

Reply Report

Proposed Otago Regional Policy Statement 2021

15: UFD – Urban form and development

Liz White

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1. Introduction

1. This report forms part of a suite of reply reports that have been prepared to sit alongside and explain the “marked up” version of the final recommendations on the proposed Otago Regional Policy Statement (pORPS). The approach to the whole suite is set out in the first report in this series, *Reply Report – Chapter 1: Introduction and General Themes*. Appended to the suite of reports is a consolidated version of the pORPS containing all final recommendations from the reporting officers.
2. This report should also be read and considered in conjunction with the previous evidence provided in relation to this topic, being:
 - a. The Section 42A Hearing Report, Chapter 15: UFD – Urban form and development, prepared by Kyle Balderston (27 April 2022).
 - b. Brief of Supplementary Evidence of Elizabeth Jane White, Urban Form and Development Chapter (11 October 2022).
 - c. Brief of Second Supplementary Evidence of Elizabeth Jane White, UFD - Urban Form and Development (Highly Productive Land) (21 October 2022).
 - d. Third Brief of Supplementary Evidence of Elizabeth Jane White, UFD (Mineral Extraction) (24 February 2023).
3. This report takes an issue-by-issue approach to addressing matters outstanding. The key issues addressed in this reply report are:
 - a. The drafting approach taken to the notified UFD chapter and consistency with other chapters
 - b. The effect of the NPS-HPL
 - c. The appropriate location for the rural-focussed provisions in the UFD chapter
 - d. Direction of the urban intensification and urban expansion provisions
 - e. Provisions relating to the potential transition of industrial areas
 - f. Rural lifestyle development provisions
 - g. Management of reverse sensitivity effects
 - h. Regionally significant industry
4. Other matters where changes are recommended are also listed in the final section of this report.

2. Procedural and jurisdictional issues

2.1. Chapter redraft

5. Following the UFD hearing, the Hearing Panel issued Minute 7 which directed that if I recommended redrafting the chapter in response to the issues raised by submitters, that

drafting should be circulated to submitters prior to this reply report being issued, to allow submitters the opportunity to respond to my recommended changes.

6. A redrafted chapter was circulated to submitters on 31 March 2023, and responses were provided by various parties. This reply takes into account, and where appropriate, refers to those responses.

3. Drafting approach

7. Before turning to more specific changes sought to provisions, this section considers broader drafting matters applying across the UFD chapter.

3.1. Submissions and evidence

8. Ms McEwan’s evidence for DCC includes a substantial redraft of the UFD chapter.¹ This, in part, reflects the submitter’s concern that the drafting of the objectives is not sufficiently clear, and a desire for them to be written more clearly as “*end states*”, instead of them being “*descriptions of processes or activities*”. In several cases, content in the notified objectives is considered by the submitter to be more appropriate content for policies. In relation to policies, concern is expressed that the policies do not provide sufficient direction on how activities might need to be managed (including restrictions) to achieve the objectives.
9. Ms McEwan also seeks the deletion of provisions, including UFD-O3 and UFD-P1, which she considers relate to, or overlap with the NPSUD, and do not ‘add value’.²
10. My supplementary evidence³ recommended that the generic clauses referring to values and features be deleted to reflect the intent for the pORPS to be read as a whole and to avoid potential conflict between the more generic, and differing, references in the UFD chapter with the more specific direction across various other provisions. Ms McEwan, while supporting the deletions, considers that there are a range of other provisions in the UFD chapter that relate to matters addressed elsewhere in the pORPS, including the HCV, EIT-TRAN, EIT-EN, EIT-INF, HAZ-NH, LF-LS and IM chapters, which should similarly be deleted.⁴

3.2. Analysis

11. The UFD chapter as notified includes five objectives, some of which are relatively lengthy. In my view, the number and length of the objectives contrasts with the more succinct approach generally taken in other chapters of the pORPS. I also agree with Ms McEwan that while written as outcomes, a number of the clauses contained within the objectives

¹ Emily McEwan for Dunedin City Council, Annexure A.

² Emily McEwan for Dunedin City Council, paras [27]-[33].

