natural features and landscapes;³ and to avoid locating infrastructure outside the coastal environment, as a first priority, in outstanding natural features and landscapes and if not possible to do so due to functional or operational need, minimise adverse effects on their values.⁴

14.3.1.2. Submissions

16. Several submitters seek greater clarity regarding the relationship between the EIT and NFL provisions to ensure the functional and/or operational needs of infrastructure are recognised:

- Aurora Energy⁵ seeks a number of amendments to provide for the operation, maintenance and upgrade of its electricity network, specifically seeking that policy EIT-INF-P13 applies rather than NFL-P2 and NFL-P3. Aurora Energy notes that approximately 97% of its electricity distribution network located in the Queenstown Lakes District is within an ONF or ONL and that the pORPS is unclear whether the operation, maintenance, upgrade or development of the network would be contrary to the NFL policies.

¹ CE-O2, CE-O3, CE-M2

² MW-M1

³ LF-LS-P22

⁴ EIT-INF-P13

⁵ 00315.073, 00315.074, 00315.075, 00315.076 Aurora Energy

- Meridian⁶ seeks the inclusion of a new policy to direct how natural features and landscapes are to be maintained and enhanced while also providing for renewable electricity generation. The suggested policy wording seeks to enable modification to natural features and landscapes for the operation and maintenance of renewable electricity generation activities and their upgrade and development while managing effects on natural features and landscapes. The requested policy also directs that where significant residual effects cannot be avoided, remedied or mitigated, regard shall be had to offsetting or environmental compensation measures.
- Te Waihanga⁷ opposes NFL-P2 and NFL-PR1 as, they state, there needs to be greater clarity on how the provisions should be read together with other enabling policies in other topics that refer to functional and operational needs of infrastructure to locate in certain locations.
- Waka Kotahi⁸ seeks amendments to NFL-P2, NFL-P3, NFL-M2 and NFL-M3 to ensure the functional and operational needs of infrastructure are recognised and provided for. The submitter suggests a third clause to the policies stating *“while recognising the functional and operational needs of nationally and regionally significant infrastructure.”*
- OWRUG⁹ seeks greater recognition in NFL-P2 and NFL-P3 of the functional and locational requirements that can dictate, or at least place limits on, where certain activities can occur. OWRUG seeks amendments to the policies to recognise that EIT-INF-P13 applies instead of NFL-P2 and NFL-P3. As an alternative for NFL-P3, OWRUG seeks that clause (6) of HCV-HH-P5 is amended to manage adverse effects on historic heritage that is not nationally or regionally significant infrastructure in accordance with clauses (3) to (5).
- The Telecommunications Companies¹⁰ seek amendments to Policy NFL-P2 or a new policy to take into consideration the functional and operational requirements of infrastructure, extent of benefits, practical alternatives and the extent to which adverse effects are mitigated. The submitters state that the avoidance approach outlined is impractical for infrastructure which has a need to locate in certain areas and that the effects of infrastructure such as wireless networks can be mitigated by location, design and colour. Overall, the submitters consider an avoid approach outside of the coastal environment is too stringent.
- Contact¹¹ is concerned about how NFL-P2 will be reconciled with other provisions that recognise in some instances activities that may cause adverse effects may locate and operate in such higher value areas. Contact notes that given some of the integrated management provisions of the pORPS, this provision will establish a trumping effect.

⁶ 00306.074 Meridian

⁷ 00321.036, 00321.037 Te Waihanga

⁸ 00305.079, 00305.080, 00305.081, 00305.082 Waka Kotahi

⁹ 00235.141, 00235.141 OWRUG

¹⁰ 00310.014 The Telecommunications Companies

¹¹ 00318.034 Contact Energy

- Network Waitaki¹² opposes NFL-P2 and NFL-P3 as they are concerned that there is conflict with other provisions that recognise some activities may generate adverse effects and the requirement to avoid adverse effects will override other provisions that make allowances for certain infrastructure.
17. Transpower¹³ seeks amendments to the chapter to specify that national grid activities are to be managed in accordance with the provisions in the EIT-INF chapter and where any conflict arises, the provisions in that chapter prevail. Transpower seeks that a policy similar to CE-P1 is inserted into the NFL chapter that explicitly deals with the links to other related chapters and a second policy that sets out specific direction in relation to the management of the national grid.
 18. DCC¹⁴ notes a discrepancy between NFL-P3 and EIT-INF-P13, specifically that the effects test is different between the policies for any activity in a highly valued landscape. DCC seeks that the EIT-INF policies are amended to clarify the relationship with the NFL policies.
 19. There are also several submissions regarding the relationship between the NFL chapter and the CE chapter. Port Otago¹⁵ seeks that there is clarification through the use of “coastal icons” to identify which of the NFL provisions, if any, relate to the coastal environment to avoid duplication or conflict. They also seek the consequential deletion of Policy NFL-P6 as it is a cross-reference rather than a policy.
 20. Kāi Tahu ki Otago states that it is unclear why provisions for natural features, landscapes and seascapes are needed in both the CE and NFL chapters. Kāi Tahu ki Otago¹⁶ seeks a number of amendments to integrate the management of natural features, landscapes and seascapes in the coastal environment into the NFL chapter to provide an integrated approach and enable holistic management of outstanding and highly valued landscapes.
 21. Five submitters¹⁷ state where provisions may be in conflict with other national objectives such as through the National Policy Statement on Urban Development 2020, or request that where proposals have significant social and economic benefits, those matters should take precedence. These submitters¹⁸ also state that restoration and enhancement should be promoted (including through planting or other mitigation) as a relevant positive matter or otherwise as an offsetting mechanism when considering development proposals.
 22. Ngāi Tahu ki Murihiku seeks that there is improved connections between the NFL section and the RMIA–WTU – Wāhi tupuna section of the pORPS.¹⁹

¹² 00320.027 Network Waitaki

¹³ 00314.015, 00314.047, 00314.048 00314.055 Transpower

¹⁴ 00139.243 DCC

¹⁵ 00301.054 Port Otago

¹⁶ 00226.297, 00226.298, 00226.299, 00226.300, 00226.301, 00226.302, 00226.303, 00226.304 Kāi Tahu ki Otago

¹⁷ 00211.040 LAC; 00210.040 Lane Hocking; 00118.063, 00118.065 Maryhill Limited; 00014.063 Mt Cardona Station; 000209.040 Universal Developments

¹⁸ 00211.041 LAC Properties Trustees Limited; 00210.041 Lane Hocking; 00118.063, 00118.065 Maryhill Limited; 00014.063 Mt Cardona Station; 000209.041 Universal Developments

¹⁹ 00223.127 Ngāi Tahu ki Murihiku

14.3.1.3. Analysis

23. The majority of submitters are concerned about the interrelationship between the provisions set out in the NFL chapter and how they impact on activities associated with the development, operation and maintenance of infrastructure, particularly nationally or regionally significant infrastructure.
24. Policy EIT-INF-P13 sets out the direction for locating and managing the effects of infrastructure in a number of sensitive locations. Overall, the provision seeks to avoid locating infrastructure within ONFs and ONLs but provides a pathway for circumstances where that cannot be avoided. This pathway is different between infrastructure that is nationally or regionally significant and all other infrastructure types. Where nationally and regionally significant infrastructure needs to be located within an ONF or ONL, the adverse effects on values that contribute to the area's outstanding nature are to be minimised. For all other infrastructure adverse effects on the values that contribute to the area being outstanding must be avoided.
25. The provisions in the NFL chapter do not provide any specific guidance regarding the management of adverse effects from specific activities on outstanding or highly natural features and landscapes and given the overall direction to protect ONFs and ONLs by avoiding all adverse effects that contribute to the area being considered outstanding, there is a difference in the direction between the two chapters.
26. I agree with submitters that there needs to be greater clarity regarding the overall direction that applies to the management of infrastructure. To remedy the disconnect between the EIT and NFL chapters, I recommend that a new policy is inserted into the NFL chapter that specifies that outside of the coastal environment, the effects of regionally significant infrastructure on values of the outstanding natural features and landscapes are addressed by EIT-INF-P13. This new policy which adopts the same approach as NFL-P6 will ensure that there is consideration of the functional and operational need of nationally and regionally significant infrastructure to locate within ONFs and ONLs but also clear direction that this should be avoided where possible, or effects on the values of these areas are to be minimised. As with NFL-P6, EIT-INF-P13 will also contribute to achieving NFL-O1.
27. Meridian seeks a new policy that directs where significant residual effects on natural features and landscapes cannot be avoided, remedied or mitigated, regard shall be had to offsetting or compensation measures. I consider that the direction in EIT-INF-P13 is consistent with section 6(b) and that there is scope to consider the effects hierarchy in being able to demonstrate adverse effects have been minimised.
28. In response to Transpower's request for a new policy to set out specific direction in relation to the management of the National Grid, I consider that this is not necessary within this chapter and is best addressed in response to submissions on EIT-INF-P13. This is due to the recommended amendment to refer to this policy for managing the effects of nationally and regionally significant infrastructure on outstanding natural features and landscapes.

29. DCC has identified a discrepancy in the policy direction regarding HVNFLs between the NFL provisions and EIT-INF-P13. Policy EIT-INF-P13 does not provide any guidance regarding the locating of infrastructure within areas identified as a HVNFL. I note that the merits of this submission point have been considered in relation EIT-INF-P13, and no amendments have been recommended in relation to this submission point. As such, I recommend that the additional policy within the NFL chapter needs to be limited to the management of Nationally Significant Infrastructure and Regionally Significant Infrastructure within ONL's and ONF's to ensure consistency with EIT-INF-P13.
30. In relation to the submission from Port Otago, I consider that it is not necessary to identify which of the NFL provisions relate to the coastal environment. Policy NFL-P6 is clear that CE-P6 manages natural features and landscapes in the coastal environment but that it does contribute towards NFL-O1. No further icons or explanation is considered necessary. Similarly, in response to the Director-General of Conservation and Kāi Tahu ki Otago, the provisions are clear that the NFL policies do not apply in the coastal environment. As such, I consider there is no inconsistency in the approach as CE-P6 sets out the relevant direction which is consistent with the NZCPS and the coastal environment chapter enables holistic management of features and landscapes in the coastal environment. For clarity I note that there are two references to 'seascapes' within both APP9 and the definition of 'Highly valued natural features and landscapes', which may be causing some confusion as to the application of the NFL policies within the coastal environment. These references to 'seascapes' have been carried over from the PORPS19. However, given the structure of the pORPS has been amended and the provisions applying to landscapes within the coastal environment are now included within the CE chapter, I consider these references to 'seascape' should be removed from APP9 and definition of 'Highly valued natural features and landscapes' to avoid confusion.
31. With regard to the submissions seeking the protection and maintenance of outstanding and highly valued natural features and landscapes to be overridden by other national objectives such as providing sufficient housing capacity, I consider that this approach would not be consistent with the overall direction set out in the pORPS.
32. The integrated management chapter of the pORPS directs that all provisions relevant to an activity must be considered and applied according to the terms in which they are expressed (IM-P1). The Urban Form and Development chapter of the pORPS (UFD) also requires that development is located, designed and delivered in a way that recognises and provides for regionally significant features and values identified in the pORPS (UFD-O3). As already discussed above, there is some specific guidance in relation to regionally significant infrastructure.
33. Overall, I consider that the relief sought by the submitters would be inconsistent with Part 2 of the Act and as such I consider it inappropriate.
34. In relation to the promotion of restoration and enhancement through planting or other mitigation or via an offsetting mechanism or positive matter for development proposals, I consider that this suggestion may not achieve the required protection or avoidance of adverse effects required. Typically, offsetting and compensation are the last steps considered in the effects hierarchy when other adverse effects cannot be avoided,

remedied or mitigated. Avoidance of effects on the values of outstanding natural features and landscapes is considered necessary to ensure their protection as required by section 6(b) RMA. In remedying or mitigating other effects, positive effects may be considered where the benefits are evident in the same location as a proposed activity. Offsetting, which is understood to occur in a separate location as the effects of a development, is unlikely to achieve the overall direction to protect or maintain outstanding and highly valued natural features and landscapes.

