
**SECOND BRIEF OF SUPPLEMENTARY EVIDENCE OF FELICITY ANN BOYD
INTRODUCTION AND GENERAL THEMES & LF (MINERAL EXTRACTION)**

Qualifications and Experience

- 1 My qualifications and experience are set out in paragraphs 1 to 3 of my first statement of supplementary evidence on *Introduction and general themes* dated 11 October 2022.

Code of Conduct

- 2 I have read and agree to comply with the Environment Court’s Code of Conduct for Expert Witnesses, contained in the Environment Court Practice Note 2023. I have complied with the Code in preparing my evidence. Other than where I state that I am relying on the advice of another person, I confirm that the issues addressed in this statement of evidence are within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

Scope of Evidence

- 3 On 27 January 2023, the Hearing Panel directed:

“...s.42A report writers to reconsider whether to advance potential amendments to various affected chapters of the pOPRS to address effects arising from any potential consent pathway for mineral extraction activities, in response to evidence advanced by Claire Hunter for Oceana Gold (NZ) Limited”.

- 4 This supplementary statement of evidence provides my response to the amendments sought by Ms Claire Hunter for Oceana Gold Limited (OGL) to the parts of the pORPS that I am the reporting officer for:

- 4.1 Introduction and general themes (paras 5.1-5.4 of Ms Hunter’s evidence-in-chief);
- 4.2 IM – Integrated management (paras 8.6-8.9); and
- 4.3 LF – Land and freshwater (paras 5.5-5.14 and 10.1-10.6).

- 5 Ms Hunter seeks amendments to a number of chapters of the pORPS for which I am not the reporting officer. The relevant officers have prepared separate statements outlining their response to the amendments sought. There has been discussion between the officers about the package of amendments as a whole in addition to the individual consideration by each officer:
- 5.1 Jacqui Todd – SRMR;
 - 5.2 Hannah Goslin – AIR;
 - 5.3 Melanie Hardiman – ECO;
 - 5.4 Andrew MacLennan – CE, HAZ, and NFL;
 - 5.5 Angela Fenemor – HCV; and
 - 5.6 Liz White (UFD).
- 6 Some parts of Ms Hunter’s proposed policy relate to provisions included in the Freshwater Planning Instrument (FPI) part of the pORPS. For completeness, I have discussed these provisions in my evidence and shaded them blue for ease of reference. I have limited my recommendations to provisions that are not included in the FPI.
- 7 I have structured my evidence in the same way as Ms Hunter’s statement so that it is clear how each of her points have been responded to. In some cases this is by reference to statements by other authors.
- 8 This statement of evidence should be read alongside my other statement of evidence on the implications of the amendments to the NPSFM made in December 2022.
- 9 Where I have recommended additional amendments to provisions, my recommendations are shown in addition to my original section 42A recommendations. The key below sets out how these different recommendations are shown.

Key to proposed amendments

Appearance	Explanation
Black text	Text as notified.
Black text with <u>underlining</u> or striketrough	Amendments recommended in section 42A report.

Red text with <u>underlining</u> or strikethrough	Amendments recommended in first statement of supplementary evidence dated 11 October 2022.
Brown text with <u>underlining</u> or strikethrough	Amendments recommended in second statement of supplementary evidence dated 21 October 2022.
Green text with <u>underlining</u> or strikethrough	Additional amendments recommended this fourth statement of supplementary evidence dated 24 February 2023.

- 10 In the same way as the original section 42A report recommendations, the scope for all proposed amendments is included as a footnote in the amended provisions.

Introduction and general themes: Primary production and mineral extraction

- 11 At paragraphs 5.1-5.4 Ms Hunter responds to my s42A and supplementary evidence recommendations in relation to the use of the (defined) term “primary production” in relation to highly productive land. Ms Hunter agrees that replacing this with “land-based primary production” in LF-LS-O11, LF-LS-P19, LF-LS-E4, LF-LS-PR4, and UFD-P7 as a result of the National Policy Statement for Highly Productive Land 2022 (NPSHPL) coming into force is appropriate.¹

- 12 Ms Hunter concludes that the effect of this amendment is that:

“...none of the notified provisions as they relate to “primary production” would apply to mining and other extraction industries. In my opinion, this results in a significant gap in the drafting of the PORPS, and I agree with OceanaGold’s submission that new objectives and policies need to be inserted into the policy document to recognize and provide for the significance of mining in the Otago Region specifically.”²

- 13 I agree that replacing “primary production” with “land-based primary production” in LF-LS-O11, LF-LS-P19, LF-LS-E4, LF-LS-PR4, and UFD-P7 as I have recommended means that there are no longer specific provisions providing for mining on highly productive land, but I do not agree that this results in a significant gap in the drafting of the pORPS. The provisions above are not the only provisions in the pORPS that apply to mining.

¹ Para 5.2

² Para 5.3

14 Ms Hunter sets out the definition of “primary production” at para 5.1 of her evidence. That definition includes mining and quarrying activities. Therefore, any reference to primary production in the pORPS is applicable to mining and quarrying. The term “rural industry” is also used in the pORPS, particularly in the UFD chapter. In his s42A report on the UFD chapter, Mr Kyle Balderston recommended including the mandatory definition of this term set out in the National Planning Standards.³ That definition reads:

...an industry or business undertaken in a rural environment that directly supports, services, or is dependent on primary production

15 Any reference to rural industry in the pORPS is therefore also applicable to mining and quarrying through the reference to primary production.

16 **Appendix 1** to this statement contains all of the provisions in the pORPS that relate to primary production and/or rural industry. In summary:

16.1 The importance of primary production and the types of effects that impact primary production are recognised throughout the SRMR section;⁴

16.2 The management of Otago’s rural areas facilitates primary production and rural industry, including by recognising the importance of mineral and aggregate resources for the provision of infrastructure and the social and economic well-being of Otago’s communities and the locational constraints on these activities;⁵

16.3 In rural areas, the establishment of activities that could adversely affect (including by way of reverse sensitivity) existing or potential primary production or rural industry activities are restricted;⁶

16.4 The establishment, development, or expansion of rural lifestyle and rural residential areas only occurs where the impacts on existing primary production and rural industry activities are minimised;⁷

³ Chapter 15: UFD – Urban form and development. (27 April 2022), section 15.4.4

⁴ SRMR-I1 – Context (para 2), SRMR-I3 – Statement, SRMR-I4 – Impact snapshot – Environmental (para 2), SRMR-I4 – Impact snapshot – Economic (para 1, bullet 1), SRMR-I7 – Impact snapshot – Economic (para 1), SRMR-I8 – Context (para 2), SRMR-I10 – Statement.

⁵ UFD-P7(4)

⁶ UFD-P7(6)

⁷ UFD-P8(3).

- 17 In my view, these provisions recognise and provide for mining activities in Otago and address potential reverse sensitivity effects from nearby activities. I do not agree with Ms Hunter that there is a significant gap in the pORPS.
- 18 Ms Hunter notes that OGL proposed additional amendments to the LF-LS, ECO, and UFD chapters of the pORPS to address this gap which were considered through the supplementary evidence of myself (LF-LS), Ms Melanie Hardiman (ECO), and Ms Liz White (UFD). I have addressed these in the sections below.

Amendments to the LF-LS – Land and soil chapter

- 19 Ms Hunter proposes a new objective and policy for the LF-LS chapter, set out in Appendix 2 of her evidence. The objective reads:

LF-LS-O13 – Resource Use and Development

To recognise the role of resource use and development within the Otago region and its contribution to enabling people and communities to provide for their social, economic and cultural wellbeing.

- 20 This objective was previously proposed by OGL after pre-hearing discussions and I provided my response in my supplementary evidence.⁸ Ms Hunter does not address the concerns I raised with the provision in my supplementary evidence, which are:

OGNZL's proposed new objective LS-LF-O13 is broad, seeking to recognise the role of resource use and development within Otago and its contribution to enabling people and communities to provide for their social, economic, and cultural wellbeing. The objective relates to all resource use but is set within the LF-LS – Land and soil subsection, which only manages land and soil resources. Even with the addition of the new policy sought by OGNZL, the suite of policies in this subsection would be unlikely to achieve the objective as they do not collectively address all resource use and development.

- 21 I continue to have the same concern about the appropriateness of this objective in the LF-LS section.

⁸ Brief of supplementary evidence of Felicity Ann Boyd: Introduction and General Themes

22 The second change proposed by Ms Hunter to the LF-LS section is a new policy:

LF-LS-PX – Access to Mineral Resources

Management of the region’s land appropriately recognises:

- (1) The need for mineral and aggregate resources to be available for lifeline utilities; infrastructure and housing; economic development; or to be used for environmental remediation;
- (2) The functional and operational constraints in terms of accessing mineral and aggregate resources in the region;
- (3) The potential benefits of further development of the region’s minerals and aggregate resources in appropriate locations and providing for the continued operation and maintenance of existing activities;
- (4) The need to manage the adverse effects of mineral or aggregate extraction activities by:
 - a. Avoiding, as the first priority, locating in any of the following:
 - i. Significant natural areas;
 - ii. Outstanding natural features and landscapes;
 - iii. Natural wetlands;
 - iv. Outstanding water bodies;
 - v. Areas of high or outstanding natural character;
 - vi. Area of places of significant or outstanding historic heritage;
 - vii. Wāhi tupuna and areas with protected customary rights, and
 - viii. Area of high recreational and high amenity value.
 - b. If it is not practicable to avoid locating in areas listed in (a) above because of the functional needs or operational needs of the mineral extraction activity, manage adverse effects as follows:
 - i. In significant natural areas, in accordance with National Policy Statement for Indigenous Biodiversity;
 - ii. In waterbodies and natural wetlands in accordance with the relevant provisions in the National Policy Statement for Freshwater Management and the NESF;
 - iii. In relation to wāhi tupuna in accordance with HCV-WT-P2;

- iv. In areas of outstanding natural character or landscapes in the coastal environment in accordance with the New Zealand Coastal Policy Statement; and
- v. In all other areas remedy or mitigate the adverse effects of the mineral extraction activity on the values that contribute to the area's importance.
- c. Avoiding unmitigated risk on the health and safety of people and the community, including through appropriate natural hazard management.

- 23 This is the same policy proposed by OGL earlier and addressed in my supplementary evidence. In essence, I was concerned about the broad scope of this policy and was not convinced by the justification provided by OGL for needing all of the types of 'carve-outs' provided by this policy. I understand it is this matter the panel primarily is seeking further evidence on.
- 24 As a general observation, I note that Mr Christensen for OGL states in his legal submissions that "[un]like the Partially Operative RPS, the PORPS fails to make appropriate provision for the ongoing needs of mining in Otago, and at Macraes Mine in particular."⁹ The inference here is that the Partially Operative RPS does make appropriate provision. I have compared Policy 5.4.8 in the Partially Operative RPS with proposed policy LF-LS-Px sought by OGL in **Appendix 2**. In my view, Policy 5.4.8 is considerably more stringent than what OGL is now seeking. I do not consider there is justification in the evidence from OGL for seeking a more permissive regime compared to the Partially Operative RPS.
- 25 I note that proposed LF-LS-Px sets out a management framework for mining within significant natural areas (LF-LS-Px(4)(a)(i) and (b)(i)). On my reading, this would mean that the provisions managing significant natural areas in the pORPS¹⁰ would not apply to mining within these areas, instead applying the provisions of the exposure draft National Policy Statement for Indigenous Biodiversity (draft NPSIB). However, Ms Hunter has separately proposed amendments to the relevant ECO provisions to provide a pathway for mining.¹¹ It is not clear to me whether these proposals (i.e. the new LF-LS policy and the ECO amendments) are intended to be

⁹ Para 19.

¹⁰ ECO-P3, ECO-P4, ECO-P5.

¹¹ Set out in paragraphs 11.13 to 11.32 and Appendix C of her evidence-in-chief.

progressed together or whether they are alternative options for managing mining in significant natural areas, and, if that is the case, which Ms Hunter prefers. Ms Fenemor notes in her evidence that the same question arises with regard to the HCV chapter.