³ Brief of Supplementary Evidence of Elizabeth Jane White, Urban Form and Development Chapter (11 October 2022), para 10.

⁴ Emily McEwan for Dunedin City Council, paras [22]-[26].

are process-related.⁵ A consequence of this is that several clauses contained within the objectives are then duplicated at the policy level.

12. As noted in my supplementary evidence, IM-P1 directs that all provisions within the RPS relevant to an issue or decision must be considered together. I understand that the drafting approach generally taken across the pORPS is for the provisions to be read as a whole, and to limit cross-referencing to where it is necessary to identify where a different approach has been taken.⁶ Having considered the direction in other parts of the pORPS more fully, I am of the view that there are various matters that are addressed in other parts of the pORPS which do not need to be referred to again in the UFD chapter. This is because the UFD provisions need to be read and considered alongside other provisions. Removing duplication (and potential conflict) will therefore improve the efficiency and effectiveness of the pORPS.
13. A consequence of the above is that in my view it is appropriate to redraft the objectives to:
 - a. Combine UFD-O1, UFD-O2, UFD-O3 and UFD-O5 into a single objective which is more focused on the outcome sought in relation to the development of urban areas. This, in effect, removes a number of clauses that in my view are process-related, or methods to achieve the type of urban area which is sought, and therefore sit better at a policy level.
 - b. Amend UFD-O4 so that those clauses which are essentially methods are removed.
14. For completeness I note that in *Reply report 1: Introduction and general themes* Ms Boyd is recommending that UFD-O4 is shifted into the LS-LF chapter and in *Reply report 9: LF – Land and freshwater* that reference to “productive capacity” is removed; however she has otherwise adopted the recommended drafting of the objective.
15. The detail of the reasoning behind what I recommend deleting (including where it is shifted into the revision to UFD-O1) is set out in the table below:

Objective	Part	Comment
UFD-O2	Chapeau	Shifted to revised UFD-O1, with UFD-O1 now focused on development and change as this more accurately reflects what the direction in the pORPS relates to. Form and functioning, as it relates to the planning for growth, is a sub-set of this.
	(1)	Outcome component covered in UFD-O1(1) – part of meeting changing needs. Method aspect shifted to UFD-P1.
	(2)	Covered in UFD-O1(1).
	(3)	Addressed in other parts of RPS in relation to identified features, and where not an identified feature is addressed in UFD-O1(2).
	(4)	Urban design covered in addition to UFD-O1(2A) and liveability covered more broadly in UFD-O1(1).

⁵ Emily McEwan for Dunedin City Council, para [35].

⁶ Brief of Supplementary Evidence of Elizabeth Jane White, Urban Form and Development Chapter (11 October 2022), para 10.

	(5)	Covered broadly in addition to UFD-O1(2A).
	(6)	Covered, at an outcome level, through addition to UFD-O1(2).
	(7)	Addressed in other parts of pORPS.
	(8)	Covered broadly in addition to UFD-O1(2A).
	(9)	Covered broadly, at an outcome level, through addition to UFD-O1(2A).
	(9A)	Covered in EIT-INF.
	(10)	Outcome component (consolidated and well-designed) shifted to UFD-O1(2A). Method aspect shifted to UFD-P4.
	(11)	Covered at the objective level by IM-O1 and MW-O1, and otherwise more process-related and therefore included at the policy level.
UFD-O3	Chapeau	Generally considered to be a method, not an outcome.
	(1)	Covered in UFD-O1(1) (accommodating needs) and UFD-O1(2A) (integrated with infrastructure).
	(2)	Covered at outcome level in IM-O1 and MW-O1, and otherwise more process-related and therefore included at the policy level.
UFD-O4	(2)	Outcome aspect covered in UFD-O4(4), more detailed aspect covered at policy level.
	(3)	Generally considered to be a method, not an outcome, which is addressed in UFD-P4, UFD-P7 and UFD-P8. Outcome is reflected in UFD-O4(4) and (4A).
	New (4A)	Deletion of “the <i>natural and physical resources</i> that support” to reflect that key aspect is productive capacity and long-term viability (e.g. reverse sensitivity does not arise from loss of resources, but is something that can affect those resources being used to their fullest extent.)
	Old (4A)	Covered by MW-P4.
UFD-O5	Chapeau	Covered in UFD-O1(2B).
	(1)	Captured at an outcome level in UFD-O1(2B)) and in addition to UFD-P3(3).
	(2)	Captured at an outcome level in UFD-O1(2B)) or otherwise reflected in UFD-P1(3). Also covered in definition of well-functioning urban environment and therefore reflected in UFD-P4(1).
	(3)	Captured at an outcome level in UFD-O1(2B)) or otherwise reflected in UFD-P1(3).
	(4)	Captured at an outcome level in UFD-O1(2B)) or otherwise covered by EIT-EN-O3.
	(5)	Covered in EIT-EN-P8.