14.3.1.4. Recommendation

35. I recommend a new policy is inserted into the NFL section as follows:

NFL-P7 – Natural features and landscapes and infrastructure

Outside of the coastal environment, the effects of nationally significant infrastructure and regionally significant infrastructure on the values of outstanding natural features and landscapes are managed by EIT-INF-P13.²⁰

36. I recommend amending APP9 as follows to remove the term ‘seascape’:

APP9 – Identification criteria for outstanding and highly valued natural features, and landscapes and seascapes²¹

The areas and the values of outstanding and highly valued natural features, and landscapes and seascapes²² are identified using the following attributes:

Physical attributes

- (a) Natural science factors, including geological, topographical, ecological and dynamic components.
- (b) The presence of *water* including in seas, *lakes*, *rivers* and streams.
- (c) Vegetation (native and exotic).

Sensory attributes

- (d) Legibility or expressiveness – how obviously the feature, or landscape or seascape²³ demonstrates its formative processes.
- (e) Aesthetic values including memorability and naturalness.
- (f) Transient values, including presence of wildlife or other values at certain times of the day or year.
- (g) Wild or scenic values.

²⁰ 000306.074 Meridian; 00321.036, 00321.037 NZ Infrastructure; 00310.014 Telecommunication Companies

²¹ 00301.054 Port Otago

²² 00301.054 Port Otago

²³ 00301.054 Port Otago

Associative attributes

- (h) Whether the values are shared and recognised.
- (i) Cultural and spiritual values for Kāi Tahu, identified by working, as far as practicable, in accordance with tikanga Māori, including their expression as cultural landscapes and features.
- (j) Historical and heritage associations.

37. I recommend amending the definition of ‘Highly valued natural features and landscapes’ as follows to remove the term ‘seascape’:

Highly valued natural features and landscapes

highly valued natural features, and landscapes ~~and seascapes~~²⁴ are areas which contain attributes and values of significance under Sections 7(c) and 7(f) of the RMA 1991, which have been identified in accordance with APP9, and for the purposes of the Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017 they are visual amenity landscapes.²⁵

14.3.2. Natural features and landscapes and Kāi Tahu cultural values

14.3.2.1. Introduction

38. The pORPS requires local authorities to collaborate with Kāi Tahu to identify and map outstanding and highly valued natural features and landscapes²⁶ and the identification criteria in APP9 includes, as an associative attribute, cultural and spiritual values for Kāi Tahu.

14.3.2.2. Submissions

39. Ngāi Tahu ki Murihiku and Te Rūnanga o Ngāi Tahu seek amendments to the NFL chapter to better reflect the relationship between natural features and landscapes and the values of Kāi Tahu.

40. Te Rūnanga o Ngāi Tahu²⁷ seeks amendments that recognise the use and occupation of the region that has occurred over generations and that ongoing use and occupation should be anticipated within areas identified as outstanding or highly valued natural features and landscapes. They consider that the protection of landscapes and features under RMA Section 6(b) should not frustrate the ability of Ngāi Tahu to maintain their relationship with ancestral lands, water, sites, wāhi tapu and other taonga under RMA Section 6(e). The relief sought includes an amendment to NFL-P1 that acknowledges that Kāi Tahu occupation and use will form part of the landscape in some ONLs and ONFs. The submitter also seeks the insertion of a new policy that recognises and provides for Kāi

²⁴ 00301.054 Port Otago

²⁵ 000230.007 Forest & Bird

²⁶ MW-M1

²⁷ 00234.036, 00234.037 Te Rūnanga o Ngāi Tahu

Tahu customary uses of natural resources identified as outstanding natural features and landscapes.

41. Ngāi Tahu ki Murihiku²⁸ seeks greater recognition between the NFL chapter and the issues of significance to iwi section (RMIA), noting there is a high degree of overlap so clarification is required. The relief sought is amendments to NFL-P1 to require consideration of the relationship between outstanding and highly valued natural features and landscapes with wāhi tupuna in accordance with APP7 (identifying wāhi tupuna) and an additional anticipated environmental result to ensure the relationship between outstanding and highly natural features and landscapes and Kāi Tahu values is identified. Together these changes are intended to enable mātauraka to apply to the identification of wāhi tupuna and outstanding and highly valued natural features and landscapes.
42. Ngāi Tahu ki Murihiku²⁹ also seeks that references to cultural and spiritual values for Kāi Tahu in associative attributes are removed as APP7 is the appropriate place to identify such values.

14.3.2.3. Analysis

43. With regard to providing for customary uses of outstanding and highly natural features and landscapes, there is the potential for some tension between the requirements of sections 6 and 7 of the RMA to protect and manage effects on these features and landscapes while also providing for the relationship of Māori with these sites. It is not clear whether all customary uses would be appropriate for all landscapes, and therefore I consider it is the role of the pORPS to ensure that the protection and maintenance of landscapes can occur while also providing for the relationship of Māori with these sites. I consider this direction is provided for within the notified drafting of NFL-P1, as clause (2) requires identification of the capacity of natural features and landscapes to accommodate use or development while protecting the values that contribute to the natural feature and landscape being considered outstanding or highly valued. Where this identification process relates to areas of significance for Kāi Tahu, I consider this identification of capacity can be undertaken to specifically consider the customary uses of the area. MW-M1(4) as notified requires local authorities to collaborate with Kāi Tahu to:

identify and map outstanding natural features, landscapes and seascapes, and highly valued natural features, landscapes and seascapes and record their values.

44. However, it has been recommended that this drafting be deleted in favour of this direction being provided within the relevant chapters of the pORPS. On this basis I recommend that a new method be added to NFL-M1 that largely replicates the notified MW-M1(4) method but includes a requirement to identify the capacity of these areas. I consider this collaboration process will ensure that Kāi Tahu relationship with these sites will be considered.

²⁸ 00223.128, 00223.129 Ngāi Tahu ki Murihiku

²⁹ 00223.136 Ngāi Tahu ki Murihiku

45. Regarding the overlap between the wāhi tupuna provisions and the NFL chapter and the requests from Ngāi Tahu ki Murihiku, it is unclear if the sites of significance to Kāi Tahu identified in APP7 capture all of the cultural and spiritual values that would be considered in the process of identifying the areas and values of outstanding and highly valued natural features and landscapes described in APP9. Ngāi Tahu ki Murihiku asserts that the proposed amendments to NFL-P1, which include a suggested reference to APP7, would enable the identification of outstanding and highly valued natural features in the absence of a cultural lens and then allow Ngāi Tahu ki Murihiku to apply a cultural lens in a manner consistent with the identification of wāhi tupuna from purely a Kāi Tahu perspective.
46. I consider that while APP9 sets out the criteria for identifying the areas and values of outstanding and highly valued natural features and landscapes, which includes an assessment of the cultural and spiritual values for Kāi Tahu and states that this assessment is to be undertaken by working, as far as practicable, in accordance with tikanga Māori, including their expression as cultural landscapes and features, this identification criteria, coupled with the direction within recommended additional method to NFL-M1, which requires collaboration with Kāi Tahu, will ensure that sites of significance to Kāi Tahu will be considered within the identification process required by NFL-P1.

14.3.2.4. Recommendation

47. I recommend amending NFL-M1 as follows:

NFL-M1 – Identification

Territorial authorities must:

[...]

(2A) collaborate with Kāi Tahu to identify the areas, values, and capacity of outstanding natural features and landscapes, and highly valued natural features and landscapes of significance for Kāi Tahu in accordance with NFL-P1,

14.4. Definitions

48. There are a range of submissions relating to defined terms used in this section, some of which are addressed in other parts of this report. In summary:
- Defined terms used throughout the pORPS, including in this section, are addressed in *Chapter 1: Introduction and general themes*.
 - Defined terms, including requests for new definitions of terms, used only in the NFL chapter are addressed in this section of the report.
49. In relation to the second point above, I have addressed the following terms in this section:
- Highly valued natural features and landscapes,
 - Afforestation,
 - Replanting,

- Plantation forests and
- Wilding conifers.

50. “Highly valued natural features and landscapes” and “afforestation” are addressed below. No submissions were received on “replanting”, “plantation forests”, or “wilding conifers”.

14.4.1. Highly valued natural features and landscapes

51. As notified, the definition of highly valued natural features and landscapes reads:

highly valued natural features, landscapes and seascapes are areas which contain attributes and values of significance under Sections 7(c) and 7(f) of the RMA 1991, which have been identified in accordance with APP9.

14.4.1.1. Submissions

52. Three submitters note that the definition of highly valued natural features and landscapes (HVNFL) refers to the incorrect appendix and should be amended to refer to Appendix 9.³⁰

53. Forest and Bird³¹ seeks the definition is expanded to include areas which are considered amenity landscapes for the purpose of implementing the NESPF.

54. Ravensdown³² considers that this proposed definition, in the context of the criteria used in APP9 and the use of the term within objectives and policies, actually refers to RMA section 6(a) and (b) considerations, not RMA sections 7(c) and (f). However, if the definition is intended to refer to section 7(c) and (f) matters, the definition has placed an interpretation on these provisions of the RMA that does not reflect what these sections of the RMA actually says. Ravensdown seeks that the definition be removed and all references to ‘Highly valued natural features and landscapes’ are removed throughout the pORPS.

55. Similarly, the submission from Meridian highlights that the notified definition reads as follows:³³

Highly valued natural features and landscapes

highly valued natural features, landscapes and seascapes are areas which contain attributes and values of significance under Sections 7(c) and 7(f) of the RMA 1991, which have been identified in accordance with APP9.”

56. Meridian states that Section 7(c) of the Act refers to “amenity values” and section 7(f) refers to “the quality of the environment”. However, there is no directive in the RMA to identify and manage highly valued natural features and landscapes. There is however a directive to protect outstanding natural features and landscapes from inappropriate

³⁰ 00322.003 Fulton Hogan Limited, 00226.027 Kāi Tahu ki Otago, 00137.010 DOC

³¹ 00230.007 Forest and Bird

³² 00121.005 and 00121.006 Ravensdown

³³ Meridian 00306.003

subdivision, use, and development. On this basis, Meridian seeks that all references to highly valued natural features and landscapes are removed from the pORPS.

14.4.1.2. Analysis

57. The NESPF includes regulations that control forestry activities within visual amenity landscapes. Visual amenity landscapes are defined as a landscape or landscape feature that is identified in a district plan as having amenity values and identified in a policy statement or plan by its location including by a map, schedule or description of the area.
58. The regulations restrict afforestation within a visual amenity landscape if rules within the relevant plan restrict plantation forestry activities within that landscape.
59. Based on the definition included in the NESPF, I consider that the definition of HVNFL would encompass visual amenity landscapes. To ensure there is no confusion however, I agree that added clarification could be included in the definition.
60. In relation to the submissions from Ravensdown and Meridian, I note that Sections 7(c) and (f) of the RMA require decision makers to have particular regard to the maintenance and enhancement of amenity values and the quality of the environment. It has been common practice throughout New Zealand to identify “visual amenity landscapes” or in the case of the pORPS “highly valued natural features and landscapes” as these areas contribute to the overall amenity and environmental quality of an area and the adverse effects on these locations is appropriate to manage. As these areas are generally more modified than ONLs or ONFs, there is generally an expectation that there is a greater ability to modify land use patterns and activities over time when compared to ONLs or ONFs. However, this change is to be carefully managed to maintain or enhance of the overall values of the area. In order to ensure the pORPS achieves Sections 7(c) and (f) of the RMA, I consider it is appropriate to include provisions relating to HVNFLs.

14.4.1.3. Recommendation

61. I recommend amending the definition of ‘Highly valued natural features and landscapes’ as follows to clarify that they are visual amenity landscapes for the purposes of the NESPF:

Highly valued natural features and landscapes

highly valued natural features, and landscapes ~~and seascapes~~³⁴ are areas which contain attributes and values of significance under Sections 7(c) and 7(f) of the RMA 1991, which have been identified in accordance with APP9, and for the purposes of the Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017 they are visual amenity landscapes.³⁵

³⁴ 00301.054 Port Otago

³⁵ 000230.007 Forest & Bird

14.4.2. Afforestation

14.4.2.1. Introduction

62. As notified, the definition of afforestation reads:

Afforestation

has the same meaning as in regulation 3 of the Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017 (as set out in the box below)

- (a) means planting and growing plantation forestry trees on land where there is no plantation forestry and where plantation forestry harvesting has not occurred within the last 5 years; but
- (b) does not include vegetation clearance from the land before planting

14.4.2.2. Submissions

63. Federated Farmers³⁶ seeks that the definition of afforestation is amended to refer to “afforestation for plantation forestry”. Federated Farmers states that the term is to be as defined in the NESPF but there is some confusion as carbon forestry is an increasing activity across New Zealand.