26 I have set out my response to Ms Hunter’s proposed policy LF-LS-Px below in three parts:

26.1 The scope of the policy;

26.2 Clauses (1) to (3) – matters for decision-makers to recognise in decision-making; and

26.3 Clause (4) – framework for managing adverse effects.

Scope of the policy

27 The subject of Ms Hunter’s proposed policy LF-LS-Px is described as “mineral and aggregate resources”. When making decisions on the management of Otago’s land, three particular matters must be considered (clauses (1) to (3)) and adverse effects managed in particular ways (clause (4)).

28 OGL has a significant mining operation at Macraes. However, there are many other mineral and aggregate extraction activities occurring in Otago at a far smaller scale than at Macraes – for example, recreational gold mining and small-scale aggregate extraction (such as to replenish farm tracks).

29 In her discussion of the reasons for proposed LF-LS-Px, Ms Hunter refers to the drafting of policy EIT-INF-P13 which provides a framework for managing adverse effects relating to infrastructure (including nationally and regionally significant infrastructure). She has also adopted large parts of EIT-INF-P13(1) and (2) in proposed LF-LS-Px(4). One major difference between these two policies is that EIT-INF-P13 contains some direction that is specifically for nationally or regionally significant infrastructure (i.e. EIT-INF-P13(2)(a)) that, in Ms Hunter’s LF-LS-Px, is applied to all mineral and aggregate extraction activities, regardless of their scale or significance.

30 In comparison, there is also a lower threshold for managing adverse effects that are not specifically addressed elsewhere in the policies: in EIT-INF-P13(2)(b), infrastructure that is not nationally or regionally significant must

still avoid adverse effects on the values that contribute to an area's outstanding nature or significance; in LF-LS-Px(4)(b)(v), the direction is to remedy or mitigate adverse effects on the values that contribute to an area's importance.

- 31 Ms Hunter notes the pathways provided for mineral and aggregate extraction in the National Policy Statement for Freshwater Management 2020 (NPSFM), National Environmental Standard for Freshwater 2020 (NESF) and the National Policy Statement for Highly Productive Land 2022 (NPSHPL).¹² I agree those instruments do provide a pathway, however I note that, like EIT-INF-P13, those pathways contain a 'national or regional significance' test which narrows their application.
- 32 Clause 3.22(1) of the NPSFM sets out a mandatory policy for inclusion in regional plans that manages activities occurring in natural wetlands. Clauses (d) and (e) of that policy provide a specific pathway for quarrying and mineral extraction (respectively). In order to use the pathway provided, both activities must provide "significant national or regional benefits."
- 33 In the same vein, clause 9.2 of the NPSHPL sets out how highly productive land will be protected from inappropriate use or development. Clause 3.9(2)(j)(iii) provides a pathway for mineral extraction "that provides significant national public benefit that could not otherwise be achieved using resources within New Zealand" and (iv) for aggregate extraction "that provides significant national or regional public benefit that could not otherwise be achieved using resources within New Zealand." The exposure draft of the NPSIB provides a similar pathway, requiring that mineral extraction "provides significant national public benefit that could not otherwise be achieved domestically."
- 34 I do not consider that a 'blanket' pathway for all types of mineral and aggregate extraction as set out in LF-LS-Px is appropriate. In my view, if the panel is minded to adopt the policy proposed by Ms Hunter, its scope should be limited to activities with regionally or nationally significant benefits only.

¹² Para 5.20.

Clauses (1) to (3) – matters for decision-makers to recognise in decision-making

- 35 Clauses (1) to (3) of LF-LS-Px set out matters for decision-makers for the management of Otago's land resource to recognise. I responded to this proposal previously by recommending amendments to UFD-P7(4) that capture largely the same matters as clauses (1) and (2). I consider UFD-P7(4) to be more directive than proposed LF-LS-Px because it requires *facilitating* primary production (including mining and aggregate extraction) as well as recognising these matters.
- 36 Since directing this evidence be prepared, the hearing panel has invited informal caucusing on the significant resource management issues for the region amongst parties seeking an additional issue statement, including OGL. Depending on the outcome of that process, and the hearing panel's final recommendations, I consider there is potential for that process to provide some of the recognition OGL is seeking in LF-LS-Px.
- 37 It appears proposed clause (3) is intended to address new development of mineral resources, however the pORPS equivalent to the previous two clauses (UFD-P7(4)) is not restricted to existing activities so I am not convinced that clause (3) is necessary.

Clause (4) – framework for managing adverse effects

- 38 Clause (4) is the 'engine room' of the proposed policy. Clause (4)(a) requires avoiding, as the first priority, locating mineral and aggregate extraction activities in listed areas. If it is not practicable to avoid locating in these areas due to functional or operational needs, adverse effects are to be managed in specific ways set out in (i) to (v) and (c).
- 39 To inform my evidence I have examined, for each area listed in clause (4)(a) and (b), the approach to managing adverse effects set out in LF-LS-Px, the comparable provision(s) for managing those adverse effects in the pORPS, and the key direction from higher order documents. This is attached as **Appendix 3** and should be read alongside the following sections of my evidence. As previously outlined, I have also compared LF-LS-Px briefly against the current requirements in the Partially Operative RPS.

Significant natural areas (SNAs)

- 40 LF-LS-Px(4)(a) requires avoiding, as the first priority, locating in SNAs and where that is not practicable, (4)(b)(i) requires managing adverse effects on SNAs in accordance with the NPSIB. That NPS has not been gazetted and is still in draft form. For the purposes of my analysis, I have assumed this reference should be read as referring to the exposure draft NPSIB.
- 41 The exposure draft NPSIB manages mineral extraction in SNAs in the following ways:
- 41.1 Clause 3.10(2) requires that specific adverse effects on SNAs as a result of any new subdivision, use, or development are avoided, except where clause 3.11 applies.
- 41.2 Clause 3.11(2) lists particular activities that are exempt from the requirements in clause 3.10(2), including mineral extraction that (a) provides significant national public benefit that could not otherwise be achieved domestically, (b) has a functional or operational need to be in that particular location, and (c) there are no practicable alternative locations.
- 41.3 For mineral extraction, clause 3.11(2) states that, instead of clause 3.10(2), effects must be managed in accordance with clauses 3.10(3) and (4) which require:
- 41.3.1 all adverse effects other than those specified in (2) must be managed by applying the effects management hierarchy; and
- 41.3.2 where the effects management hierarchy is applied, applications are not granted unless the decision-maker is satisfied that the applicant has demonstrated how each step will be applied and any consent is granted subject to conditions that apply the hierarchy.
- 42 The effects management hierarchy is defined in clause 1.5(4), the terms “biodiversity offset” and “biodiversity compensation” are defined in clause 1.6 and the principles for the application of biodiversity offsetting and compensation are in Appendices 3 and 4.

43 The exemption described in clause 3.11(2) for mineral extraction is significantly narrower than the scope of LF-LS-Px due to the significant test and the other criteria that must be met. I have discussed my concerns with this lack of significance test in LF-LS-Px earlier in paragraphs 26 to 33. Given that the (unqualified) protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna is a matter of national importance in section 6(c) I consider the higher threshold for mineral extraction activities described in the exposure draft NPSIB is more appropriate than the broad scope of LF-LS-Px.

44 The general structure of the two documents is similar: within SNAs, certain types of adverse effects must be avoided unless exemptions apply and, in those cases, an effects management hierarchy must be applied. The key differences are:

44.1 The adverse effects to be avoided in SNAs;

44.2 Whether mineral extraction is exempt from the avoidance direction in SNAs; and

44.3 What the effects management hierarchies require.

45 The table below compares the avoidance direction on SNAs.

Exposure draft NPSIB	pORPS
Avoid the following adverse effects on SNAs: (a) loss of ecosystem representation and extent: (b) disruption to sequences, mosaics, or ecosystem function: (c) fragmentation of SNAs or the or loss of buffers or connections within an SNA: (d) a reduction in the function of the SNA as a buffer or connection to other important habitats or ecosystems: (e) a reduction in the population size or occupancy of Threatened, At Risk (Declining) species that use an SNA for any part of their life cycle.	Avoid adverse effects that result in: (a) any reduction of the area or <u>indigenous biodiversity values identified and mapped under ECO-P2(1)</u> (even if those values are not themselves significant <u>but contribute to an area being identified as a SNA</u>); and (b) any loss of taoka values <u>identified and mapped under ECO-P2(2)</u>

46 Having reread the ecological advice provided on an earlier draft of the pORPS provisions,¹³ I consider that “area or indigenous biodiversity values” is likely to encompass the adverse effects listed in the exposure draft

¹³ Appendix 17 of the section 32 report, available from <https://www.orc.govt.nz/media/10012/section-32-report-v61-appendices.pdf>

NPSIB as well as other adverse effects beyond these. The pORPS is therefore more stringent.

47 Under the exposure draft NPSIB, some activities (including mineral extraction that provides a significant national public benefit that could not otherwise be achieved domestically) are provided an exemption from having to avoid the adverse effects listed above. Instead, they must apply the effects management hierarchy. While exemptions within SNAs are provided in a similar way in the pORPS in ECO-P4, they do not include any form of mineral extraction. The pORPS is therefore more stringent.

48 Under the exposure draft NPSIB, instead of avoiding specified adverse effects, mineral extraction activities must be managed by applying the effects management hierarchy. In the pORPS, without an exemption, mineral extraction activities must avoid specified adverse effects and then also apply an effects management hierarchy. Activities with an exemption do not need to avoid the specified adverse effects, in the same way as the exposure draft NPSIB. The effects management hierarchies in the two documents are different. I have set these out in the table below.

Exposure draft NPSIB	pORPS
<ul style="list-style-type: none"> (a) adverse effects are avoided where practicable; and (b) where adverse effects cannot be demonstrably avoided, they are minimised where practicable; and (c) where adverse effects cannot be demonstrably minimised, they are remedied where practicable; and (d) where more than minor residual effects cannot be demonstrably avoided, minimised, or remediated, biodiversity offsetting is provided where possible; and (e) where biodiversity offsetting of more than minor residual adverse effects is not demonstrably possible, biodiversity compensation is provided; and (f) if biodiversity compensation is not appropriate, the activity itself is avoided. 	<ul style="list-style-type: none"> (1) avoid adverse effects as the first priority, (2) where adverse effects demonstrably cannot be completely avoided, they are remedied, (3) where adverse effects demonstrably cannot be completely avoided or remedied, they are mitigated, (4) where there are residual adverse effects after avoidance, remediation, and mitigation, then the residual adverse effects are offset in accordance with APP3, and (5) if biodiversity offsetting of residual adverse effects is not possible, then: <ul style="list-style-type: none"> (a) the residual adverse effects are compensated for in accordance with APP4, and (b) if the residual adverse effects cannot be compensated for in accordance with APP4, the activity is avoided.

49 The hierarchy in the exposure draft NPSIB is less stringent than the pORPS for a few reasons:

49.1 it contains a “where practicable” test at each step;

49.2 it requires minimising second and remedying third, whereas the pORPS requires remedying second and mitigating third (no minimising);

49.3 offsetting and compensation is only applied to more than minor residual adverse effects, compared to all residual adverse effects under the pORPS.

50 I consider that, given the differences, mineral extraction would face a higher bar for approval under the pORPS in comparison with the exposure draft NPSIB. I note that the consenting pathway provided for mineral extraction in SNAs is similar to pathways provided in natural inland wetlands in the NPSFM and on highly productive land in the NPSHPL. However, those resources are not subject to the direction in s6 to recognise and provide for the protection of significant indigenous vegetation and significant habitats of indigenous fauna, which is not qualified in any way.

51 Ms Hardiman is the reporting officer for the ECO chapter and has prepared additional supplementary evidence canvassing whether a consenting pathway should be provided to mineral extraction in the ECO chapter, including within SNAs.

Outstanding natural features and landscapes

52 LF-LS-Px(4)(a)(ii) and (b)(iv) address outstanding natural features and landscapes. Clause (4)(a)(ii) requires avoiding, as a first priority, locating in outstanding natural features and landscapes. I have assumed that the reference to “outstanding natural features and landscapes” should be read as “outstanding natural features and [outstanding natural] landscapes”, rather than “outstanding natural features and [all] landscapes.”