16. As a consequence of my recommended change to the objectives, I also recommend that two process-related clauses ((1) and (10)) that were included in notified version of UFD-O2, and which were not otherwise addressed in the policies, are shifted in the relevant policy. These new clauses relate to: housing choice, quality, and affordability (shifted to UFD-P1); and consolidation of development in and around existing urban areas (shifted to UFD-P4).

17. The matters that are addressed in other parts of the pORPS which I recommended are deleted, include:
- a. Broad reference to history, setting, and the natural and built environment in UFD-O2(3), on the basis that there is more specific direction on these matters in other parts of the pORPS.
 - b. Direction relating to the impact of development on infrastructure (noting most of these were recommended to be added by Mr Balderston and were not in the notified version),⁷ as these are addressed in EIT-INF-P15.
 - c. References to natural hazards⁸ as these are addressed in the HAZ-NH chapter.
 - d. Provisions relating to development of Māori land,⁹ as these duplicate (and currently differ slightly from) MW-P4. However, I consider explicit reference to MW-P4 in UFD-P7(6) is appropriate to make the relationship between the two policies clear. While I acknowledge that the preference of Kāi Tahu ki Otago is for these provisions to remain in the UFD chapter,¹⁰ I do not consider that removal from the UFD chapter weakens the provision for use and development of Native Reserves and Māori land, as effectively duplicating the provision does not increase its weight or alter the direction.
 - e. Reference to water sensitive design¹¹ which is addressed in the LF-FW chapter.
18. For the avoidance of doubt, I consider a number of provisions referring to infrastructure should be retained, where these relate to integration of infrastructure provisions with growth planning. This is not addressed in the EIT-INF chapter and in my view given its centrality to growth and development, is best addressed through the UFD chapter.
19. I have also considered the additional clause to UFD-P4 sought by Ms McIntyre¹² in her primary evidence (*“is located and designed to avoid increasing demand on water supply in water-short areas and cumulative impacts of wastewater and stormwater on water bodies and coastal waters”*). However, I consider this is sufficiently addressed in other provisions.¹³
20. Similarly, I have considered the additional clauses sought to be included in UFD-P7 by Mr Farrell¹⁴ in his evidence (*“enables outdoor recreation (including commercial recreation)”* and *“facilitates growth or expansion of existing visitor destination places and activities”*) but I do not consider that they are appropriate, as I disagree with Mr Farrell that these activities need to be specifically recognised and provided for. I note that the policy direction does not preclude these activities being established in rural areas, but UFD-P7

⁷ UFD-O2(9A), UFD-P3(2A) UFD-P4(3A), and UFD-P6(3)(b), UFD-P7(7A), UFD-P8(5)(d), UFD-M2(3)(ea).

⁸ UFD-O2(7), UFD-P1(4), UFD-AER7 and UFD-AER8.

⁹ UFD-O4(4A), UFD-P7(5A), UFD-P9.

¹⁰ Memorandum on Behalf of Kāi Tahu in Response to Direction in Minute 7 (Redraft of UFD Chapter), 20 April 2023.

¹¹ UFD-M2(3).

¹² Sandra McIntyre for Kāi Tahu ki Otago, paras [158]-[159].

¹³ UFD-P4(3) and (4) and the LF chapter (LF-WAI-P3(4) and (5)).

¹⁴ Ben Farrell for Fish & Game, Wayfare/NZSki, Trojan/Realnz, para [120].

provides direction on how they are to be managed. I consider this is the appropriate approach to achieve the objectives.