14.4.2.3. Analysis

64. In response to Federated Farmers’ request for amendments to the definition of afforestation, I consider that the suggested amendment is not required.

65. The pORPS adopts the definition of “afforestation” from the NESPF, which is:

Afforestation:

- (a) *means planting and growing plantation forestry trees on land where there is no plantation forestry and where plantation forestry harvesting has not occurred within the last 5 years; but*
- (b) *does not include vegetation clearance from the land before planting.*

66. Plantation forestry is also defined in the pORPS in the same terms as in the NESPF. Because of the cross-referencing in the definition, I consider that it is clear the afforestation definition applies to plantation forestry. This means that the provisions would not apply to carbon forestry as the trees would not be harvested.

14.4.2.4. Recommendation

67. I recommend the definition of ‘afforestation’ is retained as notified.

³⁶ 00239.007a Federated Farmers

14.5. NFL-O1 – Outstanding and highly valued natural features and landscapes

14.5.1. Introduction

68. As notified, NFL-O1 reads:

NFL-O1 – Outstanding and highly valued natural features and landscapes

The areas and values of Otago’s outstanding and *highly valued natural features and landscapes* are identified, and the use and development of Otago’s *natural and physical resources* results in:

- (1) the protection of outstanding natural features and landscapes, and
- (2) the maintenance or enhancement of *highly valued natural features and landscapes*.

14.5.2. Submissions

69. A total of 23 submissions were received on NFL-O1. Three submitters support NFL-O1 as notified and seek that it is retained.³⁷

70. LAC,³⁸ Lane Hocking,³⁹ Maryhill Limited,⁴⁰ Mt Cardrona Station,⁴¹ and Universal Developments⁴² seek that the objective is amended to not require unqualified protection of ONFs, ONLs and HVNFLs but to reflect the more nuanced approach set out in the policies.

71. Beef + Lamb and DINZ⁴³ oppose in part NFL-O1 as they consider the term “protection” should be replaced with “sustainment” as this better recognises the living and dynamic character of the elements and values of natural features and landscapes that make them outstanding.

72. Federated Farmers⁴⁴ seeks that clause (2) is reworded to require only the maintenance of HVNFLs.

73. Otago Rock Lobster⁴⁵ seeks that outstanding and highly valued features in Otago’s seascape should include interests for fisheries management with intrinsic fisheries values and that taking action needs to be informed by evidence rather than desktop assessments.

³⁷ 00139.24 Dunedin City Council; 00138.189 Queenstown Lakes District Council; 00230.141 Forest and Bird

³⁸ 00211.037 LAC

³⁹ 00210.037 Lane Hocking

⁴⁰ 00118.064 Maryhill Limited

⁴¹ 00014.064 Mt Cardrona Station

⁴² 00209.037 Universal Developments

⁴³ 00237.060 Beef + Lamb and DINZ

⁴⁴ 00239.162 Federated Farmers

⁴⁵ 00125.010 Otago Rock Lobster

74. Wayfare⁴⁶ and Trojan⁴⁷ also seek that clause (1) of the objective specifies that it is only ONLs that are protected in accordance with the requirements in Part 2 of the RMA.
75. Alluvium and Stoney Creek,⁴⁸ Danny Walker and others,⁴⁹ Federated Farmers,⁵⁰ Trustpower,⁵¹ Wayfare,⁵² Trojan,⁵³ Glenpanel Limited Partnership⁵⁴ and Graymont⁵⁵ seek that clause (1) of NFL-O1 specifies that the protection of outstanding natural features and landscapes is required from “inappropriate subdivision, use and development”. The reason for this amendment noted by many submitters is that objective goes further than what is required by Section 6(b) of the RMA. Glenpanel,⁵⁶ also requests that “inappropriate development” is defined rather than just seeking solely protection.

14.5.3. Analysis

76. In relation to the request by submitters to amend NFL-O1 to reflect the different effects management approaches set out in the policies, I consider that this is not necessary. The drafting of the objective clearly sets out the overall outcome sought, and it is appropriate for the nuanced approach to managing effects on outstanding and highly valued natural features and landscapes to be captured in the policies that implement the objective. I therefore do not recommend any amendments to the objective.
77. In response to Beef + Lamb and Deer Industry, I consider that replacing the term “protection” with “sustainment” would not necessarily align with the requirements of Section 6(b) of the RMA. The definition of protect is “to make sure that something is not harmed, injured or damaged” (Oxford University Press, 2022). The definition of sustain is to “to make something continue for some time without becoming less” (Oxford University Press, 2022). I consider that the term protection provides a higher threshold than “sustain” and it would not be appropriate to substitute this term in the objective.
78. With regard to seeking the enhancement of highly valued natural features and landscapes, I consider that it is appropriate to include this as an identified outcome to be achieved. The objective does not strictly identify enhancement as an outcome that must be obtained, rather the objective states that maintenance or enhancement is to be achieved. When read with the policy direction and methods this outcome is achieved through the encouragement of enhancement activities.
79. Finally, in response to Wayfare Group Limited, I consider that clause (1) of the objective is sufficiently clear that it only applies to outstanding natural features or landscapes and no changes are necessary.

⁴⁶ 00411.076 Wayfare

⁴⁷ 00206.062 Trojan

⁴⁸ 00016.022 Alluvium and Stoney Creek

⁴⁹ 00017.020 Danny Walker and others

⁵⁰ 00239.162 Federated Farmers

⁵¹ 00311.059 Trustpower

⁵² 00411.076 Wayfare

⁵³ 00206.062 Trojan

⁵⁴ 00405.015 Glenpanel

⁵⁵ 00022.026 Graymont

⁵⁶ 00405.016 Glenpanel

14.5.4. Recommendation

80. I recommend NFL-O1 is retained as notified.

14.6. NFL-P1 – Identification of outstanding and highly valued natural features and landscapes

14.6.1. Introduction

81. As notified, NFL-P1 reads:

NFL-P1 – Identification

In order to manage outstanding and *highly valued natural features and landscapes*, identify:

- (1) the areas and values of outstanding and *highly valued natural features and landscapes* in accordance with APP9, and
- (2) the capacity of those natural features and landscapes to accommodate use or development while protecting the values that contribute to the natural feature and landscape being considered outstanding or highly valued.

14.6.2. Submissions

82. CODC and QLDC support the identification of ONFs and ONLs and the assessment of the capacity⁵⁷. Several submitters have sought clarification and/or amendments to the provisions regarding how assessments of ONFs, ONLs and HVNFLs and their capacity to accommodate use or development are to be undertaken.

83. Five submitters⁵⁸ seek to clarify the scale at which landscapes are to be assessed and the size and extent of outstanding natural features and landscapes.

84. Some submitters also seek to clarify how assessments will be undertaken of the capacity for modifying features and landscapes while still protecting the values that contribute to the natural feature or landscape being considered outstanding or highly valued:

- DCC⁵⁹ notes that it will be difficult in practice to differentiate between the effects on values that contribute to a feature or landscape being outstanding and other adverse effects.
- LAC,⁶⁰ Lane Hocking,⁶¹ Maryhill Limited,⁶² Mt Cardrona Station,⁶³ and Universal Developments,⁶⁴ state that these landscape capacity assessments and ability to

⁵⁷ 00201.05 CODC, 00138.05 QLDC

⁵⁸ 00211.044 LAC; 00210.044 Lane Hocking; 00118.063, 00118.065 Maryhill Limited; 00014.063, 00014.065 Mt Cardrona Station; 00209.044 Universal Developments

⁵⁹ 00139.241 DCC

⁶⁰ 00211.042 LAC

⁶¹ 00210.042 Lane Hocking

⁶² 00118.063, 00118.065 Maryhill Limited

⁶³ 00014.063, 00014.065 Cardrona Station

⁶⁴ 00209.042 Universal Developments

change landscape character are relevant to the change of landscape quality as well as character.

- Federated Farmers⁶⁵ seeks amendments to focus on determining what activities are inappropriate if natural features and landscapes are to be protected or maintained and seek that there is a clear process for landowner engagement and consultation. One specific amendment to NFL-P1 is requested to reflect that the capacity to maintain the values that contribute to HVNFLs is identified rather than capacity to protect those values.

85. Six submitters⁶⁶ seek that the assessment of ONFs and ONLs recognises differences between truly “natural” and unmodified landscapes and those that are open, modified or otherwise degraded. Some of these submitters state that section 7 (RMA) amenity landscapes should also be identified and scheduled rather than being default rural land that is not an ONF or ONL. They consider that the protection of these section 7 landscapes should be relevant to landscape character. Off Road Adventures⁶⁷ states that the extent of the ONL should be restricted to only those areas that are truly “naturally outstanding” as opposed to the current regime which identifies more than 90% of the Queenstown Lakes District as outstanding, yet much of it is modified farmland.
86. Consultation with affected stakeholders and landowners is also a common request from submitters. Graymont,⁶⁸ Trojan⁶⁹ and Wayfare⁷⁰ seek that the identification of ONFs, ONLs and HVNFLs is informed by input from Kāi Tahu and the community. Trojan and Wayfare state that this input is required due to the subjective nature of the attributes. Graymont states that the identification of these areas can present a significant impediment to an existing activity or use that may be important to social, economic and cultural wellbeing and health and safety, therefore it is imperative there is consultation during the identification process. Off Road Adventures⁷¹ similarly seeks input from affected landowners specifically in reviewing the extent of ONLs in the Queenstown Lakes District. Central Otago Winegrowers Association⁷² also seeks that there is a requirement for engagement with the primary industry, landowners, representative associations and related parties.
87. Graymont⁷³ further seeks recognition in policy NFL-P1 that existing uses and development form part of the existing landscape and that their continued existence may be consistent with the values of ONFs, ONLs and HVNFLs. Equally, Off Road Adventures⁷⁴ seeks to ensure that existing and new commercial recreational activities, including

⁶⁵ 00239.163 Federated Farmers

⁶⁶ 00211.043, 00211.038 LAC; 00210.043, 00210.038 Lane Hocking; 00118.063, 00118.065 Maryhill Limited; 00014.063, 00014.065 Mt Cardrona Station; 00209.038, 00209.043 Universal Developments; 00205.002 Off Road Adventures

⁶⁷ 00205.002 Off Road Adventures

⁶⁸ 00022.027 Graymont

⁶⁹ 00206.063, 00206.067, 00206.077 Trojan

⁷⁰ 00411.077, 00411.082 Wayfare

⁷¹ 00205.002 Off Road Adventures

⁷² 00302.002 Central Otago Winegrowers Association

⁷³ 00022.027 Graymont

⁷⁴ 00205.003 Off Road Adventures

ancillary or supporting facilities and services, are provided for and that existing residential activities can continue without being compromised by provisions to protect ONFs, ONLs and HVNFLs.