53 When avoidance is not practicable, clause (4)(b)(iv) requires that adverse effects on “outstanding natural character and landscapes in the coastal environment” (not outstanding natural features) are managed in accordance with the NZCPS. Outstanding natural features in the coastal environment, and outstanding natural landscapes outside the coastal

environment, are managed by the 'catch-all' in clause (4)(b)(v), which requires remedying or mitigating the adverse effects of the mineral extraction activity on the values that contribute to the area's importance.

- 54 The omission of outstanding natural features from clause (4)(b)(iv), and the reliance instead on remediation and mitigation under (4)(b)(v), does not give effect to the requirement in Policy 15 of the NZCPS to (a) avoid adverse effects of activities on outstanding natural features and (b) avoid significant adverse effects, and avoid, remedy or mitigate other adverse effects, on other natural features. This is also the case for other natural landscapes in the coastal environment, which are managed under Policy 15(b).
- 55 The comparative direction in Policy 5.4.8 of the Partially Operative RPS is to give preference to avoiding locating in outstanding natural features and landscapes in the coastal environment, and where that is not practicable, to avoid adverse effects on the values that contribute to the outstanding nature of the area.¹⁴ LF-LS-Px is considerably less stringent.
- 56 Turning to outstanding natural landscapes, clause (4)(b)(iv) requires managing adverse effects in accordance with the NZCPS. In my view, that is the same approach as already set out in CE-P6 which mirrors the requirements of Policy 15 in the NZCPS. Proposed LF-LS-Px arguably applies an additional test to CE-P6 and the NZCPS by directing that locating in these areas be avoided, as a first priority, before turning to the management of effects. Practically speaking, I am not convinced that is a significant difference – the direction to avoid adverse effects on a particular area necessarily requires considering location. I would expect that the direction on avoiding adverse effects would naturally dissuade resource users from locating in outstanding natural features and landscapes even without the specific direction set out in LF-LS-Px(4)(b)(iv).
- 57 Outside the coastal environment, LF-LS-Px(4)(b)(v) does not require any avoidance of effects, only remediation or mitigation. That is less stringent than the pORPS equivalent in NFL-P2 which requires avoiding adverse effects on the values¹⁵ of outstanding natural features or landscapes. It is also less stringent than Policy 5.4.8 of the Partially Operative RPS which

¹⁴ Policy 5.4.8(a)(iii) and (b)(i).

¹⁵ Noting that Mr McLennan has recommended including reference to “values where there is limited or no capacity to absorb use or development”.

requires, at (b)(ii), avoiding, remedying, or mitigating (as necessary) adverse effects on values in order to maintain the outstanding nature of the area and, at (f), reducing unavoidable adverse effects by staging development for longer term activities and progressively rehabilitating the site, where possible. I note that Policy 5.4.8(c) also requires avoiding, remedying, or mitigating adverse effects on other values, including highly valued natural features and landscapes, in order to maintain their high values.

58 Under section 6(b), the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development is a matter of national importance that must be recognised and provided for. In the context of NFL-P2, I understand the avoidance of adverse effects on an area's values is used as a proxy for determining whether an activity is appropriate (or inappropriate) within a particular area. This is consistent with the *King Salmon* decision.¹⁶

59 Protecting outstanding natural features and landscapes from inappropriate use and development may, in some cases, require avoiding particular types of adverse effects. This is especially likely for an activity such as mineral or aggregate extraction which can significantly alter landforms (and therefore affect their values). I note that Ms Hunter's evidence on the NFL chapter is limited to highly valued natural features and landscapes and does not discuss the impacts of NFL-P2 on mineral extraction activities.

60 Mr Maclennan (reporting officer for CE and NFL) addresses my analysis in his supplementary evidence and agrees with my conclusions.¹⁷

Water bodies, natural wetlands, and outstanding water bodies

61 LF-LS-Px(4)(a)(iii) and (iv) require avoiding, as a first priority, locating in natural wetlands and outstanding water bodies, respectively. Clause (4)(b)(ii) requires that, if it is not practicable to avoid locating in these areas due to functional or operational needs, then in water bodies and natural wetlands adverse effects must be managed in accordance with the NPSFM and NESF. I interpret "water bodies" as including outstanding water bodies.

¹⁶ Particularly para [101]: "We consider that where the term "inappropriate" is used in the context of protecting areas from inappropriate subdivision, use or development, the natural meaning is that "inappropriateness" should be assessed by reference to what it is that is sought to be protected..."

¹⁷ Second brief of supplementary evidence of Andrew Cameron Maclennan: NZH & NFL (Mineral extraction) dated 24 February 2023, paras 15-18.

62 Clause (4)(b) states that if it is not practicable to avoid locating in the areas listed in (a), then adverse effects must be managed in specific ways. In this case, clause (4)(a) only refers to natural wetlands and outstanding water bodies, but clause (4)(b) refers to all water bodies (which is wider than (a)). I am unsure whether clause (4)(b) is intended to only apply to matters listed in (a). For the purposes of this analysis, I have assumed that (b) applies whether or not a matter is listed in (a).

63 There have been recent amendments to the NPSFM which provide a consenting pathway for mineral extraction in natural wetlands. I have addressed this in a separate statement of evidence.¹⁸ As I have noted in that statement, the affected provisions in the pORPS are contained in the FPI so cannot be addressed in this process. However, I have noted my intent to recommend amendments that implement these amendments in my section 42A report on the FPI.

Natural character (including areas of high and outstanding natural character)

64 LF-LS-Px(4)(a)(v), (b)(iv), and (b)(v) collectively set out direction on managing adverse effects in areas with natural character. On my reading, these clauses mean that:

64.1 For areas of outstanding natural character in the coastal environment, the direction is to avoid, as a first priority, locating within these areas ((a)(v)) and if that is not practicable, manage adverse effects in accordance with the NZCPS ((b)(iv));

64.2 For areas of high natural character in and outside the coastal environment, the direction is to avoid, as a first priority, locating within these areas ((4)(v)) and if that is not practicable, remedy or mitigate adverse effects on the values that contribute to the area's importance ((b)(v)); and

64.3 For all other areas of natural character in and outside the coastal environment, it seems that the direction to avoid, as a first priority, locating within these areas ((4)(a)) does not apply but the direction to remedy or mitigate adverse effects on the values that contribute

¹⁸ Fourth brief of supplementary evidence of Felicity Ann Boyd: LF (NPSFM amendments), dated 24 February 2023, paras 45-51.

to the area's importance ((5)(b)) may (see my discussion of this point earlier in paragraph 56).

- 65 Addressing the coastal environment first, I do not consider LF-LS-Px gives effect to the NZCPS. In my view, the direction for managing adverse effects in areas of outstanding natural character in the coastal environment is comparable to CE-P4, with the addition of seeking to avoid locating in these areas. I have discussed my views on the implications of this additional test previously (see paragraph 56) and that is relevant to this topic as well.
- 66 There is a gap in LF-LS-Px for management of other areas of natural character in the coastal environment (including high natural character). Policy 13(b) of the NZCPS contains specific direction on the management of effects on all other (non-outstanding) areas of natural character in the coastal environment: significant adverse effects are to be avoided and all other effects avoided, remedied, or mitigated. In comparison, LF-LS-Px directs avoiding locating in areas of high natural character (but not elsewhere) and where that is not practicable (and presumably outside areas of high natural character) adverse effects on the values in these areas are only to be remedied or mitigated. This does not give effect to the NZCPS. I note that the comparable direction in Policy 5.4.8(ba) of the Partially Operative RPS is to avoid significant adverse effects on natural character in all other areas of the coastal environment.
- 67 Outside the coastal environment, in areas of high and outstanding natural character, LF-LS-Px directs avoiding, as the first priority, locating within these areas and if that is not practicable, remedying or mitigating adverse effects on the values that contribute to the area's importance. The pORPS does not refer to high or outstanding natural character outside the coastal environment, however LF-FW-P13 applies to the natural character of rivers and lakes. This policy as notified mirrored the previous (2020) version of the mandatory policy on managing loss of values or extent set out in clause 3.22 of the NPSFM.
- 68 Among other things, LF-FW-P13 directs the use of an effects management hierarchy¹⁹ for managing the loss of values or extent of rivers which requires (in sequential order): avoiding, remedying, mitigating, offsetting, or compensating for adverse effects. Policy 5.4.8 of the Partially Operative

¹⁹ In my s42A report I have recommended including this hierarchy as new policy LF-FW-P13A.

RPS requires, at (a)(v), giving preference to avoiding locating in these areas and otherwise, at (b)(ii), avoiding, remedying, or mitigating (as necessary) adverse effects on values in order to maintain the outstanding or significant nature of the area. These are both more stringent than LF-LS-Px.

- 69 While I acknowledge that the pORPS connects the mandatory NPSFM policy on loss of values and extent with natural character in a way that does not explicitly occur in the NPSFM itself, the term “loss of values or extent” is defined in both the pORPS and NPSFM as referring to any value identified through the NOF process. Clause 3.9(2) of the NPSFM requires regional councils to consider, when identifying values in Freshwater Management Units (FMU), whether any of the values in Appendix 1B apply. One of the values listed in Appendix 1B is natural form and character. Even without the connection made in the pORPS, I consider the effects management hierarchy will need to be applied to managing the natural character of lakes and rivers if natural form and character is identified as a value for the relevant FMU through implementing the NOF process. In these instances, LF-LS-Px would not give effect to the NPSFM.
- 70 LF-FW-P9 adopts a similar approach to the protection of natural wetlands as LF-FW-P13, however it does not specifically refer to natural character. Nonetheless, as I have set out previously, this provision could apply to the natural character of wetlands depending on the values identified when implementing the NOF.
- 71 Finally, section 6(a) requires preserving the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins and protecting them from inappropriate subdivision, use, and development. There is no qualifier on the significance of the natural character to be preserved or protected and, for the same reasons as I have previously outlined in relation to outstanding natural features and landscapes, I consider it is conceivable that preservation and protection may, in some cases, require avoiding adverse effects.
- 72 Mr Maclennan (reporting officer for CE) addresses my analysis in his supplementary evidence and agrees with my conclusions.²⁰

²⁰ Second brief of supplementary evidence of Andrew Cameron Maclennan: NZH & NFL (Mineral extraction) dated 24 February 2023, paras 15-18.

Historic heritage

- 73 LF-LS-Px(4)(a)(vi) and (b)(v) set out the management framework applying in areas or places of significant or outstanding historic heritage. The comparable direction in the pORPS applies to areas or places with special (not significant) or outstanding historic heritage values and qualities and identification criteria are set out in APP8. For simplicity, I have assumed that “significant” is equivalent to “special”. I note that this difference in wording appears in EIT-INF-P13(1)(f) and Ms Fenemor has recommended amending that provision to align with the wording in the HCV chapter (i.e. “special” rather than “significant”).²¹
- 74 The first step in LF-LS-Px is to avoid, as a priority, locating within these areas, whereas the comparable direction in HCV-HH-P5 is to avoid adverse effects on these areas. There is clearly a close link between locating within and adversely affecting an area, however I do not consider that locating on its own will always result in adverse effects. Given that the direction to “avoid” in LF-LS-Px is not absolute, but the direction in HCV-HH-P5 is, I consider the latter is more stringent.
- 75 The next step in both provisions is also different. LF-LS-Px requires adverse effects on the values that contribute to the area’s importance to be remedied or mitigated, while HCV-HH-P5 requires avoiding significant adverse effects on areas or places with historic heritage values or qualities and then avoiding, as a first priority, other adverse effects before remedying or mitigating them. This is considerably more stringent than LF-LS-Px.
- 76 Policy 5.4.8 of the Partially Operative RPS requires giving preference to avoiding locating in places or areas containing historic heritage of regional or national significance, in much the same way as LF-LS-Px(4)(a). However, Policy 5.4.8(b)(ii) then requires avoiding, remedying, or mitigating (as necessary) adverse effects on values in order to maintain the outstanding or significant nature of the area and (f) requires reducing unavoidable adverse effects by staging development for longer term activities and progressively rehabilitating the site, where possible. This policy is also more stringent than LF-LS-Px.

²¹ Second brief of supplementary evidence of Angela Marie Fenemor: HCV (Mineral extraction) dated 24 February 2023, para 6.