21. With respect to provisions which relate to, or potentially overlap with, the NPSUD I have carefully considered these and do not agree that it is appropriate to simply delete these provisions and rely on the NPSUD alone. The provisions in the pORPS will guide urban development in all urban areas, not all of which are 'urban environments' under the NPSUD. Deletion of UFD-P1, in particular, would leave no requirement in the pORPS for the strategic planning of growth and development in smaller urban areas to which the NPSUD does not apply.
22. I also consider that while the pORPS cannot conflict with or override the direction in the NPSUD, there is no reason why the pORPS cannot provide additional direction for the growth and development of urban areas which compliments the NPSUD, if this is appropriate to achieve the objectives of the pORPS.
23. Notwithstanding the above, I do agree with amending provisions where they either do not align with the NPSUD, or unnecessarily duplicate it. This includes:
 - a. Removing reference to competitiveness margin in UFD-P2, as methodology for calculating capacity is set out in NPSUD.
 - b. Amending UFD-P3(3) so that it is worded in a way that properly gives effect to Policy 5 of NPS-UD.
 - c. Deleting UFD-P10(1) and (2) as they are required by NPSUD and do not relate to the determination of what is deemed 'significant'.

3.3. Final recommendation

24. The wording of the objectives I recommend are as follows. For ease, these are shown without tracking.

UFD-O1 –Development of urban areas

The development and change of Otago's *urban areas* occurs in a strategic and coordinated way, which:

- (1) accommodates the diverse and changing needs and preferences of Otago's people and communities, now and in the future,
- (2) integrates effectively with surrounding *urban areas* and *rural areas*,
- (3) results in a consolidated, well-connected and well-designed urban form which is integrated with *infrastructure*, and
- (4) supports *climate change adaptation* and *climate change mitigation*.¹⁵

UFD-O4 – Development in rural areas

¹⁵ 00211.045 LAC Properties, 00210.045 Lane Hocking, 00209.045 Universal Developments Hawea Limited, 00139.001, 00.39.001, 00139.250 & 00139.251 Dunedin City Council, 00321.084 New Zealand Infrastructure Commission, 00137.151 Director General of Conservation, 00226.307 Kāi Tahu ki Otago, 00136.010 Minister for the Environment

Development in Otago's *rural areas* occurs in a way that:

- (4) provides for the ongoing use of *rural areas* for *primary production* and *rural industry*, and
- (4A) does not compromise the *productive capacity* and long-term viability of *primary production* and rural communities.¹⁶

25. In terms of s32AA, I consider that the revised objectives are more appropriate to achieve the purpose of the RMA, because they:
- a. Are more clearly focused on the outcomes sought for the Otago region, rather than the process for how those outcomes are achieved;
 - b. Assist in giving effect to the NPSUD;
 - c. Respond more clearly to the identified issue (SRMR-I4); and
 - d. More clearly demonstrate how the development of urban and rural areas will provide for the well-being of the Otago region (s5 RMA) and the amenity values which are anticipated which are to be maintained and enhanced in such development (s7(c)).

4. Location of rural provisions

26. The UFD chapter, as notified, included provisions relating to management or development in 'rural areas'.

4.1. Submissions and evidence

27. A number of submitters on the UFD chapter raised a general concern that 'rural' issues should not be in an 'urban' chapter. In her evidence, Ms Wharfe continues to consider that rural matters should be contained in a separate chapter specific to the rural area, which in her view, is required by the National Planning Standards.¹⁷
28. Ms McEwan prefers that aspects of the rural-based provisions which address non-urban activities be deleted, as in her view they do not logically sit in the UFD chapter and should be left to the district plan level to manage.¹⁸ Ms Wharfe disagrees with this, as she considers the deletions would not provide necessary strategic direction in the pORPS on how rural areas are to be managed.¹⁹