88. OWRUG⁷⁵ supports the identification of ONFs and ONLs but considers that NFL-P1 could be clearer that consent applicants are not required to undertake the necessary mapping. OWRUG requests an amendment to NFL-P1 to specify that the identification of natural features and landscapes is to occur across the region and for the maps to be included in the pORPS rather than in district plans to avoid artificial fragmentation of areas and inconsistency of management.
89. Harbour Fish⁷⁶ opposes NFL-P1 and seek the policy is deleted. No reasons are provided.
90. The Yellow-eyed Penguin Trust⁷⁷ seeks one minor amendment to NFL-P1, requesting that the policy requires identified outstanding and highly valued natural features and landscapes to be mapped.
91. Trustpower⁷⁸ seeks that the policy and associated appendix (APP9) are amended to align with current best practice. The submission notes that the current wording used is not consistent with best practice.
92. Ravensdown⁷⁹ considers that the provisions have incorrectly interpreted sections 7(c) and (f) of the RMA and therefore request references to “highly valued natural features and landscapes” are deleted. Ravensdown considers that it is important to identify landscapes in the region that meet the requirements of Section 6(b) and 7(c) of the RMA and therefore seeks amendments to NFL-P1 to refer to “visual amenity landscapes”, require the identification of those landscapes and avoid, remedy or mitigate adverse effects on the values that contribute to the overall visual amenity of the landscape.
93. Finally, Otago Rock Lobster⁸⁰ supports protecting significant areas provided that the fishing sector is consulted during the process and that a spatial mapping tool for the marine environment is balanced against alternative methods and supported by robust analysis. The submitter notes that mapping is problematic in the coastal environment and instead supports a marine strategy and non-statutory measures. Additionally, the submitter seeks that outstanding and highly valued features in Otago’s seascape should include interests for fisheries management with intrinsic fisheries values and that taking action needs to be informed by evidence rather than desktop assessments.⁸¹

14.6.3. Analysis

94. Due to the nature of landscape assessments, there is no rigid or defined set of thresholds or a checklist that can be adopted to objectively identify ONFs and ONLs. Landscape

⁷⁵ 00235.140, 00235.143 OWRUG

⁷⁶ 00126.041 Harbour Fish

⁷⁷ 00120.052 The Yellow-eyed Penguin Trust

⁷⁸ 00311.061 Trustpower

⁷⁹ 121.094 Ravensdown

⁸⁰ 00125.031 Otago Rock Lobster

⁸¹ 00125.001 Otago Rock Lobster

assessments require suitably qualified and experienced practitioners to integrate information in a holistic manner to come to a professional view as to whether a feature or landscape is outstanding or highly valued. In New Zealand, it is common practice to adopt criteria and tools that have been developed over time during the implementation of the RMA to undertake such landscape assessments. As such, the practice is continually evolving. At the present time, the most current guidance is the New Zealand Institute of Landscape Architects landscape assessment guidelines *Te Tangi a te Manu – Aotearoa New Zealand Landscape Assessment Guideline* (NZILA Tuia Pito Ora, 2021) that aims to assist in landscape assessment for statutory purposes.

95. Due to the nature of landscape assessments, it is difficult to provide the further clarification sought by submitters regarding how assessments will be undertaken. The NZILA Guidelines (2021) emphasise landscape assessment methods should take a reasoned approach based on transparency and explanation rather than prescriptive or standardised methods. The reasons for this are cited as:
- Landscape assessment requires integration of different types of objective and subjective information;
 - Landscapes have different contexts and are valued for a wide range of different reasons;
 - Landscape values arise from the interaction of a landscape’s dimensions rather than the sum of them; and
 - Assessments are carried out for different purposes in the context of different statutory planning provisions (NZILA Tuia Pito Ora, 2021, p. 24).
96. I therefore consider it is not appropriate to elaborate further on how landscape assessments are to be undertaken as it may depend on a number of variables and should be left to expert advice. Any assessment of ONFs, ONLs or HVNFLs and their capacity for modification will need to be supported by a transparent methodology and rationale.
97. In relation to recognising “natural” versus “modified” natural features and landscapes, I consider that this is already a consideration of the assessment. Case law has confirmed that in order to be a “natural” feature or landscape, it is not necessary for it to be pristine and that a spectrum of naturalness exists.⁸² The feature or landscape therefore may meet a certain level or threshold of naturalness containing natural and cultural elements and still be classified as an ONF, ONL or HVNFL. The Environment Court has said that such modified landscapes may contain relatively unmodified and legible landforms, be marked by the presence of vegetation (usually native) and convey a feeling of being uncluttered by structures or obvious human influence.⁸³ With that said, there are few parts of rural New Zealand that are devoid of any signs of human influence so a common-sense approach is to be adopted.
98. Several submitters seek that assessments are informed through consultation with stakeholders and affected landowners with reasons being the subjective nature of attributes and the potential implications under the planning framework. Method NFL-M1

⁸² Long Bay-Okura Great Park Soc Inc v North Shore CC [2008] NZEnvC A078/08

⁸³ High Country Rosehip Orchards Ltd v Mackenzie DC [2011] NZEnvC 387

requires territorial authorities to include in district plans maps that identify outstanding and highly valued natural features and landscapes. In updating district plans, territorial authorities will be required to consult with stakeholders and affected landowners through the Schedule 1 process set out within the RMA, and therefore it is considered unnecessary to include this requirement in the pORPS.

99. With regard to providing for existing or new activities where they do not compromise the values of ONFs, ONLs or HVNFLs, I consider it inappropriate for this detail to be included in the pORPS as these features and landscapes have not yet been identified in accordance with the proposed provisions. The provisions already give an indication that some activities within these areas may be appropriate through requiring the identification of the capacity for modification. However, without this assessment, it would be improper to specify which activities would be compatible with the values of the feature or landscape and it is best determined in the district plan change process. Further discussion regarding the relationship between the NFL provisions and infrastructure is set out below.
100. In relation to the submission from Ravensdown, as noted in the analysis of NFL-P3 below, there does appear to be some confusion regarding the term used to identify Section 7 landscapes with Ravensdown seeking that the term is amended to “visual amenity landscapes”. I understand that varying terms are used throughout regional policy statements and district plans to describe landscapes that meet the requirements of section 7 of the RMA. Terms such as “significant amenity landscape”, “visual amenity landscape”, “rural character landscapes” and “locally distinctive and valued natural features and landscapes” are all used to describe similar features and landscapes. There is no national consistency nor is there an applicable definition in the Planning Standards. For this reason, there is no obvious alternative to adopt. The pORPS has retained the ‘highly valued natural features and landscapes’ term from the pORPS19 and included a definition and identification criteria to provide region-wide consistency to the naming of these areas.
101. OWRUG seeks an amendment to NFL-P1 to clarify that the identification of natural features and landscapes is required to occur across the region and not by consent applicants, and for the maps to be included in the pORPS rather than district plans. I acknowledge that the reason for this would be to avoid any artificial fragmentation and inconsistency of management. However, I note that the pORPS includes a regionally consistent set of identification criteria within APP9 that a district council must use to undertake a landscape assessment. In addition, method NFL-M1 requires that territorial authorities must:
- include in their district plans a map or maps and a statement of the values of the areas of outstanding and highly valued natural features and landscapes;
 - include in their district plans a statement of the capacity of outstanding and highly valued natural features and landscapes to accommodate change in use and development without their values being materially compromised or lost; and

- work together, including with the Regional Council, to identify areas and ensure that the identification of natural features and landscapes are treated uniformly across district boundaries.

102. Based on this, I consider the pORPS is sufficiently clear that consent applicants are not required to undertake the region-wide mapping and that local authorities will manage the identification and management of outstanding and highly valued features and landscapes across jurisdictional boundaries.

103. In relation to the submission from Federated Farmers that seeks an amendment to clause (2) to reflect the drafting of NFL-P2, I agree with this suggested amendment. I consider NFL-O1 sets up a two-tier management framework where ONLs and ONFs are to be protected and HVNFLs are to be maintained or enhanced. Therefore, when identifying capacity of these natural features and landscapes to accommodate use or development, I consider it is appropriate to retain consistency of language. Therefore, I agree with the submitter's addition to NFL-P1(2).

104. With regard to the request from the Otago Rock Lobster, I consider that a marine strategy and non-statutory measures alone are not sufficient to meet the requirements of Part 2 of the RMA. Any mapping of ONFs, ONLs and HVNFLs within the coastal environment will need to be supported by robust analysis for their inclusion in the relevant planning documents. In relation to considering intrinsic fish values, APP9 does allow some consideration of ecological values in identifying seascapes and therefore if areas provide important habitat for fish, for all or parts of the year, this can be considered based on the current criteria.

105. In response to Trustpower, it is not clear what relief the submitter is requesting and how the policy wording does not accord with best practice, therefore no changes are recommended. Further specific information from the submitter would be beneficial to understand their concerns.

106. In relation to amendments to NFL-P1 to require the mapping of features and landscapes, I consider that this is not necessary as it is more relevant to the methods and NFL-M1 requires features and landscapes to be mapped.

14.6.4. Recommendation

107. I recommend amending NFL-P1(2) as follows:

NFL-P1 – Identification

In order to manage outstanding and *highly valued natural features and landscapes*, identify:

[...]

- (2) the capacity of those natural features and landscapes to accommodate use or development while protecting the values that contribute to the natural feature and landscape being considered outstanding or maintaining the

values that contribute to the natural feature and landscape being⁸⁴ highly valued.

14.7. NFL-P2 – Protection of outstanding natural features and landscapes

14.7.1. Introduction

108. As notified, NFL-P2 reads:

NFL-P2 – Protection of outstanding natural features and landscapes

Protect outstanding natural features and landscapes by:

- (1) avoiding adverse *effects* on the values that contribute to the natural feature or landscape being considered outstanding, even if those values are not themselves outstanding, and
- (2) avoiding, remedying or mitigating other adverse *effects*.

109. The wording used in the NFL-P2 provisions regarding the protection and maintenance of outstanding and highly natural features and landscapes is strong and directive. NFL-P2 requires the avoidance of adverse effects on the values that contribute to a natural feature or landscape being considered outstanding, and the avoidance, remediation, or mitigation of other effects.

14.7.2. Submissions

110. Forest and Bird and QLDC support the policy and request that it be retained as notified⁸⁵.

111. Several submitters⁸⁶ seek the removal of avoidance language from the NFL-P2 to recognise that in the Queenstown Lakes District, the majority of the district is considered to be an ONF or ONL and the use of this language makes development and expansion/urbanisation complex.

112. Contact⁸⁷ opposes NFL-P2 as the provision requires blanket avoidance of all adverse effects on values that contribute to natural features and landscapes being considered outstanding which is not consistent with Section 6(b) which requires protection from inappropriate subdivision, use and development. Contact seeks the wording from Section 6(b) is reflected in the policy and only significant adverse effects are to be avoided.

113. DCC⁸⁸ has significant concerns regarding the directive policy language where it may be in conflict with other policies. DCC⁸⁹ seeks amendments to the policy to focus on managing effects on landscape values only and to remove the distinction between effects that

⁸⁴ 239.163 Federated farmers

⁸⁵ 00230.142 Forest and Bird and 00138.191 QLDC

⁸⁶ 00211.036 LAC; 00210.036 Lane Hocking; 00118.063, 00118.065 Maryhill Limited; 00014.063 Mt Cardona Station; 00209.036 Universal Developments

⁸⁷ 00318.034 Contact

⁸⁸ 00139.245 DCC

⁸⁹ 00139.242 DCC

contribute to the outstanding nature of the area and other effects. DCC states that it is likely to be difficult in practice to distinguish between effects on values and other effects.