- 77 Section 6(f) of the RMA requires protecting historic heritage from inappropriate subdivision, use, and development. There is no qualifier on the significance of the historic heritage to be protected. Again, I consider there are likely to be situations where avoidance of particular adverse effects may be necessary in order to protect historic heritage from inappropriate subdivision, use, or development.
- 78 Ms Fenemor (reporting officer for HCV) addresses my analysis in her supplementary evidence and agrees with my conclusions.²² Ms Fenemor also addresses additional amendments sought by Ms Hunter to policy HCV-HH-P5.

Wāhi tūpuna and protected customary rights

- 79 LF-LS-Px(4)(a)(vii) and (b)(iii) apply to wāhi tūpuna, and (4)(a)(vii) and (b)(v) applies to areas with protected customary rights. In relation to wāhi tūpuna, the direction is to avoid, as a first priority, locating within these areas and if it that is not practicable, to manage adverse effects in accordance with HCV-WT-P2. The equivalent approach in the pORPS is just HCV-WT-P2, which requires (a) avoiding significant adverse effects on the cultural values of identified wāhi tūpuna²³ and (b) where other adverse effects demonstrably cannot be completely avoided, then either remedying or mitigating adverse effects in a manner that maintains the values of the wāhi tūpuna. Again, while LF-LS-Px contains an additional test regarding location, for reasons I have set out previously I do not consider this is a significant difference. In my view this simply duplicates an existing provision and is therefore unnecessary.
- 80 Policy 5.4.8 of the Partially Operative RPS does not address the management of effects on wāhi tūpuna, meaning that Policy 2.2.2 (Recognising sites of cultural significance) applies instead. That policy requires: (a) avoiding significant adverse effects on the values that contribute to the identified wāhi tūpuna being significant and (b) avoiding, remedying, or mitigating other adverse effects on identified wāhi tūpuna. This is less stringent than both HCV-WT-P2 and LF-LS-Px.

²² Second brief of supplementary evidence of Angela Marie Fenemor: HCV (Mineral extraction) dated 24 February 2023, paras 5-10.

²³ Noting that Ms Fenemor has recommended including a new (1A) requiring “avoiding, as the first priority, other adverse effects on the cultural values of identified wāhi tūpuna.”

81 The pORPS does not contain specific direction on managing adverse effects on protected customary rights,²⁴ other than in relation to the adverse effects from infrastructure (EIT-INF-P13) in which case the direction is to avoid, as a first priority, locating in these areas and if that is not practicable, to either minimise adverse effects of nationally and regionally significant infrastructure (EIT-INF-P13(2)(iv)) or avoid adverse effects of infrastructure (EIT-INF-P13(2)(b)). Those are both tests that I consider to be more stringent than only remedying or mitigating adverse effects.

Areas of high recreational and high amenity value

82 LF-LS-Px(4)(a)(vii) and (b)(v) apply to areas of high recreational and high amenity value. The direction is to avoid, as a first priority, locating within these areas and if that is not practicable, remedy or mitigate adverse effects on the values that contribute to the area's importance. The pORPS does not manage these areas specifically but they do arise in EIT-INF-P13(1)(h) which applies to managing infrastructure and reflects Policy 8 of the National Policy Statement on Electricity Transmission 2008 (NPSET).²⁵

Amendments to the ECO – Ecosystems and indigenous biodiversity chapter

83 At paragraphs 11.1 to 11.35 Ms Hunter discusses the amendments she seeks to the ECO chapter, which are appended to her evidence. Ms Hardiman, the reporting officer for that chapter, has addressed these in her statement of evidence.²⁶

Amendments to the UFD – Urban form and development chapter

84 I have responded earlier to the issue of whether the amendments I recommend to the LF-LS and UFD chapters to give effect to the NPSHPL result in a gap in the pORPS for provisions addressing mineral extraction. Ms White, reporting officer for the UFD chapter, has addressed Ms Hunter's comments regarding rural activities in her statement of evidence.²⁷

IM – Integrated management

²⁴ There are currently no protected customary rights in Otago – see para 6 of Ms Sefton's legal submissions on MW – Mana whenua, available at <https://www.orc.govt.nz/media/13737/orc-opening-submissions-mw-and-rmia.pdf>

²⁵ Policy 8 requires that, in rural environments, planning and development of the transmission system should seek to avoid adverse effects on outstanding natural landscapes, areas of high natural character and areas of high recreation value and amenity and existing sensitive activities.

²⁶ Second brief of supplementary evidence of Melanie Kate Hardiman dated 24 February 2023.

²⁷ Third brief of supplementary evidence of Elizabeth Jane White dated 24 February 2023.

85 At paragraphs 8.6-8.9 of her evidence, Ms Hunter addresses changes sought to IM-P1, IM-P2, and IM-P14. These amendments do not manage the effects of mineral extraction activities and therefore I do not address them in this statement.

LF – Land and freshwater

LF-FW-P13

86 TBC – need to finish NPSFM evidence

87 Ms Hunter raises two issues in relation to this provision which I have addressed separately below.:

Applying the effects management hierarchy (in relation to indigenous biodiversity)

88 The NPSFM contains an effects management hierarchy for managing the loss of extent or values of rivers. This is implemented in LF-FW-P13(1)(b). The pORPS also contains an effects management hierarchy in ECO-P6 for managing adverse effects on indigenous biodiversity. In our s42A reports, Ms Hardiman and I have recommended differentiating between these hierarchies by including the following definitions:

88.1 Effects management hierarchy (in relation to indigenous biodiversity) means the hierarchy set out in ECO-P6; and

88.2 Effects management hierarchy (in relation to natural wetlands and rivers) means the hierarchy set out in LF-FW-P13A.

89 I consider that the effects management hierarchy (in relation to indigenous biodiversity) is more stringent than the effects management hierarchy (in relation to natural wetlands and rivers). Rather than allowing the latter to be used for natural wetlands and rivers, and therefore allowing less stringency for aquatic indigenous biodiversity than other forms of indigenous biodiversity, LF-FW-P13(1)(b) requires effects on indigenous biodiversity to be managed by the more stringent effects management hierarchy.²⁸

90 Ms Hunter states that there is a “lack of clarity about how and when biodiversity offsetting and compensation become available as part of the

²⁸ This is discussed in paras 1099-1100 of *Chapter 9: LF – Land and freshwater* (4 May 2022, updated 7 October 2022).

effects management hierarchy”.²⁹ I do not agree that is the case – ECO-P6(4) and (5) clearly set out when biodiversity offsetting and compensation are available.

91 Ms Hunter states:

“I agree with OceanaGold’s amendment to LF-FW-P13 to simply refer to the requirement to apply an “effects management hierarchy” for addressing the effects of an activity on natural character.”

92 I do not consider it is helpful to refer to “an effects management hierarchy” without specifying what that hierarchy is. In the absence of a specific hierarchy, the amendment would mean that LF-FW-P13(1)(b) would simply require that the effects of the activity are managed. That would not implement clause 3.24 of the NPSFM.

Form and function of a water body

93 LF-FW-P13 requires preserving the natural character and instream values of lakes and rivers and the natural character of their beds and margins by, among other things, wherever possible sustaining the form and function of a water body that reflects its natural behaviours.

94 Ms Hunter notes that OGL has changed the natural form and function of water bodies in order to enable the development of Macraes Mine, including by reclaiming smaller tributaries and undertaking larger diversions of water, and will likely do so again in the future. She states that the effects of those activities have been appropriately considered through consenting processes and found to be acceptable by decision makers.

95 It is not clear whether those activities occurred prior to or after the gazettal of the NPSFM and NESF. In my view, those documents establish a high bar for these types of activities and it is likely that activities that were consented prior to the 2020 version would be significantly more difficult, and in some cases impossible, to consent under the NPSFM and NESF.

96 I note that RMIA-WAI-I2 outlines how current water management does not adequately address Kāi Tahu cultural values and interests. In particular, the description of that issue states that:

²⁹ Para 10.2.

The well-being of mahika kai and taoka and protection of other cultural values is rarely given effect to in environmental policy or decision-making processes and these considerations are often compromised in favour of other values, including economic values.

- 97 RMIA-WAI-I3 goes on to describe how the effects of land and water use activities on freshwater habitats have resulted in adverse effects on the diversity and abundance of mahika kai resources and harvesting activity. That description states:

...as described in evidence provided to the Waitangi Tribunal in the Ngāi Tahu claim, there has been a dramatic loss of mahika kai resources and places of procurement since the Treaty was signed. This loss is greater than the loss of kai. It is a loss of Kāi Tahu culture, as it affects the intergenerational transfer of mātauraka handed down from tūpuna over hundreds of years. It represents a loss of rakatirataka and of mana.

- 98 More specifically, Mr Flack for Kāi Tahu ki Otago has addressed the effects of mining operations on water bodies in his evidence and states:³⁰

Mining operations are also being allowed to pipe our sacred waterbodies, such as the headwaters of the Waikōuaiti river. Not only does this have adverse effects on the water column, but it has a devastating effect on the mauri of our awa. Our awa used to start its life as a wetland and run naturally out to Te Tai o Ārai-te-uru where its mauri then contributes to the mauri of our coastal environment and all the other ecosystems it connects with on the way to the coast. Now, our awa starts its life as a plastic pipe. This has an immediate degrading impact on its mauri, which then has flow-on effects to the mauri of all of the other environments it is connected to on its way to the moana.

- 99 It is clear that Kāi Tahu consider that the current water and land management framework in Otago, which has been in place since the Regional Plan: Water for Otago was notified in 1998, has inadequately addressed Kāi Tahu cultural values. With that context, I do not agree with

³⁰ Para 26 of his EIC.

the inference that simply because consents have been granted for activities in the past, that the effects of those activities have been “acceptable.”

- 100 Ms Hunter considers that it will always be possible to sustain the form and function of water bodies by avoiding the activity that would affect them. While that is true, I do not consider that this is the outcome required by applying LF-FW-P13(4). If the intent of the clause was to avoid all activities affecting form and function, it would have said that. In my view, “where possible” is a qualifier on the direction to sustain form and function and that phrase must be considered in the context of each circumstance. What is possible will depend on the activity proposed, the environment it is proposed within, the effects of the activity, and any measures proposed to manage those effects.
- 101 Ms Hunter states that clause (4) is superfluous given the direction in (1) to avoid the loss of values or extent unless exceptions apply. Clause (1) only applies to rivers whereas clause (4) applies also to lakes. Deleting (1) would therefore delete any direction on form and function in relation to lakes. This would not assist with recognising and providing for the preservation of the natural character of lakes and their margins, as required by section 6(a) of the RMA.
- 102 “Loss of values” is defined in the pORPS as meaning that a river is less able to provide for the following existing or potential values:
- 102.1 Any value identified for it under the NOF process;
- 102.2 Any of the following values, whether or not they are identified under the NOF process: ecosystem health, indigenous biodiversity, hydrological functioning, Māori freshwater values, amenity values.
- 103 “Natural form and character” is an optional value in Appendix 1B meaning 90.1 above may not provide a pathway for considering this matter. While the values listed in 90.2 would capture elements of form and function (for example, hydrological functioning) I do not consider that they adequately capture all of the elements of form and function such as biophysical, geological, and morphological aspects or the natural location of a water body and course of a river (which are listed as matters contributing to natural form and character in Appendix 1B of the NPSFM). For these reasons, I do not agree that clause (4) should be deleted.

104 Although not raised by Ms Hunter specifically in her evidence on this provision, I note that in my evidence on the NPSFM amendments³¹ I have recommended amendments to LF-FW-P13 to better align with the NPSFM and indicated that I consider amendments to LF-FW-P9 are necessary to implement the NPSFM, including by recognising the new consenting pathways for mineral extraction.

LF-LS-O11 and LF-LS-P19

105 Ms Hunter has clarified³² that the issues raised by OceanaGold in its original submissions are primarily addressed via the new provisions she has proposed for the LF-LS chapter, which I have addressed earlier in my evidence.