¹⁶ 00137.154 Director General of Conservation, 00226.310 Kāi Tahu ki Otago, 00139.001, 00139.253 & 00139.262 Dunedin City Council, 00211.045, 00211.048, 00211.049 & 00211.050 LAC Properties, 00210.045, 00210.048, 00210.049 & 00210.050 Lane Hocking, 00209.045, 00209.048, 00209.049 & 00209.050 Universal Developments Hawea Limited, 00118.066 Maryhill Ltd, 00014.066 Mt Cardrona Station, 00322.038 Fulton Hogan, 00410.007 Rural Contractors NZ, 00236.099 Horticulture NZ, 00118.066 Maryhill Limited, 00014.066 Mt Cardrona Station, 00322.038 Fulton Hogan, 00230.144 Royal Forest and Bird Protection Society of New Zealand Incorporated

¹⁷ Lynette Wharfe for Horticulture New Zealand, paras [323]-[333].

¹⁸ Emily McEwan for Dunedin City Council, paras [61]-[64].

¹⁹ Rebuttal evidence of Lynette Wharfe for Horticulture New Zealand, paras [19]-[28].

4.2. Analysis

29. The section 42A report outlined why the rural-focused provisions were included in the UFD chapter,²⁰ and for brevity I have not repeated that here. ORC’s opening legal submissions²¹ also identified why a separate chapter specific to the rural area is not required by the National Planning Standards. It is therefore a question of the merits of removing certain provisions from the UFD chapter.
30. Like Ms Wharfe, I do not consider that simply deleting the rural-based provisions would be appropriate, as this would not provide any overarching direction across the region for how development in rural areas should be managed. This would not assist in addressing SRMR-I4, which while largely focused on urban growth, also identifies that development in rural areas can affect productive use of rural land.
31. In my view there is little, if any, benefit gained from simply moving the rural-focused provisions into a completely separate chapter, as it would not ultimately alter their effect. I also consider it important to note that direction on how rural areas are to be managed is governed by a range of provisions across the wider pORPS. For example, the management of activities in rural areas in relation to effects on air and water quality, indigenous biodiversity, landscapes and infrastructure. Plan users wishing to understand what provisions may apply to rural areas will therefore need to consult multiple chapters of the pORPS, including the UFD chapter with respect to development. Given this, it does not seem particularly efficient to me to establish what would be effectively a sub-chapter of UFD focussed only on rural development. I do, however, note that UFD-O4 is narrower in application than UFD-P7. I therefore consider it would assist if a minor amendment is made to the chapeau of UFD-P7 to explicitly refer to management of “development”.
32. Separating out the rural-focused provisions would also result in less integration where the provisions are interrelated. This is because, in my view, the provisions, as they relate to rural areas, fall into three categories:
- a. management of urban expansion into rural areas;
 - b. management of the interface between urban and rural areas; and
 - c. management of development within rural areas.
33. While the latter category is not directly related to urban development, the former two are relevant to achieving the outcomes sought for both urban and rural areas, and therefore in my view trying to ‘separate’ out rural provisions misses the opportunity to consider these interrelated components in an integrated way. The best example of this is proposed UFD-AER12, which anticipates that *“Urban expansion and urban activities are appropriately planned so that they do not adversely affect the long-term viability of the rural sector and rural communities”*. This is ultimately about how urban activities are managed with respect to the outcomes sought in rural areas.

²⁰ Chapter 15: UFD – Urban Form and Development (27 April 2022), paras [210]-[220].

²¹ ORC Submission for Hearing, UFD – Urban form and development (14 February 2023), paras [49]-[54].