114. Queenstown Airport⁹⁰ opposes NFL-P2 raising concerns with the blanket requirement to avoid adverse effects. Queenstown Airport states the policy has no regard for the scale or significance of adverse effects that ought to be avoided, even if such effects are minor. The submitter seeks amendments to require only significant adverse effects are avoided and that for infrastructure, EIT-INF-P13 applies instead of NFL-P2.
115. Glenpanel,⁹¹ Trojan,⁹² Trustpower⁹³ Contact,⁹⁴ and Wayfare⁹⁵ seek amendments to NFL-P2 to qualify that outstanding natural features and landscapes are to be protected from inappropriate subdivision, use and development as this is consistent with the obligation set out in Section 6(b) of the RMA. Trojan Holdings and Wayfare Group Ltd also state that there should be no requirement to avoid effects on landscape values which do not contribute to the natural feature or landscape being outstanding.
116. Network Waitaki⁹⁶ and PowerNet Limited⁹⁷ are concerned that policy NFL-P2 goes beyond the requirements of Part 2 of the RMA and the pORPS does little to distinguish between the ONFs and ONLs and those that are HVNFLs as the criteria to identify areas and the policy direction is very similar. They seek the deletion of the policy.
117. Beef + Lamb and Deer Industry⁹⁸ seek an amendment to clause (1) of NFL-P2 to recognise that avoidance of all adverse effects may be neither necessary nor reasonable. They request the policy is amendment to avoid “more than minor” adverse effects on the values that contribute to natural features or landscapes being considered outstanding.
118. Matakanui Gold⁹⁹ considers policy NFL-P2 does not meet the statutory requirements of Section 6(b) of the RMA to protect landscapes from inappropriate development and is internally contradictory. Matakanui Gold seeks a number of amendments to improve clarity and consistency with Section 6(b), including to require that adverse effects on the identified values of an outstanding natural feature or landscape are avoided where there is no capacity to absorb the change.
119. Te Waihanga¹⁰⁰ seeks clarification regarding what is meant by “value” in the context of contributing to an outstanding natural landscape or outstanding natural feature.
120. Graymont¹⁰¹ further seeks recognition in NFL-P2 that existing uses and development form part of the existing landscape and that their continued existence may be consistent with

⁹⁰ 00313.029 Queenstown Airport

⁹¹ 00405.017 Glenpanel

⁹² 00206.064 Trojan

⁹³ 00311.060 Trustpower

⁹⁴ 00318.034 Contact

⁹⁵ 00411.078 Wayfare

⁹⁶ 00320.027 Network Waitaki

⁹⁷ 00511.027 PowerNet Limited

⁹⁸ 00237.061 Beef + Lamb and DINZ

⁹⁹ 00021.019 Matakanui Gold

¹⁰⁰ 00321.036 Te Waihanga

¹⁰¹ 00022.028 Graymont

the values of ONFs, ONLs and HVNFLs. Equally, Off Road Adventures¹⁰² seeks to ensure that existing and new commercial recreational activities, including ancillary or supporting facilities and services, are provided for and that existing residential activities can continue without being compromised by provisions to protect ONFs and ONLs.

121. Toitū Te Whenua¹⁰³ seeks to replace the term “avoid” with “striving to avoid” to recognise in some cases it may not be possible to avoid significant adverse effects and suggests rewording the provisions to avoid “overcommitting”.
122. Alluvium and Stoney Creek,¹⁰⁴ Danny Walker and others,¹⁰⁵ seek amendments to NFL-P2 to recognise the functional need for some activities to located in areas such as outstanding natural landscapes and that if managed appropriately, are not necessarily inappropriate.
123. DoC¹⁰⁶ states that NFL-P2 is inconsistent with the approach taken in the coastal environment under CE-P6 and NZCPS Policy 15(a) as they only require the protection of the “values” of outstanding natural features and landscapes not the features and landscapes themselves.
124. Federated Farmers¹⁰⁷ opposes NFL-P2 as the wording adopted seeks to avoid adverse effects on values which is not consistent with the requirement of section 6(b) of the RMA and there is no other higher order basis for this other than within the coastal environment under the NZCPS. Federated Farmers seeks that the policy is amended to provide for maintaining the values of ONFs and ONLs beyond the coastal environment.
125. I note that several submitters seek exemptions from NFL-P2 for particular activities. These submissions are considered within the ‘Relationship of NFL provisions to other chapters’ discussion in section 14.3.1 of this report.

14.7.3. Analysis

126. In relation to the submitters seeking the deletion of avoidance language from NFL-P2 because within the Queenstown Lakes District, the majority of the district is considered to be an ONF or ONL, I disagree this justifies an amendment. I consider that simply because a district may have a large proportion of its jurisdiction identified as an ONF or ONL, and the related provisions may make development complex, is an insufficient reason alone to not avoid adverse effects that could impact the landscape or feature. This position is supported by the Court of Appeal decision on *Man o War Station Ltd v Auckland Council*¹⁰⁸ where the Court confirmed that questions regarding what restrictions apply to land identified as an ONL do not relate to the quality of the landscape at the time of the assessment, and it would be inappropriate to conclude that an ONL

¹⁰² 00205.003 Off Road Adventures

¹⁰³ 00101.059 Toitū Te Whenua

¹⁰⁴ 00016.023 Alluvium Ltd and Stoney Creek Mining Ltd

¹⁰⁵ 00017.021 Danny Walker and others

¹⁰⁶ 00137.147 DOC

¹⁰⁷ 00239.164 Federated Farmers

¹⁰⁸ *Man o War Station Limited v Auckland Council* [20170 NZCA 24

should not be identified if meant it would not be suitable for a range of activities. The pORPS therefore must be prepared in accordance with the provisions of Part 2.

127. In relation to the submitters seeking the removal of the avoidance language more generally, I note that the Supreme Court, in its decision in *Environmental Defence Society Inc v New Zealand King Salmon Company Limited*¹⁰⁹ (King Salmon), stated that ‘avoid’ has its ordinary meaning of ‘not allow’ or ‘prevent the occurrence of’. Even where a policy uses the term avoid, the Court determined that it may be acceptable to allow activities that have minor or transitory adverse effects without compromising, in that case, the protection of natural features or landscapes. The Supreme Court in the King Salmon case also stated that some activities with minor or transitory effects would not be inconsistent with the absolute criteria to avoid adverse effects where their avoidance is not necessary to protect natural features and natural landscapes.
128. Turning to proposed policy NFL-P2, it states that the adverse effects on the values that contribute to an area being considered outstanding are to be avoided. Broadly, I consider that the strong and directive language used in this policy is necessary to achieve the protection required by NFL-O1 and section 6(b) of the RMA. Therefore, I disagree with the submitters who seek the removal of ‘avoid’ within the policy. However, as identified by Queenstown Airport, NFL-P2 does not identify the scale or significance of adverse effects to be avoided, even if such effects are minor, which the submitter considers is inappropriate. I agree in part with this submission as discussed in the following paragraphs.
129. In relation to submitters seeking qualifiers to the policy to replicate the language in Section 6(b) of the RMA I do agree that Section 6(b) is not a ‘no change’ provision. Section 6(b) requires that the protection of outstanding natural features and landscapes are from inappropriate subdivision, use, and development. Therefore, I agree that the requirement within clause (1) to avoid adverse effects on the values that contribute to the natural feature or landscape being considered outstanding, even if those values are not themselves outstanding, provides a very limited window for further appropriate subdivision, use and development to be undertaken in these areas. As such, I agree that amendments are required to provide more flexibility to contemplate appropriate subdivision, use, and development in ONLs and ONFs. I agree in part with the drafting proposed by Matakanui Gold, who have suggested that the avoidance of adverse effects should be linked to the landscape capacity to absorb change. I consider this focus on the capacity of the landscape aligns with NFL-P1 which requires the identification of:
- the capacity of those natural features and landscapes to accommodate use or development while protecting the values that contribute to the natural feature and landscape being considered outstanding or highly valued.*
130. I consider shifting the focus of NFL-P2 to avoiding development which cannot be absorbed by an ONL or ONF will ensure the protection of these areas while also providing

¹⁰⁹ *Environmental Defence Society Incorporated v The New Zealand King Salmon Company Limits & Ors* [2014] NZSC 38

for additional use of these areas once the landscape capacity of these areas is understood.

131. In relation the submission from Te Waihanga seeking clarification on the meaning of “value” in the context of outstanding natural landscape or outstanding natural feature, I note that the proposed NZILA guidelines state that values are the reasons a landscape is valued – the aspects that are important or special or meaningful. The document goes on to state that they could relate to an aspect of a landscape’s dimensions, or the interaction between dimensions. These values are ascribed by people, even those natural values which may be referred to as intrinsic (NZILA Tuia Pito Ora, 2021). Using APP9 the areas and the values of ONLs, ONFs, and HVNFLs are identified using the attributes set out in APP9. For the purposes of interpreting the pORPS provisions I do not agree that a specific definition of “value” is required.
132. Federated Farmers considers that avoiding adverse effects on values, rather than landscapes or features themselves, is not consistent with section 6(b). I consider that the recommended amendment to NFL-P2 will also address the concerns of Federated Farmers.
133. In response to the submission from LINZ, I consider that it would not be appropriate to replace “avoid” with “striving to avoid” as this may not lead to the required protection of ONLs and ONFs.
134. The relationship between the NFL provisions and other chapters of the pORPS is further discussed below.

14.7.4. Recommendation

135. I recommend amending NFL-P2(1) as follows:

NFL-P2 – Protection of outstanding natural features and landscapes

Protect outstanding natural features and landscapes by:

- (1) avoiding adverse *effects* on the values of the natural features and landscapes where there is limited or no capacity to absorb change¹¹⁰ that contribute to the natural feature or landscape being considered outstanding, even if those values are not themselves outstanding, and

[...]

14.8. NFL-P3 – Maintenance of highly valued natural features and landscapes

14.8.1. Introduction

136. As notified, NFL-P3 reads:

NFL-P3 – Maintenance of highly valued natural features and landscapes

¹¹⁰ 00318.034 Contact Energy Limited

Maintain or enhance *highly valued natural features and landscapes* by:

- (1) avoiding significant adverse effects on the values of the natural feature or landscape, and
- (2) avoiding, remedying or mitigating other adverse *effects*.

14.8.2. Submissions

137. QLDC supports the policy and requests that it be retained as notified¹¹¹.
138. Several submitters¹¹² seek that the recognition of HVNFLs is removed from the pORPS as it is unlikely to be required in the replacement RMA legislation.
139. Meridian¹¹³ seeks that the definition of HVNFLs and NFL-P3 are deleted along with all references to the term from pORPS. Meridian states that the use of the term either alone or in conjunction with ONLs and ONFs is problematic and there is no directive in the RMA to identify such natural features and landscapes. Similarly, Rayonier Matariki Forests¹¹⁴ does not support the identification and management of highly valued landscapes as there is no RMA requirement to do so and the provisions lead to uncertainty regarding the operation of existing forestry activities.
140. Network Waitaki,¹¹⁵ Contact,¹¹⁶ PowerNet,¹¹⁷ and Oceana Gold,¹¹⁸ are concerned that policy NFL-P3 goes beyond the requirements of Part 2 of the RMA and the pORPS does little to distinguish between the ONFs and ONLs and those that are HVNFLs as the criteria to identify areas and the policy direction are very similar.
141. DOC¹¹⁹ states that NFL-P3 is inconsistent with the approach taken in the coastal environment under CE-P6 and NZCPS Policy 15(a) as they only require the protection of the “values” of outstanding natural features and landscapes not the features and landscapes themselves.
142. Graymont¹²⁰ further seeks recognition in policy NFL-P3 that existing uses and development form part of the existing landscape and that their continued existence may be consistent with the values of HVNFLs. Equally, Off Road Adventures¹²¹ seeks to ensure that existing and new commercial recreational activities, including ancillary or supporting facilities and services, are provided for and that existing residential activities can continue without being compromised by provisions to protect and HVNFLs.

¹¹¹ 00138.192 QLDC

¹¹² 00211039 LAC; 00210.039 Lane Hocking; 00118.063 Maryhill Limited; 00014.063, 00014.065 Mt Cardrona Station; 00209.039 Universal Developments

¹¹³ 00306.003, 00306.068, 00306.069, 00306.070; 00306.071, 00306.072, 00306.073, 00306.085 Meridian

¹¹⁴ 00020.024 Rayonier Matariki Forests

¹¹⁵ 00320.028 Network Waitaki

¹¹⁶ 00318.035 Contact

¹¹⁷ 00511.028 PowerNet

¹¹⁸ 00115.03 Oceana Gold

¹¹⁹ 00137.148 DOC

¹²⁰ 00022.029 Graymont

¹²¹ 00205.003 Off Road Adventures

143. Federated Farmers¹²² and Port Otago¹²³ seek greater clarity on which criteria apply for a landscape to be identified as outstanding or highly valued. Federated Farmers also notes there is some inconsistency in the terms used in APP1 and APP9.
144. Federated Farmers¹²⁴ opposes NFL-P3 as the submitter considers the policy goes well beyond that provided for under higher order legislation and perversely provides more protection than that provided for outstanding natural features and landscapes under NFL-P2, which they consider is inappropriate. The submitter seeks that the drafting within the pORPS19 is introduced into the pORPS.
145. Ravensdown¹²⁵ considers that the provisions have incorrectly interpreted sections 7(c) and (f) of the RMA and therefore requests references to “highly valued natural features and landscapes” are deleted. Ravensdown considers that the proposed definition of HVNFLs in the context of the criteria in APP9, actually refers to Section 6(a) and (b) considerations not Section 7. Ravensdown does, however, consider that it is important to identify landscapes in the region that meet the requirements of Sections 6(b) and 7(c) of the RMA and therefore seeks amendments to refer to “visual amenity landscapes”, require the identification of those landscapes and avoid, remedy or mitigate adverse effects on the values that contribute to the overall visual amenity of the landscape.
146. Fulton Hogan¹²⁶ states that the avoidance stance set out in NFL-P3 is potentially unjustified where the particular values of a site have not been confirmed. The policy wording may result in the foreclosure of activities that in reality do not result in an effect or that are still appropriate.
147. Trojan¹²⁷ and Wayfare¹²⁸ state the reference to “other effects” in clause (2) should clarify the assessment is limited to the high valued natural feature of landscape.