106 As recommended to be amended by my section 42A report and supplementary evidence, LF-LS-P19(2) requires maintaining the availability and productive capacity of highly productive land by prioritising the use of highly productive land for land-based primary production. In my supplementary evidence addressing the implications of the NPSHPL, I addressed this wording and stated that:

“Exceptions to the requirement to prioritise land for land-based primary production are set out in the NPSHPL and will be implemented by territorial authorities as they amend their district plans to give effect to the NPSHPL.”³³

107 A similar issue was raised during Week 3 of the hearing in relation to provisions in the UFD chapter. I agree with Ms White that the provisions contained in the NPSHPL are prescriptive and that there is no simple way to summarise them. As a result, we agree that it would assist readers if the pORPS provisions (in both the LF-LS and UFD chapters) referred readers to the NPSHPL where the specific management framework is set out.

108 I therefore recommend the following amendment to LF-LS-P19(2):

(2) prioritising the use of *highly productive land* for land-based primary production in accordance with the National Policy Statement for Highly Productive Land 2022³⁴ ~~food and fibre~~

³¹

³² Para 10.5

³³ Para 74

³⁴ Clause 16(2), Schedule 1, RMA

~~production~~³⁵ primary production³⁶ ~~ahead of other land uses,~~³⁷
~~except as provided by EIT-INF-P12 and EIT-INF-P16,~~³⁸ and

109 I consider this is an amendment of minor effect in accordance with clause 16(2) of Schedule 1 of the RMA and that no further section 32AA evaluation is required.



Felicity Ann Boyd

24 February 2023

³⁵ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from 00021.002 Matakanui Gold Limited, 00016.009 Alluvium Limited and Stoney Creek Mining, 00017.007 Danny Walker and others, 00226.033 Kāi Tahu ki Otago, 00223.094 Ngāi Tahu ki Murihiku

³⁶ 00235.008 OWRUG

³⁷ 00413.004 New Zealand Cherry Corp, 00414.002 Infinity Investment Group

³⁸ 00314.027 Transpower

Appendix 1: Provisions relating to primary production and/or rural industry

Primary production: yellow

Rural industry: green

Provision	Notified	S42A + supplementary evidence
Description of the region (para 5)	Otago's economy centres around agriculture, tourism, <i>mineral</i> mining, and education. The University of Otago enrolls approximately 20,000 students each year from around New Zealand and internationally, contributing to annual population spikes in Dunedin and significantly boosting the economy. Tourism has also had a significant impact on the regional economy, contributing about a quarter of the region's total gross domestic product. This is the highest of any region in New Zealand, and primarily concentrated in the Queenstown Lakes District.	Otago's economy centres around <u>construction</u> , <u>primary production</u> agriculture, tourism, <i>mineral</i> mining, ³⁹ and education. <u>The construction industry is a major contributor to employment numbers in Otago, supported by the region's population growth. The <u>primary production</u> sector is a source of revenue and employment for the districts and the wider region. Otago's farms are also a key contributor to the national food supply network.</u> ⁴⁰ The University of Otago enrolls approximately 20,000 students each year from around New Zealand and internationally, contributing to annual population spikes in Dunedin and significantly boosting the economy. Tourism has ⁴¹ also has had ⁴² a significant impact on the regional economy, contributing about a quarter of the region's total gross domestic product. This is the highest of any region in New Zealand, and primarily concentrated in the Queenstown Lakes District.
Definition – <u>Rural industry</u>	Not included	<p><u>has the same meaning as in Standard 14 of the National Planning Standards 2019 (as set out in the box below)</u></p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p><u>means an industry or business undertaken in a rural environment that directly supports, services, or is dependent on <u>primary production</u>.</u></p> </div>

³⁹ 00140.001 Waitaki DC

⁴⁰ 00239.002 Federated Farmers, 00236.008 Horticulture NZ, 00240.002 NZ Pork, 00140.001 Waitaki DC

⁴¹ 00206.006 Trojan, 00411.001 Wayfare

⁴² 00206.006 Trojan, 00411.001 Wayfare

Provision	Notified	S42A + supplementary evidence
SRMR-I1 – Context (para 2)	Frequent heavy rainstorms, the steep gradients of many <i>river</i> catchments and human occupation of floodplains combine to make flooding the most frequently occurring <i>natural hazard</i> event in the Otago region. For example, flooding can affect Otago's main urban centres causing damage to housing and business disruption, and agriculture can be disrupted in Otago's floodplains (lower Clutha and Taieri).	Frequent heavy rainstorms, the steep gradients of many <i>river</i> catchments and human occupation of floodplains combine to make flooding the most frequently occurring <i>natural hazard</i> event in the Otago region. For example, flooding can affect Otago's main urban centres causing damage to housing and business disruption, and agriculture primary production ⁴³ can be disrupted in Otago's floodplains (including ⁴⁴ lower Clutha, Lower Waitaki ⁴⁵ and Taieri).
SRMR-I3 – Statement	Pest species can be found throughout Otago, from alpine to marine environments. Rabbits are changing Central Otago's landscape, eroding soils and affecting agriculture. <i>Wilding conifers</i> threaten high country and tussock grassland, changing the landscape and impacting on recreational, hydrological and conservation values. Aquatic pests and weeds such as didymo, lake snow and <i>lagarosiphon</i> affect our <i>lakes</i> and <i>rivers</i> . Invasive marine species affect our marine waters. Native aquatic plants are displaced, impacting ecosystem and indigenous biodiversity health and recreation activities.	Pest species can be found throughout Otago, from alpine to marine environments. Rabbits are changing Central Otago's landscape, eroding soils and affecting agriculture. <u>Wallabies are an increasing risk with incursion beyond their containment zone and illegal liberations resulting in an expanding range within Otago, particularly Waitaki, Central Otago and Queenstown Lakes.</u> ⁴⁶ <i>Wilding conifers</i> threaten high country and tussock grassland, changing the landscape and impacting on primary production , ⁴⁷ recreational, hydrological and conservation values. Aquatic pests and weeds such as didymo, lake snow and <i>lagarosiphon</i> affect our <i>lakes</i> and <i>rivers</i> . Invasive marine species affect our marine waters. Native aquatic plants are displaced, impacting ecosystem and indigenous biodiversity health and recreation activities.
SRMR-I4 – Impact snapshot	Urban development can also lead to reverse-sensitivity <i>effects</i> whereby traditional methods of pest management or the undertaking of rural production activities cannot be deployed due the proximity of urban populations and the potential for adverse impacts on those populations.	Urban development <u>growth within rural areas</u> can also lead to reverse-sensitivity <i>effects</i> <u>on existing primary production activities, because urban activities can be sensitive to the effects generated by primary production activities. whereby traditional</u>

⁴³ 00140.010 Waitaki DC

⁴⁴ 00239.020 Federated Farmers

⁴⁵ 00140.010 Waitaki DC

⁴⁶ 00235.033 OWRUG

⁴⁷ 00239.022 Federated Farmers

Provision	Notified	S42A + supplementary evidence
Environmental (para 2)	Urban growth can also impact air quality, through increased vehicle use, but also particularly where <i>solid fuel</i> burners are used, noting they are the heating of choice in Otago. Urban areas such as Arrowtown, Cromwell, Alexandra, Clyde, Milton, and Mosgiel already do not meet National Environment Standards for Air Quality (NESAQ), for example. Emissions from existing domestic fuel burners account for more than 95% of winter <i>PM</i> ₁₀ emissions in all of these towns but Milton. ⁴⁸ Air quality in urban areas in Otago therefore needs to be addressed from two perspectives, dealing with existing problems and, in areas where further development is planned, addressing the additional impact that development may have.	methods of pest management or the undertaking of rural production activities cannot be deployed due the proximity of urban populations and the potential for adverse impacts on those populations. ⁴⁹ Urban growth can also impact air quality, through increased vehicle use, but also particularly where <i>solid fuel</i> burners are used, noting they are the heating of choice in Otago. Urban areas such as Arrowtown, Cromwell, Alexandra, Clyde, Milton, and Mosgiel already do not meet National Environment Standards for Air Quality (NESAQ), for example. Emissions from existing domestic fuel burners account for more than 95% of winter <i>PM</i> ₁₀ emissions in all of these towns but Milton. ²⁴ Air quality in urban areas in Otago therefore needs to be addressed from two perspectives, dealing with existing problems and, in areas where further development is planned, addressing the additional impact that development may have.
SRMR-I4 Impact snapshot Economic (para 1, bullet 1)	<ul style="list-style-type: none"> the loss of productive land (either directly though building on it, or indirectly though reverse sensitivity effects); 	<ul style="list-style-type: none"> the loss of land for primary production activities productive land⁵⁰ (either directly though building on it, or indirectly though reverse sensitivity effects);
SRMR-I7 Impact snapshot Economic (para 1)	<i>Biodiversity</i> and ecosystem services underpin agriculture (ecosystem services such as <i>water</i> , soil <i>biodiversity</i> , pest protection, pollination) and tourism (the “clean green” image of “pure New Zealand” is related to a public perception of Otago’s healthy <i>environment</i> and biodiversity).	<i>Biodiversity</i> and ecosystem services underpin agriculture primary production ⁵¹ (ecosystem services such as <i>water</i> , soil <i>biodiversity</i> , pest protection, pollination) and tourism (the “clean green” image of “pure New Zealand” is related to a public perception of Otago’s healthy <i>environment</i> and biodiversity).

⁴⁸ “Alexandra, Arrowtown, Mosgiel and Milton Air Emission Inventory – 2016” & “Wanaka, Cromwell and Clyde Air Emission Inventory -2019”, prepared by Emily Wilton, Environet Ltd, for Otago Regional Council.

⁴⁹ 00208.004 AgResearch, 00410.002 Rural Contractors NZ

⁵⁰ 00322.006 Fulton Hogan

⁵¹ 00239.026 Federated Farmers

Provision	Notified	S42A + supplementary evidence
SRMR-I8 – Context (para 2)	Activities occurring within or affecting the coastal environment include urban development, recreational activities, transport <i>infrastructure</i> , energy generation and transmission, land and marine based (e.g. aquaculture) food production industries and other rural industry activities, <i>plantation forestry</i> , fishing, tourism, and <i>mineral</i> extraction. Such activities can be important contributors to the existing and future health and well-being of communities, when they are located and managed appropriately. A number of these activities provide a significant contribution to the regional economy.	Activities occurring within or affecting the coastal environment include urban development, recreational activities, transport <i>infrastructure</i> , energy generation and transmission, land and marine based (e.g. aquaculture) food production industries and other rural industry activities, <u>carbon forestry and</u> ⁵² <i>plantation forestry</i> , fishing, tourism, and <i>mineral</i> extraction. Such activities can be important contributors to the existing and future health and well-being of communities, when they are located and managed appropriately. A number of these activities provide a significant contribution to the regional economy.
SRMR-I10 – Statement	Sediment from development and forestry activities flow into streams and builds up in the coastal environment, smothering kelp forests and affecting rich underwater habitats. <i>Water</i> abstraction and wastewater and stormwater discharges adversely affect the natural environment, cultural and amenity values, and recreation. Agriculture, fishing and minerals extraction support employment and economic well-being but also change landscapes and habitats. Otago’s port moves freight to and from Otago and Southland, but operates alongside sensitive environments, including the Aramoana saltmarsh. Tourism, which relies on the environment, can also put pressure on natural environments.	Sediment from development and forestry primary production ⁵³ activities flows ⁵⁴ into streams and builds up in the coastal environment, smothering kelp forests and affecting rich underwater habitats. <i>Water</i> abstraction and wastewater and stormwater discharges adversely affect the natural environment, cultural and amenity values, and recreation. Agriculture, fishing ⁵⁵ and minerals extraction support employment and economic well-being but also change landscapes and habitats. Otago’s port moves freight to and from Otago and Southland, but operates alongside sensitive environments, including the Aramoana saltmarsh. Tourism, which relies on the environment, can also put pressure on natural environments.
AIR-P5 – Managing certain discharges	Manage the <i>effects</i> of <i>discharges</i> to air beyond the boundary of the property of origin from activities that include but are not limited to: (1) outdoor burning of organic material,	Manage the <u>adverse</u> ⁵⁶ <i>effects</i> of <i>discharges</i> to air beyond the boundary of the property of origin from activities that include but are not limited to:

⁵² 00239.027 Federated Farmers

⁵³ 00020.005 Rayonier Matariki

⁵⁴ Clause 16(2), Schedule 1, RMA

⁵⁵ 00126.001 Harbour Fish, Southern Fantastic and Fantastic Holdings, 00124.001 Southern Inshore Fisheries Management Company Limited

⁵⁶ 00233.030 Fonterra, 00022.014 Graymont

Provision	Notified	S42A + supplementary evidence
	(2) agrichemical and fertiliser spraying, (3) farming activities, (4) activities that produce dust, and (5) industrial and trade activities.	(1) outdoor burning of organic material, (2) agrichemical and fertiliser spraying applications , ⁵⁷ (3) farming primary production ⁵⁸ activities, (4) activities that produce dust, and (5) industrial and trade activities.
CE-PR1 (para 2)	A number of activities occur within or affect the coastal environment including urban development, recreational activities, transport infrastructure, port activities, <i>infrastructure</i> , energy generation and transmission, food production and other farming activities, <i>plantation forestry</i> , rural industry and <i>mineral</i> extraction. These activities can be important contributors to the existing and future health and well-being of communities. However, poorly located or managed activities can have adverse <i>effects</i> that compromise the values of the coastal environment such as natural character, biophysical processes, <i>water</i> quality, <i>surf breaks</i> , indigenous <i>biodiversity</i> and natural landscapes.	A number of activities occur within or affect the coastal environment including urban development, recreational activities, transport infrastructure, port activities, <i>infrastructure</i> , energy generation and transmission, food production and other farming activities, <i>plantation forestry</i> , rural industry and <i>mineral</i> extraction. These activities can be important contributors to the existing and future health and well-being of communities. However, poorly located or managed activities can have adverse <i>effects</i> that compromise the values of the coastal environment such as natural character, biophysical processes, <i>water</i> quality, <i>surf breaks</i> , indigenous <i>biodiversity</i> and natural landscapes.
UFD-O4 – Development in rural areas	Development in Otago’s <i>rural areas</i> occurs in a way that: (1) avoids impacts on significant values and features identified in this RPS, (2) avoids as the first priority, land and soils identified as highly productive by LF–LS–P19 unless there is an <i>operational need</i> for the development to be located in <i>rural areas</i> , (3) only provides for urban expansion, rural lifestyle and rural residential development and the establishment of <i>sensitive</i>	Development in Otago’s <i>rural areas</i> occurs in a way that: (1) — avoids impacts on significant values and features identified in this RPS, ⁵⁹ (2) avoids as the first priority, <i>highly productive land</i> land and soils ⁶⁰ identified as highly productive by LF–LS–P19 unless there is an operational need or functional need ⁶¹ for the development to be located in rural areas, ⁶² (3) only provides for urban expansion, rural lifestyle and

⁵⁷ 00236.045 Horticulture NZ

⁵⁸ 00236.045 Horticulture NZ, 00240.015 New Zealand Pork Industry

⁵⁹ 00137.154 Director General of Conservation, 00226.310 Kāi Tahu ki Otago

⁶⁰ 00322.0038 Fulton Hogan, 00236.099 Horticulture NZ

⁶¹ 00414.003 Infinity, 00413.005 NZ Cherry Corp

⁶² 00221.013 Silver Fern Farms

Provision	Notified	S42A + supplementary evidence
	<p><i>activities</i>, in locations identified through strategic planning or zoned within <i>district plans</i> as suitable for such development; and</p> <p>(4) outside of areas identified in (3), maintains and enhances the <i>natural and physical resources</i> that support the productive capacity, rural character, and long-term viability of the rural sector and rural communities.</p>	<p>rural residential⁶³ development and the establishment of sensitive activities that are sensitive to primary production and rural industry,⁶⁴ in locations identified through strategic planning or zoned within <i>district plans</i> as suitable for such development, and</p> <p>(4) outside of areas identified in (3), maintains and enhances provides for the ongoing use of <i>rural areas</i> for primary production, supported by rural industry in appropriate locations,⁶⁵ and facilitates ensures that other activities that have an operational need or functional need to locate in rural areas, that will do⁶⁶ not compromise⁶⁷ the <i>natural and physical resources</i> that support the <i>productive capacity</i>,⁶⁸ rural character, and long-term viability of the rural sector and rural communities, and</p> <p>(4A) provides for the use and development of land in rural areas by Kāi Tahu for <i>papakāika, kāika, nohoaka, marae, and marae related activities</i>.⁶⁹</p>
UFD-P4 – Urban expansion	<p>Expansion of existing <i>urban areas</i> is facilitated where the expansion:</p> <p>(1) contributes to establishing or maintaining the qualities of a <i>well-functioning urban environment</i>,</p> <p>(2) will not result in inefficient or sporadic patterns of settlement and residential growth,</p>	<p>Expansion of existing <i>urban areas</i> is facilitated where, at <u>minimum</u>,⁷⁰ the expansion:</p> <p>(1) contributes to establishing or maintaining the qualities of a <i>well-functioning urban environment</i>,</p> <p>(1A) is identified by and undertaken consistent with strategic</p>

⁶³ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from 00221.016 Silver Fern Farms, 00236.103 Horticulture NZ

⁶⁴ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from 00213.009 Fonterra Co-operative Group Limited

⁶⁵ 00322.038 Fulton Hogan, 00410.007 Rural Contractors NZ (in part)

⁶⁶ 00206.069 Trojan Holdings Ltd, 00411.084 Wayfare Group Ltd. Also relates to 00014.067 Mt Cardrona Station, 00118.067 Maryhill Ltd.

⁶⁷ 00236.099 Horticulture NZ

⁶⁸ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from 00014.031 Mt Cardrona Station, 00209.01 Universal Developments, 00210.012 Lane Hocking, 00211.01 LAC Properties

⁶⁹ 00226.310 Kāi Tahu ki Otago

⁷⁰ 00136.011 MfE, 00139.258 DCC.

Provision	Notified	S42A + supplementary evidence
	<p>(3) is integrated efficiently and effectively with <i>development infrastructure</i> and <i>additional infrastructure</i> in a strategic, timely and co-ordinated way,</p> <p>(4) addresses issues of concern to iwi and hapū, including those identified in any relevant iwi planning documents,</p> <p>(5) manages adverse <i>effects</i> on other values or resources identified by this RPS that require specific management or protection,</p> <p>(6) avoids, as the first priority, highly productive land identified in accordance with LF-LS-P19,</p> <p>(7) locates the new urban/rural zone boundary interface by considering:</p> <p>(a) adverse <i>effects</i>, particularly reverse sensitivity, on <i>rural areas</i> and existing or potential productive rural activities beyond the new boundary, and</p> <p>(b) key natural or built barriers or physical features, significant values or features identified in this RPS, or cadastral boundaries that will result in a permanent, logical and defensible long-term limit beyond which further urban expansion is demonstrably inappropriate and unlikely, such that provision for future development infrastructure expansion and connectivity beyond the new boundary does not need to be provided for, or</p>	<p><u>plans prepared in accordance with UFD-P1, or is required to address a shortfall identified in accordance with UFD-P2,⁷¹</u></p> <p>(2) <u>is logically and appropriately staged, and⁷²</u> will not result in inefficient or sporadic patterns of settlement and residential growth,</p> <p>(3) is integrated efficiently and effectively with <i>development infrastructure</i> and <i>additional infrastructure</i> in a strategic, timely and co-ordinated way,</p> <p><u>(3A) does not compromise the safe and efficient ongoing use of <i>nationally significant infrastructure</i> and <i>regionally significant infrastructure</i>.⁷³</u></p> <p>(4) addresses issues of concern to iwi and hapū, including those identified in any relevant iwi planning documents,</p> <p>(5) manages adverse effects on other values or resources identified by this RPS that require specific management or protection,⁷⁴</p> <p>(6) avoids, as the first priority, <i>highly productive land</i>,⁷⁵ identified in accordance with LF-LS-P19,</p> <p>(7) locates the new urban/rural zone boundary interface by considering:</p> <p>(a) adverse <i>effects</i>, particularly <i>reverse sensitivity</i>, on <u>existing activities in</u> rural areas and existing or⁷⁶</p>

⁷¹ 00136.011 Minister for the Environment, 00413.006 NZ Cherry Corp, 00204.008 Daisy Link

⁷² 00139.258 DCC

⁷³ 00315.080 Aurora Energy, 00306.078 Meridian

⁷⁴ 00226.315 Kāi Tahu ki Otago.

⁷⁵ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from 00014.031 Mt Cardrona Station, 00209.01 Universal Developments, 00210.012 Lane Hocking, 00211.01 LAC Properties

⁷⁶ Consequential amendment arising from 00208.011 AgResearch Ltd, 00414.005 Infinity Investment Group Holdings Ltd, 00413.007 NZ Cherry Corp, 00410.009 Rural Contractors NZ. Also relates to 00014.067 Mt Cardrona Station, 00118.067 Maryhill Ltd.

Provision	Notified	S42A + supplementary evidence
	<p>(c) reflects a short or medium term, intermediate or temporary zoning or infrastructure servicing boundary where provision for future <i>development infrastructure</i> expansion and connectivity should not be foreclosed, even if further expansion is not currently anticipated.</p>	<p>potential <i>primary production</i>⁷⁷ <i>productive or rural industry</i>⁷⁸ activities beyond the new boundary, and</p> <p>(b) <i>utilising</i>⁷⁹ key natural or built barriers or physical features, significant values or features identified in this RPS, or cadastral boundaries that will result in a permanent, logical and defensible long-term limit beyond which further urban expansion is demonstrably inappropriate and unlikely, such that provision for future <i>development infrastructure</i> expansion and connectivity beyond the new boundary does not need to be provided for, or</p> <p>(c) reflects a short or medium term, intermediate or temporary <i>utilising</i>⁸⁰ zoning or infrastructure servicing boundary <u>that reflects a short or medium term, intermediate or temporary limit</u>,⁸¹ where provision for future <i>development infrastructure</i> expansion and connectivity should not be foreclosed, even if further expansion is not currently anticipated.</p>
<p>UFD-P7 – Rural areas</p>	<p>The management of <i>rural areas</i>:</p> <p>(1) provides for the maintenance and, wherever possible, enhancement of important features and values identified by this RPS,</p>	<p>The management of <i>rural areas</i>:</p> <p>(1) provides for the maintenance and, wherever possible, enhancement of important features and values identified by this RPS,⁸²</p> <p>(2) <i>outside areas identified in (1)</i>,⁸³ maintains the <i>productive</i></p>

⁷⁷ 00208.010 AgResearch, 00233.040 Fonterra, 00322.040 Fulton Hogan,

⁷⁸ 00410.008 Rural Contractors NZ

⁷⁹ 00405.011 Glenpanel, 00402.014 Sipka Holdings

⁸⁰ 00405.011 Glenpanel, 00402.014 Sipka Holdings

⁸¹ 00221.014 Silver Fern Farms, 00405.011 Glenpanel, 00402.014 Sipka Holdings, 00231.009 Fish and Game

⁸² 00226.318 Kāi Tahu ki Otago, 00139.262 DCC, 00411.135 Wayfare, 00206.072 Trojan

⁸³ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from deletion of sub-clause 1

Provision	Notified	S42A + supplementary evidence
	<p>(2) outside areas identified in (1), maintains the productive capacity, amenity and character of <i>rural areas</i>,</p> <p>(3) enables primary production particularly on land or soils identified as highly productive in accordance with LF–LS–P19,</p> <p>(4) facilitates rural industry and supporting activities,</p> <p>(5) directs rural residential and rural lifestyle development to areas zoned for that purpose in accordance with UFD–P8,</p> <p>(6) restricts the establishment of residential activities, <i>sensitive activities</i>, and non-rural businesses which could adversely affect, including by way of reverse sensitivity, the productive capacity of highly productive <i>land</i>, primary production and rural industry activities, and</p> <p>(7) otherwise limits the establishment of residential activities, <i>sensitive activities</i>, and non-rural businesses to those that can demonstrate an <i>operational need</i> to be located in <i>rural areas</i>.</p>	<p><i>capacity</i>,⁸⁴ amenity and character of <i>rural areas</i>, <u>as places where people live, work and recreate and where a range of activities and services are required to support these rural functions, and provide for social and economic wellbeing within rural communities and the wider region.</u>⁸⁵</p> <p>(3) enables–prioritises⁸⁶ <u>land-based primary production feed and fibre production</u>⁸⁷ primary production⁸⁸ <u>particularly on land or soils within areas</u>⁸⁹ identified as on highly productive land⁹⁰ <u>in accordance with LF–LS–P19,</u>⁹¹</p> <p>(4) facilitates primary production,⁹² rural industry and supporting activities <u>and recognises:</u></p> <p><u>(a) the importance of mineral and aggregate resources for the provision of infrastructure and the social and economic well-being of Otago’s communities, and</u></p> <p><u>(b) the requirement for mineral and aggregate activities to be located where those resources are present.</u>⁹³</p> <p>(5) directs rural residential and⁹⁴ rural lifestyle development to areas zoned for that purpose in accordance with UFD-</p>