34. A further example of this is contained in the legal submissions for Horticulture New Zealand, which suggest that a clause sought by the submitter, relating to avoiding urban rezoning of highly productive land, could be contained in a separate rural chapter.²² The effect of this suggestion would be that when consulting the pORPS in relation to how urban expansion is to be managed, a plan user would need to look at both the direction in the UFD chapter, as well as a separate rural chapter, to understand what applies. While I accept that the RPS must be read as a whole, my view is that in relation to this particular aspect, the separation would be inefficient.
35. Notwithstanding the above, I accept that there may be other reasons why the management of development within rural areas (but not management of urban expansion into rural areas or management of the interface between urban and rural areas) may better ‘fit’ in another chapter, alongside other provisions that they are more directly related to. This is addressed by Ms Boyd in *Reply report 1: Introduction and general themes*. In my view, this would result in a reduction in the integration in the pORPS between the management of development in both urban and rural areas, but I accept My Boyd’s reasoning as to why this improves integration with the management of land and soil resources, and particularly with highly productive land.
36. Ultimately the line has to be drawn somewhere, and I am comfortable with Ms Boyd’s recommendation to include UFD-O4, UFD-P7 and UFD-P8 (and related methods, explanations, principal reasons and anticipated environmental results) in the LS-LF chapter. It should be noted that this means that some provisions remaining in the UFD chapter will still need to be read in conjunction with those shifted into the LS-LF chapter. For example, UFD-P4(7) which relates to the interface between urban and rural areas when considering of urban expansion, will need to be read alongside UFD-O4. Similarly, UFD-AER12 will remain in the UFD chapter (as it relates to urban expansion and urban activities) but ultimately relates to achievement of UFD-O4.
37. For completeness I note that I (rather than Ms Boyd) have addressed the content of the above provisions in this reply report.

4.3. Final recommendation

38. My final recommended amendments to the notified version of the pORPS are:
- a. Amend the chapeau of UFD-P7 as follows:
The management of development in²³ *rural areas*.
39. In terms of s32AA, I consider the change is minor, but aligns with the wording of UFD-O4 and is therefore more effective in achieving the outcome sought.

²² Lega Submissions for Hearing Week 3 of the Proposed Otago Regional Policy Statement for Horticulture New Zealand, 15 February 2023, paras [26]-[29].

²³ Responds to submissions seeking that management of rural areas more broadly is not contained in this chapter, by aligning it more closely with UFD-O4 and therefore making it more clearly limited to ‘development’. e.g. 00240.033 New Zealand Pork Industry Board, 00239.172 Federated Farmers, 00236.096 Horticulture New Zealand

5. Effect of the NPSHPL

40. The National Policy Statement for Highly Productive Land 2022 (NPSHPL) came into effect after the s42A reports were released. This required reconsideration of various provisions in the pORPS which relate to highly productive land and resulted in the preparation of supplementary evidence.²⁴

5.1. Submissions and evidence

41. Various parties commented on the changes to provisions in the UFD chapter recommended through the supplementary evidence, either:
- a. Supporting the rewording proposed.²⁵
 - b. Seeking amendments to explicitly refer to the NPSHPL.²⁶
 - c. Seeking additions to direct avoidance of urban rezoning of highly productive land at the objective level in UFD-O3²⁷, and in UFD-P1²⁸; and avoidance of rural lifestyle zones on highly productive land.²⁹
 - d. Seeking deletion of provisions relating to highly productive land, relying instead directly on the NPSHPL.³⁰
 - e. Seeking further amendments on the basis that avoidance as a ‘first priority’ is considered to be more stringent than the NPSHPL.³¹
 - f. Exempting development of Māori land on highly productive land where provided for under MW-P4.³²

5.2. Analysis

42. As identified in ORC’s opening legal submissions, the use of the phrase “*avoids, as a first priority*” previously recommended in UFD-O4(2), UFD-P4(6) and UFD-P(8) is considered to be inconsistent with Policies 5 to 8 and clauses 3.6-3.10 of the NPSHPL.³³
43. As a consequence of the redrafting I have recommended in this report, some of the previous provisions no longer result in potential overlap or conflict with the NPSHPL. For example, I recommend that UFD-O4 no longer refer to avoiding development of highly

²⁴ Brief of Second Supplementary Evidence of Felicity Ann Boyd, LF – Land and Freshwater (Highly Productive Land) (21 October 2022). Brief of Second Supplementary Evidence of Elizabeth Jane White, UFD - Urban Form and Development (Highly Productive Land) (21 October 2022).

²⁵ Susannah Tait for Fonterra in relation to UFD-O4(2), para [12.14](b); Lynette Wharfe for Horticulture New Zealand, in relation to UFD-P4, paras [387]-[393], noting this is conditional on other amendments sought.

²⁶ Tim Ensor for Fulton Hogan in relation to UFD-O4, paras [14]-[24].

²⁷ Lynette Wharfe for Horticulture New Zealand, paras [350]-[361].