14.8.3. Analysis

148. Sections 7(c) and (f) of the RMA require decision makers to have particular regard to the maintenance and enhancement of amenity values and the quality of the environment. It has been common practice throughout New Zealand to identify “visual amenity landscapes” or in the case of the pORPS “highly valued natural features and landscapes” as these areas contribute to the overall amenity and environmental quality of an area and the adverse effects on these locations is appropriate to manage. As these areas are generally more modified than ONFs or ONLs, there is generally an expectation that there is a greater ability to modify land use patterns and activities over time when compared to ONLs or ONFs. However, this change is to be carefully managed to maintain or enhance of the overall values of the area.

¹²² 00239.191 Federated Farmers

¹²³ 00301.003, 00301.056 Port Otago

¹²⁴ 00239.165 Federated Farmers

¹²⁵ 00121.095, 00121.103, 00121.005 Ravensdown

¹²⁶ 00322.035 Fulton Hogan

¹²⁷ 00206.065 Trojan

¹²⁸ 00411.079 Wayfare

149. In response to the submitters seeking the deletion of HVNFLs from the pORPS as it is not likely a requirement under the replacement resource management legislation, I consider that this is not appropriate as the pORPS must be prepared in accordance with the RMA. In order to ensure the pORPS achieves Sections 7(c) and (f) of the RMA, I consider it is appropriate to include provisions relating to HVNFLs.
150. As noted above, there does appear to be some confusion regarding the term used to identify significant landscapes with Ravensdown seeking that the term is amended to “visual amenity landscapes”. I understand that varying terms are used throughout regional policy statements and district plans to describe landscapes that meet the requirements of section 7 of the RMA. Terms such as “significant amenity landscape”, “visual amenity landscape”, “rural character landscapes” and “locally distinctive and valued natural features and landscapes” are all used to describe similar features and landscapes. There is no national consistency nor is there an applicable definition in the Planning Standards. For this reason, there is no obvious alternative to adopt. The pORPS has retained the ‘highly valued natural features and landscapes’ term from the pORPS19 and included a definition and identification criteria to provide region-wide consistency to the naming of these areas.
151. Several submitters are concerned about the assessment of ONFs, ONLs and HVNFLs and how they are to be distinguished. This is particularly in relation to APP9 providing the same criteria for assessing both categories of landscapes and not providing thresholds for distinguishing between the classifications. I am not aware of any national guidance on the thresholds to use to distinguish between natural features and landscapes that are outstanding and those that are highly valued or significant. I consider that this is likely to be determined on a case-by-case basis and best addressed at the time of the assessment by suitably qualified persons. The NZILA guidelines emphasise landscape assessment methods should take a reasoned approach based on transparency and explanation rather than prescriptive or standardised methods (NZILA Tuia Pito Ora, 2021). As such, I consider that there are no changes required to APP9.
152. In terms of establishing separate criteria for HVNFLs, I am not aware of what other landscape assessment criteria would be applicable. The criteria set out in APP9 identify attributes which relate to the assessment of any landscape or effects on landscape values and are the same as those currently included as Schedule 3 in the pORPS19. As discussed above, it is the rating of landscapes against those criteria using an appropriate method for the task that is expected to determine if a landscape meets the threshold for “outstanding” or “highly valued”. In relation to possible confusion between APP1 and APP9, I note that the identification of outstanding water bodies, is a requirement of the NPSFM, whereas the identification of ONLs and ONFs gives effect to the Section 6(b) requirement. Given this I do not think there will be confusion between APP1 and APP9.
153. In response to the Contact Energy, PowerNet, Federated Farmers, Ravensdown, Network Waitaki, and Oceana Gold, seeking amendment to NFL-P3 that would see the removal of clause (1), or similar amendments, I do not think these amendments are justified. I disagree with the submitter that there is little to distinguish between the management of section 6 areas and section 7 areas. As noted in the submission, one includes the

requirement to ‘protect’ and the other includes the requirement to ‘maintain and enhance’. When considering the clauses that support this direction, one includes the requirement to ‘avoid adverse effects’ and the other includes the requirement to ‘avoid significant adverse effects’. I consider these appropriately set up a two-tiered framework for the management of these features and landscapes.

154. In relation to NFL-P3 and Fulton Hogan’s submission, I am unclear why the particular values would not have been confirmed. The provisions require district plans to identify ONFs and ONLs, including a statement of values and their capacity to accommodate changes without compromising or losing those values.¹²⁹ If the values have not been confirmed then the district plan has not given effect to the pORPS, it is likely that if there is a concern about the impacts of an activity on the values of a natural feature or landscape, this will be addressed in a consent process. In assessing the pORPS in a consent process, a consent applicant may need to provide the necessary landscape assessment to determine the values of a site and then the effect of the activity on those values. NFL-P3 requires the maintenance and enhancement of highly valued natural features and landscapes, therefore I consider that the policy is unlikely to foreclose opportunities for activities that are appropriate within the landscape context.

155. In response to Trojan and Wayfare, I consider that the current policy drafting is sufficiently clear, specifically the chapeau, that it is the other effects on the highly valued feature and landscape which are to be avoided, remedied or mitigated.

14.8.4. Recommendation

156. I recommend NFL-P3 is retained as notified.

14.9. NFL-P4 – Restoration

14.9.1. Introduction

157. As notified, NFL-P4 reads:

NFL-P4 – Restoration

Promote restoration of the areas and values of outstanding and *highly valued natural features and landscapes* where those areas or values have been reduced or lost.

14.9.2. Submissions

158. Three submissions were received in support of the policy and seek that it be retained as notified.¹³⁰

159. Ravensdown¹³¹ seeks that NFL-P4 is deleted in its entirety stating that while the concept of restoring degraded landscapes and associated values where appropriate is supported,

¹²⁹ NFL-M1

¹³⁰ 00139.244 DCC, 00138.193 QLDC, 00230.143 Forest and Bird

¹³¹ 00121.096 Ravensdown

the policy does not reflect this intent. Ravensdown states that based on the given criteria and values, the natural landscapes and features protected will not be degraded and therefore restoration is not required.

160. Trojan¹³² and Wayfare¹³³ seek NFL-P4 is amended to specify that it is the restoration of natural values that is to be promoted, not any other value.

14.9.3. Analysis

161. In relation to the submission from Ravensdown, I disagree that the policy should be deleted. I consider that there are a range of restoration methods that can be undertaken to improve the quality of ONLs, ONFs and HVNFLs, and should be promoted. I also note, that promoting the restoration of such areas would achieve the enhancement aspect of objective NFL-O1.

162. In relation to the submissions from Trojan and Wayfare I note that criteria for identifying outstanding and highly valued natural features and landscapes within APP9 include a range of matters which largely relate to 'natural' values. However, the associative attribute includes a range of attributes that are not specifically 'natural'. Therefore, I disagree with the suggested amendment.

14.9.4. Recommendation

163. I recommend NFL-P4 is notified as notified.

14.10. NFL-P5 – Wilding conifers and APP5 - Species prone to wilding conifer spread

14.10.1. Introduction

164. As notified, NFL-P5 reads:

NFL-P5 – Wilding conifers

Reduce the impact of *wilding conifers* on outstanding and *highly valued natural features and landscapes* by:

- (1) avoiding *afforestation* and *replanting of plantation forests* with *wilding conifer* species listed in APP5 within:
 - (a) areas identified as outstanding natural features or landscapes, and
 - (b) buffer zones adjacent to outstanding natural features and landscapes where it is necessary to protect the outstanding natural feature or landscape, and
- (2) supporting initiatives to control existing *wilding conifers* and limit their further spread.

¹³² 00206.066 Trojan

¹³³ 00411.080 Wayfare

165. Policy NFL-P5 sets out direction to reduce the impact of wilding conifers on outstanding and highly valued natural features and landscapes by avoiding afforestation and replating of plantation forests with conifer species within identified outstanding natural features and landscapes in any buffer zones necessary to protect them. Additionally, the policy sets out support for initiatives to control existing wilding conifers. APP5 sets out the species prone to wilding conifer spread.

14.10.2. Submissions

166. QLDC and WAI Wanaka support the policy and request that it be retained as notified¹³⁴.
167. City Forests Limited¹³⁵ seeks that NFL-P5 is amended to acknowledge the existing provisions of the NESPF and the obligations already in place regarding the Wilding Calculator to manage any wilding spread from plantation forests. City Forests Limited also does not support increased buffer zones around ONFs and ONLs beyond those already required by the NESPF without clear scientific evidence of their efficacy.
168. DOC¹³⁶ opposes NFL-P5 as its location within the NFL chapter implies that it is only an issue for outstanding natural features and landscape but that wilding conifers can be problematic for agricultural land use and catchment hydrology. DOC seeks that the policy is relocated to the LF-LS chapter and the content is revisited to address other values that can be impacted.
169. Federated Farmers¹³⁷ is concerned about the requirement to avoid planting in buffer zones around ONLs and ONFs as it is uncertain how large the buffer zones will be. Federated Farmers seeks an amendment to remove reference to buffer zones and instead that planting immediately adjacent to outstanding natural features and landscapes is to be avoided.
170. Rayonier¹³⁸ and Toitū Te Whenua¹³⁹ support in part NFL-P5 but seek that the policy is expanded. Rayonier seeks the inclusion of any forests, shelter belts and amenity plantings, not just plantation forests, and LINZ states that any plantation forests or invasive species, such as lupins, should be prevented from HVNFLs.
171. Waitaki DC¹⁴⁰ seeks NFL-P5 is expanded from just plantation forests to also include carbon forestry. Wayfare¹⁴¹ also seeks that the policy extends to all wilding tree species and is not restricted to wilding conifers, with all planting of such species to be avoided.

¹³⁴ 00138.192 QLDC and WAI Wanaka 00222.015

¹³⁵ 00024.015 City Forests Limited

¹³⁶ 00137.149 DOC

¹³⁷ 00239.167 Federated Farmers

¹³⁸ 00020.023 Rayonier

¹³⁹ 00101.006 Toitū Te Whenua

¹⁴⁰ 00140.031 Waitaki DC

¹⁴¹ 00411.081 Wayfare

172. Five submissions were received on APP5. Beef + Lamb and DINZ¹⁴² support APP5 and seek it is retained as notified. City Forests Limited¹⁴³, Federated Farmers¹⁴⁴ and QLDC¹⁴⁵ seek amendments to APP5. City Forests Limited seeks that heavy seed species, such as radiata pine, are removed from APP5. Federated Farmers seeks the Appendix is deleted and instead the pORPS provides for local authority plans to specify a list of wilding species prone to spread in their district. QLDC seeks that APP5 is amended to identify the wilding species contained in Rule 34.3 of the proposed Queenstown Lakes District Plan. Finally, DCC¹⁴⁶ seeks that APP5 is reviewed by an ecologist to ensure the species are specific to the Otago context. They also suggest that APP5 could be expanded to include other tree species with significant invasive potential that are not conifers.

14.10.3. Analysis

173. The NESPF sets out regulations that relate to the risk plantation forestry poses in terms of wilding conifers. Regulations 11 and 79 require a wilding tree risk calculator score to be applied to any land on which afforestation or replanting with a conifer species is proposed and restricts afforestation in areas with scores of 12 or more. The wilding tree risk calculator is set out in a guideline document (Paul & SCION, 2015) and considers a number of factors in determining the risk of wilding conifers spread.