⁸⁴ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from 00014.031 Mt Cardrona Station, 00209.01 Universal Developments, 00210.012 Lane Hocking, 00211.01 LAC Properties

⁸⁵ 00235.152 OWRUG, 00015.032 Oceana Gold

⁸⁶ 00226.318 Horticulture NZ, Kai Tahu ki Otago, 00015.032 Oceana Gold, 00235.152 OWRUG, 00410.009 Rural Contractors NZ, 00016.024 Alluvium and Stoney Creek

⁸⁷ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from 00021.002 Matakanui Gold Limited, 00016.009 Alluvium Limited and Stoney Creek Mining, 00017.007 Danny Walker and others, 00226.033 Kāi Tahu ki Otago, 00223.094 Ngāi Tahu ki Murihiku

⁸⁸ 00226.310 Kāi Tahu ki Otago and General Themes Section, in response to 00235.008 OWRUG

⁸⁹ 00236.102 Horticulture NZ, 00226.318 Kai Tahu ki Otago, 00015.032 Oceana Gold, 00235.152 OWRUG, 00410.009 Rural Contractors NZ, 00016.024 Alluvium and Stoney Creek

⁹⁰ 00236.102 Horticulture NZ, 00226.318 Kai Tahu ki Otago, 00015.032 Oceana Gold, 00235.152 OWRUG, 00410.009 Rural Contractors NZ, 00016.024 Alluvium and Stoney Creek

⁹¹ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from 00236.013 Horticulture NZ, 00235.009 OWRUG, 00240.025 NZ Pork

⁹² 00226.310 Kāi Tahu ki Otago, and General Themes Section, in response to 00235.008 OWRUG and consequential to amendment to subclause 2

⁹³ 00115.007 Oceana Gold

⁹⁴ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from 00221.016 Silver Fern Farms, 00236.103 Horticulture NZ.

Provision	Notified	S42A + supplementary evidence
		<p>P8,</p> <p>(5A) provides for the use by Kai Tahu of Native Reserves and Te Ture Whenua Maori land Māori Land,⁹⁵ for <i>papakāika, kāika, nohoaka, marae</i> and <i>marae</i> related activities, and otherwise provides for Kai Tahu use of rural areas and the resources and values they contain.⁹⁶</p> <p>(6) restricts the establishment of residential activities, sensitive activities, and non-rural businesses <i>non-rural activities</i>⁹⁷ which could adversely affect, including by way of reverse sensitivity, or fragmentation, the <i>productive capacity</i>⁹⁸ of <i>highly productive land</i>⁹⁹ or <i>existing or potential</i>¹⁰⁰ <i>primary production</i> and <i>rural industry</i> activities, unless those sensitive activities are undertaken in accordance with UFD-P4, UFD-P8 or UFD-P9 as relevant.¹⁰¹ and</p> <p>(7) otherwise limits the establishment of residential activities, sensitive activities, and non-rural businesses to those that can demonstrate:</p> <p>(a) an functional need or operational need to be located in rural areas, and</p> <p>(b) methods to avoid adverse effects, including by way of reverse sensitivity, on rural productive capacity</p>

⁹⁵ 00234.009 Te Rūnanga o Ngāi Tahu, 00226.053 Kāi Tahu ki Otago, 00010.002 Cain whanau

⁹⁶ 00226.310 Kāi Tahu ki Otago

⁹⁷ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from 00213.009 Fonterra Co-operative Group Limited.

⁹⁸ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from 00014.031 Mt Cardrona Station, 00209.01 Universal Developments, 00210.012 Lane Hocking, 00211.01 LAC Properties

⁹⁹ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from 00014.031 Mt Cardrona Station, 00209.01 Universal Developments, 00210.012 Lane Hocking, 00211.01 LAC Properties

¹⁰⁰ 0015.032 Oceana Gold

¹⁰¹ 00206.072 Trojan, 00411.135 Wayfare, 00402.016 & 00401.015 Sipka Holdings,

Provision	Notified	S42A + supplementary evidence
		<p>and amenity values, or where avoidance is not practicable, remediation or mitigation, and¹⁰²</p> <p>(7A) <u>may place constraints on certain rural activities where necessary for the effective management of <i>nationally significant infrastructure</i> or <i>regionally significant infrastructure</i>.</u>¹⁰³</p>
<p>UFD-P8 – Rural lifestyle and rural residential zones</p>	<p>The establishment, development or expansion of rural lifestyle and rural residential zones only occurs where:</p> <ol style="list-style-type: none"> (1) the <i>land</i> is adjacent to existing or planned <i>urban areas</i> and ready access to employment and services is available, (2) despite the direction in (1), also avoids <i>land</i> identified for future urban development in a relevant plan or <i>land</i> reasonably likely to be required for its future urban development potential, where the rural lifestyle or rural residential development would foreclose or reduce efficient realisation of that urban development potential, (3) minimises impacts on rural production potential, <i>amenity values</i> and the potential for reverse sensitivity <i>effects</i> to arise, (4) avoids, as the first priority, highly productive land identified in accordance with LF-LS-P16, (5) the suitability of the area to accommodate the proposed development is demonstrated, including 	<p>The establishment, development or expansion of rural lifestyle and rural residential zones only occurs where:</p> <ol style="list-style-type: none"> (1) the <i>land</i> is adjacent to existing or planned <i>urban areas</i> and ready access to employment and services is available, (2) despite the direction in (1), it¹⁰⁴ also avoids <i>land</i> identified for future urban development in a relevant plan or <i>land</i> reasonably likely to be required for its future urban development potential, where the rural lifestyle or rural residential¹⁰⁵ development would foreclose or reduce efficient realisation of that urban development potential, (3) minimises impacts on existing primary production and rural industry and other rural activities,¹⁰⁶ rural production potential, <i>amenity values</i> and the potential for reverse sensitivity <i>effects</i> to arise <u>in adjoining rural production zones</u>,¹⁰⁷ (4) avoids, as the first priority, highly productive land,¹⁰⁸

¹⁰² 00208.011 AgResearch Ltd, 00414.005 Infinity Investment Group Holdings Ltd, 00413.007 NZ Cherry Corp, 00410.009 Rural Contractors NZ.

¹⁰³ 00321.095 Te Waihanga

¹⁰⁴ Clause 16(2), Schedule 1, RMA

¹⁰⁵ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from 00221.016 Silver Fern Farms, 00236.103 Horticulture NZ.

¹⁰⁶ 00236.103 Horticulture NZ, 00208.012 AgResearch, 00235.153 OWRUG, 00410.010 Rural Contractors NZ

¹⁰⁷ 00236.103 Horticulture NZ, 00208.012 AgResearch, 00235.153 OWRUG, 00410.010 Rural Contractors NZ

¹⁰⁸ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from 00014.031 Mt Cardrona Station, 00209.01 Universal Developments, 00210.012 Lane Hocking, 00211.01 LAC Properties

Provision	Notified	S42A + supplementary evidence
	<p>(a) capacity for servicing by existing or planned <i>development infrastructure</i> (including self-servicing requirements),</p> <p>(b) particular regard is given to the individual and cumulative impacts of domestic <i>water</i> supply, <i>wastewater</i> disposal, and <i>stormwater</i> management including self-servicing, on the receiving or supplying environment and impacts on capacity of <i>development infrastructure</i>, if provided, to meet other planned urban area demand, and</p> <p>(c) likely future demands or implications for publicly funded services and <i>additional infrastructure</i>, and</p> <p>(6) provides for the maintenance and wherever possible, enhancement, of important features and values identified by this RPS.</p>	<p>identified in accordance with LF-LS-P169,^{409 110}</p> <p>(5) the suitability of the area to accommodate the proposed development is demonstrated, including</p> <p>(a) capacity for servicing by existing or planned <i>development infrastructure</i> (including self-servicing requirements),</p> <p>(b) particular regard is given to the individual and cumulative impacts of domestic¹¹¹ <i>water</i> supply, <i>wastewater</i> disposal, and <i>stormwater</i> management including self-servicing, on the receiving or supplying environment and impacts on capacity of <i>development infrastructure</i>, if provided, to meet other planned urban area demand, and</p> <p>(c) likely future demands or implications for publicly funded services <u>including emergency services</u>¹¹² and <i>additional infrastructure</i>, and</p> <p>(d) <u>does not compromise the safe and efficient ongoing use of nationally significant infrastructure or regionally significant infrastructure, and</u>¹¹³</p> <p>(6) provides for the maintenance and wherever possible, enhancement, of important features and values identified by this RPS.¹¹⁴</p>

⁴⁰⁹ 00226.319 Kāi Tahu ki Otago, 0235.153 QLDC, 00121.102 Ravensdown

¹¹⁰ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from 00236.013 Horticulture NZ, 00235.009 OWRUG, 00240.025 NZ Pork

¹¹¹ 00219.019 FENZ

¹¹² 00219.018 FENZ

¹¹³ 00306.080 Meridian

¹¹⁴ 00226.319 Kāi Tahu ki Otago, 00411.087 Wayfare

Provision	Notified	S42A + supplementary evidence
UFD-PR1 (para 6)	<p>Rural areas are attractive as residential living areas, and for other non-rural activities. However, they contain areas, activities and resources critical for rural production that can be impacted by sensitive activities. Non-urban areas also contain a wide range of other values that can be negatively impacted by the impacts of rural-residential and other activities, that do not have a functional need to be in rural areas. The provisions in this chapter focus on managing where rural living opportunities and other non-rural activities are provided for, so that the potential <i>effects</i> on the rural character, productive potential and the wide range of environmental values, features and resources that rural areas also contain are appropriately managed. The supply of rural lifestyle opportunities to meet demand should be directed to suitably located and zoned areas to minimise impacts on values in rural areas. In designing and planning for rural residential and rural lifestyle development, local authorities will need to be aware of the potential future constraints on future urban expansion and development, including the cumulative impacts of infrastructure servicing irrespective of whether this is onsite, community or through connections to urban reticulated schemes.</p>	<p>Rural areas are attractive as residential living areas, and for other non-rural activities. However, they contain areas, activities and resources critical for rural production that can be impacted by sensitive activities <u>that are sensitive to primary production or rural industry</u>.¹¹⁵ Non-urban areas also contain a wide range of other values that can be negatively impacted by the impacts of rural residential and other activities <u>lifestyle development</u>.¹¹⁶ that do not have a functional need <i>functional need</i>¹¹⁷ to be in rural areas. The provisions in this chapter focus on managing where rural living opportunities and other non-rural activities are provided for, so that the potential <i>effects</i> on the rural character, productive potential and the wide range of environmental values, features and resources that rural areas also contain are appropriately managed. The supply of rural lifestyle opportunities to meet demand should be directed to suitably located and zoned areas to minimise impacts on values in rural areas. In designing and planning for rural residential and rural lifestyle¹¹⁸ development, local authorities will need to be aware of the potential future constraints on future urban expansion and development, including the cumulative impacts of infrastructure servicing irrespective of whether this is onsite, community or through connections to urban reticulated schemes.</p>

¹¹⁵ Consequential amendment arising from 00213.009 Fonterra Co-operative Group Limited.

¹¹⁶ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from 00221.016 Silver Fern Farms, 00236.103 Horticulture NZ.

¹¹⁷ Clause 16(2), Schedule 1, RMA

¹¹⁸ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from 00221.016 Silver Fern Farms, 00236.103 Horticulture NZ.