²⁸ Lynette Wharfe for Horticulture New Zealand, paras [378]-[386].

²⁹ Susannah Tait for Fonterra, paras [12.34]-[12.35].

³⁰ Emily McEwan for Dunedin City Council, paras [17], [19](a) and [55]-[59].

³¹ Ainsley McLeod for Transpower in relation to UFD-O4 and UFD-P4, paras [8.99]-[8.100] and [8.108].

³² Sandra McIntyre for Kāi Tahu ki Otago in relation to UFD-O4(2), UFD-P4(6) and UFD-P7(3), paras [34]-[36] and [157].

³³ ORC Submission for Hearing, UFD – Urban form and development (14 February 2023), paras [8]-[18].

productive land, as I consider this is a method that relates back to the broader outcome sought in UFD-O4 – that development in rural areas occurs in a way that provides for the ongoing use of these areas for primary production.

44. Of the remaining clauses, I agree with those parties who express concerns that the use of the phrase ‘avoid as a first priority’ does not accurately capture the specific direction in the NPSHPL. I also note the NPSHPL is very prescriptive, and unlike other NPSs, I do not consider that the direction requires or leaves room for regional policy statements, regional plans or district plans to ‘tease out’ how the direction within it is to be achieved/implemented at a local level. It would also be difficult to capture the detail contained within the NPSHPL without repeating it.
45. On balance, while I would not usually prefer direct reference to an NPS, I consider in this instance, that is the most appropriate approach. I have therefore recommended changes to UFD-P4(6), UFD-P7(6) and UFD-P8(4) so that they explicitly refer to the NPSHPL. UFD-P7(3) also refers to highly productive land, directing prioritisation of land-based primary production on it. While this is consistent with Policy 5 of the NPSHPL, given the NPS-HPL also contains further direction on how this is to be achieved, I consider it similarly appropriate to expand this clause to also explicitly refer to the NPSHPL. I also note that this is consistent with the wording Ms Boyd has recommended in relation to LF-LS-P19(2).³⁴

5.3. Final recommendation

46. My final recommended amendments to the as notified version of the pORPS are:
- a. Amend UFD-P4(6) as follows:
 - (6) ~~avoids, as the first priority, highly productive land~~ except as provided for in the NPS-HPL, and identified in accordance with LF-LS-P19³⁵,
 - b. Amend UFD-P7(3) as follows:
 - (3) ~~enables prioritises³⁶ land-based³⁷ primary production particularly on land or soils identified as³⁸ on highly productive land³⁹~~ in accordance with the NPS-HPL LF-LS-P19,⁴⁰

³⁴ Second Brief of Supplementary Evidence of Felicity Ann Boyd, Introduction and General Themes & LF (Mineral Extraction), (24 February 2023), paras [105]-[109].

³⁵ 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

³⁶ 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

³⁷ 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

³⁸ 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

³⁹ 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

⁴⁰ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from 00226.318 Kai Tahu ki Otago, 00235.153 OWRUG

c. Amend UFD-P7(6) as follows (noting this incorporates changes recommended for other reasons):

(6) restricts the establishment of ~~residential non-rural activities, sensitive activities, and non-rural businesses~~⁴¹ which could adversely affect, including by way of reverse sensitivity or fragmentation, the productive capacity of highly productive land, or existing or anticipated⁴² primary production and rural industry activities, unless those activities are undertaken in accordance with MW-P4⁴³ or the NPS-HPL⁴⁴.

d. Amend UFD-P8(4) as follows:

(4) ~~it~~⁴⁵ ~~avoids, as the first priority, highly productive land identified in accordance with LF-LS-P16~~ except as provided for in the NPS-HPL,⁴⁶

47. In terms of s32AA, I consider that the changes are more effective at achieving UFD-O4, and are required to ensure that the pORPS gives effect to the NPSHPL as required under s62(3) of the RMA.

6. Urban intensification and expansion

48. UFD-P3 provides direction in relation to urban intensification while UFD-P4 provides direction in relation to urban expansion.

6.1. Submissions and evidence

49. To address the concerns raised in DCC's submission, Ms McEwan considers that UFD-P3 and UFD-P4 should be deleted.⁴⁷ My understanding is that her main concern is that these policies are worded in such a way that they could be interpreted as meaning urban intensification and expansion must be provided for/facilitated if the criteria in the policies are met.