174. With regard to the DOC request to expand the policy to cover other effects arising from wilding conifers, I consider that this is not required. I note that a similar policy is included in the ECO chapter¹⁴⁷ and there is already policy direction regarding land uses and catchment hydrology.

175. In relation to the management of wilding conifers in any buffer zones around ONFs and ONLs, I consider that no further amendments the pORPS are necessary. The NESPF includes restrictions on afforestation within a significant natural feature or landscape or a visual amenity landscape. There are no buffer distances that apply to natural features or landscapes. In response to Federated Farmers, I consider that the suggested amendments to refer to “immediately adjacent” are also uncertain and given that features and landscapes and buffer distances would need to be identified through a district planning process, there will need to be suitable justification of those distances and an opportunity for debate during a hearing process.

176. In response to submitters’ requests for expanding the provisions to cover additional forestry or plantings and other pest species, I consider that this is largely unnecessary. In relation to other forests, shelter belts and amenity plantings, the level of wilding conifer risk is much lower due to the species type and the area of plantings. Given the extent of conifer-based plantation forestry in Otago, this activity does pose the greatest level of risk. In relation to lupins, while these are a pest and could impact outstanding and highly

¹⁴² 00237.070 Beef + Lamb and DINZ

¹⁴³ 00024.016 City Forests Limited

¹⁴⁴ 00239.188 Federated Farmers

¹⁴⁵ 00138.044 QLDC

¹⁴⁶ 00139.141 DCC

¹⁴⁷ ECO-P9

valued natural features and landscapes, they are not actively planted in the same manner. It is also unclear what other wilding tree species may pose a risk to natural features and landscapes which requires management across the region as suggested by Wayfare. If there are additional wilding tree species that require management, these can be considered at the district plan level. Finally, in relation to Waitaki DC's request to extent NFL-P5 to include carbon forestry, I do consider there is need to capture this activity. Carbon forestry involving the planting of conifer species may occur at a similar scale to that of plantation forestry and is currently not captured by the current provisions due to the use of the terms *afforestation* and *replanting of plantation forests*. I recommend that NFL-P5 is amended to capture carbon forestry in clause (1).

177. In response to City Forests' request to remove heavy seed species from APP5, I consider there is no evidence to support this and APP5 is consistent with the Otago Regional Pest Management Plan (Otago Regional Council, 2019) which identifies radiata pine as a pest. With regard to the request from Federated Farmers to delete APP5 and allow local authorities to specify their own lists, I consider that there is unlikely to be any local variation in wilding species and having a region-wide approach ensures consistency in management. Again, if there are any additional species that need to be included in a district plan, there is nothing in the pORPS which would prevent this. Finally, in relation to QLDC submission, I note that the following resources were reviewed to form a list of species that are found in the Otago region that are prone to wilding spread:

- South Island wilding conifer strategy – Department of Conservation (Harding, 2001)
- Wilding conifers – Otago Regional Council (Otago Regional Council, 2021)
- Wakatipu Wilding Conifer Strategy 2008-2012 (Ledgard, 2009)
- Wakatipu Wilding Conifer Strategy 2013-2017 (Pringle & Willsman, 2013)
- Otago Pest Management Plan 2019-2029 (Otago Regional Council, 2019)
- Ministry for Primary Industries website (Ministry for Primary Industries, 2021)
- New Zealand Wilding Conifer Management Strategy 2015-2030 (Ministry for Primary Industries, 2014)
- Wilding Conifer in New Zealand: Status Report (Froude, 2011)
- Aotearoa New Zealand New Zealand Biodiversity Strategy 2020 (Department of Conservation, 2020)
- Methods for the prioritisation of wilding conifer sites across New Zealand (Wildlands, 2016) (Wildlands report)

178. I note that the difference between the tree species listed within Rule 34.3¹⁴⁸ of the proposed Queenstown Lakes District Plan (QLDC PDP) and the tree species listed within APP5, is that APP5 is restricted to species prone to wilding conifer spread, whereas Rule 34.3 relates to wilding exotic trees more generally. There are nine species of wilding exotic trees listed within Rule 34.3 that are not listed within APP5 (Sycamore, Hawthorn, Boxthorn, Buddleia, Grey willow, Crack willow, Cotoneaster, Rowan, Spanish heath).

¹⁴⁸ Rule 34.3 of the QLDC PDP, sets a prohibited activity for the planting of these trees due to their wilding risk.

These nine additional species are not conifer species, and therefore I do not consider adding these additional species within APP5 is appropriate. As noted above, there is nothing in the pORPS which would prevent district councils adding to this list within their respective district plans.

14.10.4. Recommendation

179. I recommend amending NFL-P5 as follows:

NFL-P5 – Wilding conifers

Reduce the impact of *wilding conifers* on outstanding and highly valued natural features and landscapes by:

(1) avoiding the planting ~~afforestation~~, and replanting of plantation forests and permanent forests¹⁴⁹ with *wilding conifer* species listed in APP5 within:

[...]

14.11. NFL-P6 – Coastal features and landscapes

14.11.1. Introduction

180. As notified, NFL-P6 reads:

NFL-P6 – Coastal features and landscapes

Natural features and landscapes located within the coastal environment are managed by CE-P6 and implementation of CE-P6 also contributes to achieving NFL-O1.

14.11.2. Submissions

181. Harbour Fish¹⁵⁰ opposes NFL-P6 and seeks the provisions are deleted; no reasons are provided.

182. Ravensdown¹⁵¹ seeks that NFL-P6 is deleted in its entirety because it only provides administrative guidance on the interrelationship between provisions and because Policy CE-P6 is self-explanatory.

183. DCC¹⁵² seeks amendments to policy CE-P6 and therefore notes that consequential amendments to NFL-P6 may be required. Those amendments seek to clarify the relationship between the two policies and also the use of “avoidance” language.

184. Transpower¹⁵³ also seeks to address the cross-referencing to CE policies, requesting that NFL-P6 is amended to include reference to CE-P1 to make it clear those provisions also apply in the coastal environment.

¹⁴⁹ 00140.031 Waitaki District Council

¹⁵⁰ 00126.042 Harbour Fish

¹⁵¹ 00121.091 Ravensdown

¹⁵² 00139.246 DCC

¹⁵³ 00314.049 Transpower

14.11.3. Analysis

185. I consider that NFL-P6 provides useful guidance to readers regarding how the NFL provisions relate to other chapters of the pORPS. While it only serves an administrative purpose, this is fundamental to ensure the intended implementation of the pORPS.

186. Regarding amendments to the policy to refer to CE-P1, I consider that this is not required as NFL-P6 expressly states that natural features and landscapes located within the coastal environment are managed by CE-P6.

14.11.4. Recommendation

187. I recommend NFL-P6 is retained as notified.

14.12. NFL-M1 – Identification

14.12.1. Introduction

188. As notified, NFL-M1 reads:

NFL-M1 – Identification

Territorial authorities must:

- (1) include in their *district plans* a map or maps and a statement of the values of the areas of outstanding and *highly valued natural features and landscapes* in accordance with NFL-P1,
- (2) include in their *district plans* a statement of the capacity of outstanding and *highly valued natural features and landscapes* to accommodate change in use and development without their values being materially compromised or lost, in accordance with NFL-P1,
- (3) recognise that natural features and landscapes may span jurisdictional boundaries and work together, including with the Regional Council, to identify areas under (1) to ensure that the identification of natural features and landscapes are treated uniformly across district boundaries, and
- (4) prioritise identification under (1) in areas that are likely to contain outstanding natural features or landscapes and are likely to face development or growth pressure over the life of this RPS.

14.12.2. Submissions

189. QLDC supports the method and seeks that it is retained as notified.¹⁵⁴

190. DOC¹⁵⁵ generally supports the NFL provisions, except where specific amendments are sought.

¹⁵⁴ 00138.195 QLDC;

¹⁵⁵ 00137.146 DOC

191. ECan¹⁵⁶ seeks an amendment to clause (3) of NFL-M1 to require consultation with neighbouring local authorities in identifying outstanding and highly valued natural features and landscapes that span across jurisdictional boundaries. The submitter notes the relief requested is consistent with the Canterbury Regional Policy Statement and that there are at least two areas which might be impacted where consistent management is required.
192. Toitū Te Whenua¹⁵⁷ states, in relation to NFL-M1, that jurisdictional boundary relationships should be extended beyond other regional and district authorities to central government agencies such as LINZ.
193. DCC¹⁵⁸ notes consequential relief may be required in NFL-M1 to address their other submission points.

14.12.3. Analysis

194. NFL-M1 sets out the method for territorial authorities to identify the values of the areas of outstanding and highly valued natural features and landscapes. In response to CRC's request for amendments to clause (3), I agree that the method should recognise the potential for features and landscapes to cross regional boundaries and ensure there is consistency in identification. In response to LINZ, it is not certain how extending the method to capture central government agencies would influence the identification of features and landscapes. The submitter could provide further information to explain how central government agencies such as LINZ should influence this process.

14.12.4. Recommendation

195. I recommend amending NFL-M1 as follows:

NFL-M1 – Identification

Territorial authorities must:

[...]

- (3) recognise that natural features and landscapes may span jurisdictional boundaries and work together, including with the Regional Council and adjoining Regional Councils,¹⁵⁹ to identify areas under (1) to ensure that the identification of natural features and landscapes are treated uniformly across district boundaries and, where appropriate, regional boundaries,¹⁶⁰ and

[...]

¹⁵⁶ 00013.016 ECan

¹⁵⁷ 00101.061 Toitū Te Whenua

¹⁵⁸ 00139.247 DCC

¹⁵⁹ 00013.016 CRC

¹⁶⁰ 00013.016 CRC

14.13. NFL-M2 – Regional plans

14.13.1. Introduction

196. As notified, NFL-M2 reads:

NFL–M2 – Regional plans

Otago Regional Council must prepare or amend and maintain its regional plans to:

- (1) control the use and development of *water bodies*, the *beds of rivers and lakes*, and *wetlands* in order to protect outstanding natural features and landscapes in accordance with NFL–P2, and maintain and enhance *highly valued natural features or landscapes* in accordance with NFL–P3, and
- (2) provide for and encourage activities undertaken for the primary purpose of restoring *highly valued natural features or landscapes* in accordance with NFL–P4.

14.13.2. Submissions

197. QLDC and Beef + Lamb and DINZ support the method and seek that it is retained as notified.¹⁶¹

198. DOC¹⁶² generally supports the NFL provisions, except where specific amendments are sought.

14.13.3. Analysis

199. No analysis is required, given the submissions support the method.

14.13.4. Recommendation

200. I recommend NFL-M2 is retained as notified.

14.14. NFL-M3 – District plans

14.14.1. Introduction

201. As notified, NFL-M3 reads:

NFL–M3 – District plans

Territorial authorities must prepare or amend and maintain their district plans to:

- (1) control the subdivision, use and development of land and the use of the surface of water bodies in order to protect outstanding natural features or landscapes in accordance with NFL–P2, and maintain and enhance highly valued natural features or landscapes in accordance with NFL–P3,

¹⁶¹ 00138.196, QLDC; 00237.062 Beef + Lamb and DINZ

¹⁶² 00137.146 DOC

- (2) provide for and encourage activities undertaken for the primary purpose of restoring highly valued natural features or landscapes in accordance with NFL–P4, and
- (3) manage wilding conifer spread in accordance with NFL–P5.

14.14.2. Submissions

202. QLDC supports the method and seeks that it is retained as notified.¹⁶³
203. Federated Farmers¹⁶⁴ seeks an amendment to NFL-M3 noting there is some confusion between Regional and District functions particularly in regard to the use of surface water bodies. Given the Regional Council roles under NFL-M2(1), Federated Farmers seeks the deletion of surface water body use from NFL-M3(1).
204. DCC¹⁶⁵ notes consequential relief may be required in NFL-M3 to address their other submission points.

14.14.3. Analysis

205. I disagree with the relief requested by federated Farmers for amendments to clarify roles relating to surface water bodies. NFL-P3(1) correctly captures the roles of territorial authorities in managing activities on the surface of water bodies as set out in section 31 of the RMA.