Appendix 2: Partially Operative vs Proposed RPS

Policy 5.4.8	Proposed LF-LS-Px
<p>Manage adverse effects from the exploration, extraction and processing of minerals and petroleum, by:</p> <p>a) Giving preference to avoiding their location in all of the following:</p> <ul style="list-style-type: none"> i. Areas of significant indigenous vegetation and significant habitats of indigenous fauna in the coastal environment; ii. Outstanding natural character in the coastal environment; iii. Outstanding natural features and natural landscapes, including seascapes, in the coastal environment; iv. Areas of significant indigenous vegetation and significant habitats of indigenous fauna beyond the coastal environment; v. Outstanding natural character in areas beyond the coastal environment; vi. Outstanding natural features and landscapes beyond the coastal environment; vii. Outstanding water bodies or wetlands; viii. Places or areas containing historic heritage of regional or national significance; ix. Areas subject to significant natural hazard risk; <p>b) Where it is not practicable to avoid locating in the areas listed in a) above because of the functional needs of that activity:</p> <ul style="list-style-type: none"> i. Avoid adverse effects on the values that contribute to the significant or outstanding nature of a) i-iii; ii. Avoid, remedy or mitigate, as necessary, adverse effects on values in order to maintain the outstanding or significant nature of a)iv-viii; iii. Consider first biological diversity offsetting, and then biological diversity compensation, if adverse effects described in b)ii. on 	<p>Management of the region’s land appropriately recognises:</p> <ul style="list-style-type: none"> (1) The need for mineral and aggregate resources to be available for lifeline utilities; infrastructure and housing; economic development; or to be used for environmental remediation; (2) The functional and operational constraints in terms of accessing mineral and aggregate resources in the region; (3) The potential benefits of further development of the region’s minerals and aggregate resources in appropriate locations and providing for the continued operation and maintenance of existing activities; (4) The need to manage the adverse effects of mineral or aggregate extraction activities by: <ul style="list-style-type: none"> a. Avoiding, as the first priority, locating in any of the following: <ul style="list-style-type: none"> i. Significant natural areas; ii. Outstanding natural features and landscapes; iii. Natural wetlands; iv. Outstanding water bodies; v. Areas of high or outstanding natural character; vi. Area of places of significant or outstanding historic heritage; vii. Wāhi tupuna and areas with protected customary rights, and viii. Area of high recreational and high amenity value. b. If it is not practicable to avoid locating in areas listed in (a) above because of the functional needs or operational needs of the mineral extraction activity, manage adverse effects as follows:

<p>indigenous biological diversity cannot be practicably remedied or mitigated;</p> <ul style="list-style-type: none"> iv. Minimise any increase in natural hazard risk through mitigation measures; v. Consider environmental compensation if adverse effects described in b) ii, other than on indigenous biological diversity, cannot practically be avoided, remedied or mitigated; <p>ba) Avoid significant adverse effects on natural character in all other areas of the coastal environment;</p> <p>c) Avoiding adverse effects on the health and safety of the community;</p> <p>d) Avoiding, remedying, or mitigating adverse effects on other values including highly valued natural features, landscapes and seascapes in order to maintain their high values;</p> <p>e) Considering biological diversity offsetting or compensating for residual adverse effects on other values;</p> <p>f) Reducing unavoidable adverse effects by:</p> <ul style="list-style-type: none"> i. Staging development for longer term activities; and ii. Progressively rehabilitating the site, where possible; <p>g) Applying a precautionary approach (including adaptive management where appropriate) to assessing the effects of the activity, where there is scientific uncertainty, and potentially significant or irreversible adverse effects.</p>	<ul style="list-style-type: none"> i. In significant natural areas, in accordance with National Policy Statement for Indigenous Biodiversity; ii. In waterbodies and natural wetlands in accordance with the relevant provisions in the National Policy Statement for Freshwater Management and the NESF; iii. In relation to wāhi tupuna in accordance with HCV-WT-P2; iv. In areas of outstanding natural character or landscapes in the coastal environment in accordance with the New Zealand Coastal Policy Statement; and v. In all other areas remedy or mitigate the adverse effects of the mineral extraction activity on the values that contribute to the area's importance. <p>c. Avoiding unmitigated risk on the health and safety of people and the community, including through appropriate natural hazard management.</p>
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Appendix 3: Summary of LF-LS-Px v pORPS comparison

Area/value	LF-LS-Px	pORPS (s42A+SE)	Higher order direction
Significant natural areas	<ol style="list-style-type: none"> 1. Avoid, as a first priority, locating within. 2. If it is not practicable to avoid locating, manage adverse effects in accordance with the NPSIB. 	<ol style="list-style-type: none"> 1. Avoid adverse effects that result in: <ol style="list-style-type: none"> a. any reduction of the area or indigenous biodiversity values identified and mapped under ECO-P2(1) (even if those values are not themselves significant but contribute to an area being identified as a SNA); and b. any loss of taoka values identified and mapped under ECO-P2(2). 	<p><u>s6(c), RMA</u>: Protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna.</p>
Outstanding natural features and landscapes	<p><u>In the coastal environment</u></p> <ol style="list-style-type: none"> 1. Avoid, as a first priority, locating within. 2. If it is not practicable to avoid locating, manage adverse effects in accordance with the NZCPS. <p><u>Outside the coastal environment</u></p> <ol style="list-style-type: none"> 1. Avoid, as a first priority, locating within. 2. Remedy or mitigate the adverse effects on the values that contribute to the area's importance. 	<p><u>In the coastal environment: CE-P6</u></p> <ol style="list-style-type: none"> 1. Avoid adverse effects of activities on outstanding natural features and landscapes. 2. Avoid significant adverse effects and avoid, remedy, or mitigate other adverse effects. <p><u>Outside the coastal environment: NFL-P2</u></p> <ol style="list-style-type: none"> 1. Avoid adverse effects on values where there is limited or no capacity to absorb use or development. 2. Avoid, remedy, or mitigate other adverse effects. <p><i>NB: EIT-INF-P13 applies instead for NSI and RSI</i></p>	<p><u>Everywhere</u></p> <p><u>s6(b), RMA</u>: Protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development.</p> <p><u>In the coastal environment</u></p> <p><i>Policy 15, NZCPS</i>: Protect the natural features and natural landscapes (including seascapes) of the coastal environment from inappropriate subdivision, use, and development:</p> <ol style="list-style-type: none"> (a) avoid adverse effects on outstanding natural features and outstanding natural landscapes in the coastal environment; and (b) avoid significant adverse effects and avoid, remedy, or mitigate other adverse effects of activities on other natural features and natural

Area/value	LF-LS-Px	pORPS (s42A+SE)	Higher order direction
			landscapes in the coastal environment.
Water bodies* <i>* Water bodies are not included in LF-LS-Px(4)(a) but are included in (4)(b)</i>	<ol style="list-style-type: none"> 1. Not subject to clause (4)(a). 2. Manage adverse effects in accordance with the NPSFM. 	Fresh water: LF-FW-P7 Outstanding water bodies: LF-FW-P12 Rivers and lakes: LF-FW-P13 Natural wetlands: LF-FW-P9	<u>NPSFM:</u> <ul style="list-style-type: none"> • Objective and policies • Rivers: Clause 3.24 • Natural inland wetlands: Clause 3.22
Natural wetlands	<ol style="list-style-type: none"> 1. Avoid, as a first priority, locating within. 2. If it is not practicable to avoid locating, manage adverse effects in accordance with the relevant provisions in the NPSFM and NESF. 	<u>LF-FW-P9</u> <ol style="list-style-type: none"> 1. Avoid the loss of values of extent unless specified exceptions apply, in which case: 2. Effects are to be managed using the effects management hierarchy which requires: <ol style="list-style-type: none"> a. Avoid where practicable, b. Minimise where practicable, c. Remedy where practicable, d. Offset more than minor residual adverse effects where possible, e. Compensate more than minor residual adverse effects, f. Avoid the activity. 	<u>S6(a), RMA:</u> Preservation of the natural character of ... wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development. <u>Clause 3.22, NPSFM:</u> Effects management hierarchy (as set out in LF-FW-P9).
Outstanding water bodies	<ol style="list-style-type: none"> 1. Avoid, as a first priority, locating within. 2. If it is not practicable to avoid locating, manage adverse effects in accordance with the NPSFM and NESF. 	<u>LF-FW-P12</u> Protect the significant and outstanding values of outstanding water bodies.	<u>Policy 8, NPSFM:</u> Protect the significant values of outstanding water bodies.

Area/value	LF-LS-Px	pORPS (s42A+SE)	Higher order direction
<p>Natural character</p>	<p><u>In areas of outstanding natural character in the coastal environment</u></p> <ol style="list-style-type: none"> 1. Avoid, as a first priority, locating within. 2. If it is not practicable to avoid locating, manage adverse effects in accordance with the NZCPS. <p><u>All other areas</u></p> <p>Remedy or mitigate the adverse effects on the values that contribute to the area's importance.</p>	<p><u>In the coastal environment: CE-P4</u></p> <ol style="list-style-type: none"> 1. Avoid adverse effects on natural character in areas identified as having outstanding natural character. 2. Avoid significant adverse effects and avoid, remedy, or mitigate other adverse effects on natural character in all other parts of the coastal environment. <p><u>Rivers: LF-FW-P13(1) and (2) and P13A, wetlands: LF-FW-P9</u></p> <ol style="list-style-type: none"> 1. Avoid the loss of values of extent unless specified exceptions apply, in which case: 2. Effects are to be managed using the effects management hierarchy which requires: <ol style="list-style-type: none"> a. Avoid where practicable, b. Minimise where practicable, c. Remedy where practicable, d. Offset more than minor residual adverse effects where possible, e. Compensate more than minor residual adverse effects, f. Avoid the activity. <p><u>Rivers and lakes: LF-FW-P13(3) to (9)</u></p> <p><i>No effects management hierarchy.</i></p>	<p><u>In the coastal environment</u></p> <p><i>Policy 13, NZCPS:</i></p> <ol style="list-style-type: none"> 1. Avoid adverse effects on areas with outstanding natural character, 2. Avoid significant adverse effects and avoid, remedy, or mitigate other adverse effects on natural character in all other parts of the coastal environment. <p><u>All other areas</u></p> <p><i>S6(a), RMA: Preservation of the natural character of ... wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development.</i></p>

Area/value	LF-LS-Px	pORPS (s42A+SE)	Higher order direction
Areas or places of significant or outstanding historic heritage	<ol style="list-style-type: none"> 1. Avoid, as a first priority, locating within. 2. Remedy or mitigate the adverse effects on the values that contribute to the area's importance. 	<p><u>HCV-HH-P5</u></p> <ol style="list-style-type: none"> 1. Avoid adverse effects on areas or places with special or outstanding historic heritage values or qualities. 2. Avoid significant adverse effects on areas/places with historic heritage values or qualities. 3. Avoiding, as a first priority, other adverse effects then remedy or mitigate. 	<p><u>s6(f), RMA</u>: Protection of historic heritage from inappropriate subdivision, use, and development</p>
Wāhi tūpuna and areas with protected customary rights	<ol style="list-style-type: none"> 1. Avoid, as a first priority, locating within. 2. If it is not practicable to avoid locating within, manage adverse effects in accordance with HCV-WT-P2. 	<p><u>HCV-WT-P2</u></p> <ol style="list-style-type: none"> 1. Avoid significant adverse effects on cultural values. 2. Avoid, as a priority, other adverse effects on cultural values. 3. Where other adverse effects demonstrably cannot be completely avoided, then either remedy or mitigate in a manner that maintains the values of the wāhi tūpuna. 	<p><u>s6(e), RMA</u>: The relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taonga.</p> <p><u>s6(g), RMA</u>: Protection of protected customary rights.</p>
Areas of high recreational and high amenity value	<ol style="list-style-type: none"> 1. Avoid, as the first priority, locating within. 2. Remedy or mitigate the adverse effects on the values that contribute to the area's importance. 	<p><i>No specific provisions – referenced in EIT-INF-P13.</i></p>	<p><u>Policy 8, NPSET</u>: In rural environments, planning and development of the transmission system should seek to avoid adverse effects on outstanding natural landscapes, areas of high natural character, and areas of high recreation value and amenity and existing sensitive activities.</p>