14.14.4. Recommendation

206. I recommend NFL-M3 is retained as notified.

14.15. NFL-M4 – Other incentives and mechanisms

14.15.1. Introduction

207. As notified, NFL-M4 reads:

NFL–M4 – Other incentives and mechanisms

Local authorities are encouraged to consider the use of other mechanisms or incentives to assist in achieving the outcomes sought by the policies in this chapter, including:

- (1) funding assistance for restoration projects (for example, through the Regional Council’s ECO Fund),
- (2) purchase of land that forms part of a natural feature or landscape,
- (3) development or design guidelines (for example, colour palettes for structures in or on natural features or landscapes),

¹⁶³ 00138.197 QLDC

¹⁶⁴ 00239.169 Federated Farmers

¹⁶⁵ 00139.248 DCC

- (4) rates relief for land that is protected due to its status as an outstanding natural feature or landscape,
- (5) education and advice,
- (6) waiver or reduction of processing fees for activities where the primary purpose is to enhance the values of highly valued natural features or landscapes, and
- (7) advocating for a collaborative approach between central and local government to fund and carry out wilding conifer control.

14.15.2. Submissions

208. Kāi Tahu ki Otago supports the method and seeks that it is retained as notified.¹⁶⁶
209. DOC¹⁶⁷ generally supports the NFL provisions, except where specific amendments are sought.
210. Federated Farmers¹⁶⁸ seeks that a funding mechanism is adopted similar to that provided in NFL-M4 but specifically for landscape restoration and enhancement in order to achieve NFL-P4. Federated Farmers supports restoration but says it will be easier for landowners to achieve where there are mechanisms in place to support landowners. In relation to the mechanism described in NFL-M4, Federated Farmers¹⁶⁹ states that the method is currently too weak and seeks amendments to simply encourage local authorities to provide incentives rather than considering them. Federated Farmers supports the use of such tools but notes that the fund should be independent of the Ecofund¹⁷⁰.
211. QLDC¹⁷¹ opposes clauses (2), (4) and (6) of NFL-M4 which set out other incentives and mechanisms to protect outstanding and highly valued natural features and landscapes. QLDC states that the listed methods will have disproportionate costs for the Council as 95% of the District is identified as a natural feature or landscape. QLDC considers that the method sets an unreasonable expectation particularly in relation to land purchase or rates relief mechanisms.

14.15.3. Analysis

212. I note that the current drafting does not reflect any obligation for local authorities to provide funding to achieve the outcomes sought by the pORPS, and therefore amendments are not required. I consider the current wording does not set an expectation that funding will be available but equally, it promotes funding in order to manage impacts and enhance features and landscapes. In relation to a funding mechanism to support NFL-

¹⁶⁶ 00226.305 Kāi Tahu ki Otago

¹⁶⁷ 00137.146 DOC

¹⁶⁸ 00239.166, 00239.168 Federated Farmers

¹⁶⁹ 00239.170 Federated Farmers

¹⁷⁰ <https://www.orc.govt.nz/our-council-our-region/eco-fund>

¹⁷¹ 00138.198 QLDC

P4, I consider that the current wording of NFL-M4 already captures this, specifically the chapeau and clause (1).

14.15.4. Recommendation

213. I recommend NFL-M4 is retained as notified.

14.16. NFL-E1 – Explanation

14.16.1. Introduction

214. As notified, NFL-E1 reads:

NFL-E1 – Explanation

The policies in this chapter are designed to require outstanding and *highly valued natural features and landscapes* to be identified using regionally consistent attributes, then managing activities to either protect outstanding natural features and landscapes in accordance with section 6(b) of the RMA 1991 or maintain *highly valued natural features or landscapes* in accordance with section 7 of the RMA 1991. This distinction recognises that these areas have values with differing degrees of significance and that, generally, those classified as ‘highly valued’ will have greater capacity to accommodate *land* use change and development without values being adversely affected. The policies seek to control the impact of *wilding conifers* which are a particular threat to Otago’s natural features and landscapes, in a way that recognises the regulations in the NESPF.

14.16.2. Submissions

215. QLDC supports the explanation and seeks that it is retained as notified.¹⁷²

216. Federated Farmers¹⁷³ states that the provisions of the NFL chapter are not consistent with the explanation and therefore seek the provisions are amended accordingly.

14.16.3. Analysis

217. In response to Federated Farmers’ concern regarding the alignment of provisions with the explanation, based on the recommended amendments to the provisions, the explanation has been reviewed and no changes to the explanation section are proposed.

14.16.4. Recommendation

218. I recommend NFL-E1 is retained as notified.

¹⁷² 00138.199 QLDC

¹⁷³ 00239.171 Federated Farmers

14.17. NFL-PR1 – Principal reasons

14.17.1. Introduction

219. As notified, NFL-PR1 reads:

NFL-PR1 – Principal reasons

Natural features include resources that are the result of natural processes, particularly those reflecting a particular geology, topography, geomorphology, hydrology, ecology, or other physical attribute that creates a natural feature or combination of natural features. Landscapes include the natural and physical attributes of *land* together with air and *water*, which change over time and which is made known by people’s evolving perceptions and associations. Natural features and landscapes also have significant cultural value to Kāi Tahu. There are many sites of significance across Otago, reflecting the relationship of Kāi Tahu with the *land, water* and sea.

The provisions in this chapter assist in protecting Otago’s outstanding and *highly valued natural features and landscapes* by requiring:

- the identification of outstanding and *highly valued natural features and landscapes* using regionally consistent criteria,
- the protection of outstanding natural features and landscapes and maintenance of *highly valued natural features and landscapes*,
- an ongoing reduction in the impact of *wilding conifers* on natural features and landscapes, and
- specified actions on the part of Otago’s *local authorities* in managing natural features and landscapes.

Implementation of the provisions in this chapter will occur primarily through *regional* and *district plan* provisions, however *local authorities* may also choose to adopt additional non-regulatory methods to support the achievement of the objectives.

14.17.2. Submissions

220. QLDC supports the principal reason and seeks that it is retained as notified.¹⁷⁴

14.17.3. Analysis

221. No analysis is required, given the submissions support the method.

14.17.4. Recommendation

222. I recommend NFL-PR1 is retained as notified.

¹⁷⁴ 00138.200 QLDC

14.18. Anticipated Environmental Results

14.18.1. Introduction

223. As notified, the NFL-AER's read:

NFL-AER1 The number, type, extent and distribution of identified outstanding and *highly valued natural features and landscapes* are maintained over the life of this RPS.

NFL-AER2 The values of outstanding and *highly valued natural features and landscapes* are not reduced or lost.

NFL-AER3 Within areas identified as outstanding or *highly valued natural features or landscapes*, the area of *land* vegetated by *wilding conifers* is reduced over the life of this RPS.

14.18.2. Submissions

224. QLDC supports all three AERs and seeks that they are retained as notified.¹⁷⁵

14.18.3. Analysis

225. No analysis is required, given the submissions support the method.

14.18.4. Recommendation

226. I recommend NFL-AER1, NFL-AER2 and NFL-AER3 are retained as notified.

14.19. APP9 – Identification criteria for outstanding and *highly valued natural features, landscapes* and seascapes

14.19.1. Introduction

227. APP9 sets out the criteria for identifying the areas and values of outstanding and highly valued natural features, landscapes and seascapes. The criteria are categorised into physical attributes, sensory attributes and associative attributes.

14.19.2. Submissions

228. 16 submissions were received on APP9. Beef + Lamb and DINZ¹⁷⁶ as well as QLDC¹⁷⁷ support the Appendix and seek it is retained as notified.

229. Trojan¹⁷⁸ and Wayfare¹⁷⁹ state that APP9 fails to take into account the recreation and amenity focus of section 7(c) (RMA) values or require a comparison with other natural

¹⁷⁵ 00138.201, 00138.202, 00138.203 QLDC

¹⁷⁶ 00237.072 Beef + Lamb and DINZ

¹⁷⁷ 00138.204 QLDC

¹⁷⁸ 00206.077 Trojan

¹⁷⁹ 00411.096 Wayfare

features and landscapes within a district. Wayfare seeks that the APP9 is expanded to include criteria that encompass use values associated with people’s appreciation of the use of resources, including waterbodies.

- 230. Fulton Hogan¹⁸⁰ states that APP9 does not put in place a process for identifying HVNFL using regionally consistent attributes as described in NFL-E1; rather it just provides a broad list of features. The result is a level of uncertainty surrounding the impact of the policies.
- 231. The Telecommunications Companies¹⁸¹ state that the Regional Council should explore the opportunity for the identification criteria of APP9 to be updated to reflect Te Tangi a te Manu – Aotearoa New Zealand Landscape Assessment guidelines which have been developed collaboratively and recognised by Te Tau a Nuku and the New Zealand Institute of Landscape Architects (NZILA Tuia Pito Ora, 2021).
- 232. DOC¹⁸² generally supports APP9 however states there is ongoing development in the understanding of natural features, landscapes and seascapes and therefore there is the potential to further develop the criteria.
- 233. Fish and Game¹⁸³ seeks that APP9 is developed further to include criteria or thresholds to enable decisions to be made if a natural feature, landscape or seascape is outstanding. Additionally, as the Appendix also relates to HVNFL, the criteria should be expanded so that it more explicitly encompasses the use values associated with people’s appreciation of and recreational use of waterbodies.
- 234. Trustpower¹⁸⁴ supports the need for the pORPS to include an appendix to address the identification of natural features and landscapes but notes the current wording does not align with best practice. The submission does not include any suggested amendments to APP9.
- 235. Otago Rock Lobster¹⁸⁵ seeks that outstanding and highly valued features in Otago’s seascape should include interests for fisheries management with intrinsic fisheries values and that taking action needs to be informed by evidence rather than desktop assessments.

14.19.3. Analysis

- 236. With regard to the requests from submitters for APP9 to include use values associated with people’s appreciation of use of resources, I consider the current criteria already encompasses these values within the associative attributes within APP9. The example of associative factors given in the proposed NZILA guidance does specifically note “landscape values associated with identity such as attributes which are emblematic for an area, places that are central to a community” (2021, p. 39) such as recreational use.

¹⁸⁰ 00322.035 Fulton Hogan

¹⁸¹ 00310.015 The Telecommunications Companies

¹⁸² 00137.161 DOC

¹⁸³ 00231.095 Fish and Game

¹⁸⁴ 00311.066 Trustpower

¹⁸⁵ 00125.010 Otago Rock Lobster

Similarly, the telecommunications companies seek that the criteria in APP9 are updated to reflect the NZILA guidelines.

237. I note that the three attributes listed within APP9 (physical attributes, sensory attributes, associate attributes) are largely aligned with the three 'Typical factors' (physical, associative, perceptual) listed within NZILA guidelines, albeit that the NZILA guidelines include more detail within each of these three dimensions. Given the general attribute categories and examples are reflected in the NZILA list and are based on current case law, I consider the current criteria do reflect current practice and provide the required certainty and consistency for the regional identification of ONFs, ONLs and HVNFLs.
238. In response to Trojan and Wayfare's comments regarding undertaking a comparison test across features and landscapes within a district, I do not consider this is required. I note that there is no limitation on the number of features or landscapes that can meet the adopted thresholds and a district may have many identified locations or values or none. It is the identification assessment methodology which is the critical factor in determining which features or landscapes or values are to be protected or maintained.
239. In relation to Fulton Hogan's comments regarding APP9 and NFL-E1, I have reviewed NFL-E1 and consider there are no inaccuracies in the description as it does not refer to APP9.
240. Fish and Game seeks that the Appendix is expanded further to set out how decisions are made regarding the thresholds to determine if a landscape or feature is outstanding or highly valued. As already described above, there is no rigid or defined set of thresholds or a checklist that can be adopted and the best practice guidance recommends that methods for determining if a landscape is to be identified or not, are best left to expert assessment and opinion. As such, I do not recommend any changes to APP9.
241. In response to Trustpower, it is not clear how the current wording of APP9 does not align with best practice. I invite the submitter to provide further details to enable further consideration of their submission.

14.19.4. Recommendation

242. I recommend APP9 is retained as notified.

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