6.2. Analysis

50. This is a matter I attempted to address in supplementary evidence,⁴⁸ where I noted that the policy intent was not to limit the matters a local authority may consider in their determination of when intensification/expansion may be appropriate, but to identify

⁴¹ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from 00213.009 Fonterra Co-operative Group Limited.

⁴² 0015.032 Oceana Gold

⁴³ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from 00139.264 Dunedin City Council

⁴⁴ 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

⁴⁵ Clause 16(2), Schedule 1, RMA

⁴⁶ 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.

⁴⁷ Emily McEwan for Dunedin City Council, paras [43]-[46].

⁴⁸ Brief of Supplementary Evidence of Elizabeth Jane White, Urban Form and Development Chapter (11 October 2022), para [22].

what criteria should, as a minimum, be met when intensification/expansion is contemplated. However, I accept Ms McEwan’s concern that they could still be interpreted as meaning urban intensification and expansion must be provided for/facilitated if the criteria in the policies are met. I therefore recommend reframing the policies to align with the original intent.

6.3. Final recommendation

51. My final recommended amendments to the notified version of the pORPS are:

a. Amend the chapeau of UFD-P3 as follows:

~~Within urban areas~~ Manage intensification in urban areas, so that as a minimum, is enabled where⁴⁹it:

b. Amend the chapeau of UFD-P4 as follows:

~~Expansion of existing urban areas is facilitated only occurs~~⁵⁰ where the expansion:

52. In terms of s32AA, I consider that the changes provide greater clarity on the action required to be taken. As such, I consider them to be more efficient and effective at achieving UFD-O1.

7. Industrial activities

53. UFD-P6 provides direction in relation to the provisions for industrial activities in urban areas. Clause (4) specifically relates to the potential for the transition of industrial zoned areas for other purposes.

7.1. Submissions and evidence

54. Ms McEwan is concerned that clause (4) of this policy provides a pathway for the transition of industrial areas to other purposes.⁵¹ This concern is reiterated in her response to the redrafting circulated in accordance with Minute 7, where she states that *“Clauses (3) and (4) of UFD-P6 still enable the vibrancy of commercial centres to be undermined by enabling commercial activity to move into industrial zoned areas”*.⁵² It appears that Ms McEwan has concerns that providing for transition would not allow for activities not anticipated in an industrial zone to be managed, particularly in terms of avoiding commercial uses in industrial zones. She also makes other comments about the drafting of clause (3), including concerns about the way the word ‘avoid’ is used.⁵³

⁴⁹ 00139.257 Dunedin City Council

⁵⁰ 00139.258 Dunedin City Council

⁵¹ Emily McEwan for Dunedin City Council, paras [47]-[50].

⁵² Memorandum of Emily Kate McEwan for Dunedin City Council, 21 April 2023, para [2.1].

⁵³ Memorandum of Emily Kate McEwan for Dunedin City Council, 21 April 2023, paras [2.2]-[3.2].

7.2. Analysis

55. I consider it important to note that the direction in UFD-P6(4) does not require transition but does allow for it to be considered when the criteria are met. In my supplementary evidence, I recommended amendments to the policy drafting to make this clearer.⁵⁴ I do not consider that the direction is at odds with policy frameworks which may seek to limit commercial activities in industrial areas. Rather, the policy provides direction as to what requirements must be met, before such a transition could occur. Should the clause be deleted as sought by Ms McEwan, then the transition of industrial areas could still occur, but there would be no direction at the pORPS level as to what tests such a transition would need to meet. My preference is therefore to retain clause (4). I also note that ultimately the direction would not prevent a district plan from taking a more restrictive approach.
56. However, I consider that the opening words of the clause, which refer to areas experiencing or expected to experience high demand from other urban activities, can be deleted as they are not essential to the direction, and may unintentionally infer that where such demand arises, transition should be contemplated. I have also recommended that what was clause (3)(a) is shifted into clause (4), as it serves as a qualifier to clause (4), but in my view does not add particular value to clause (3) (as the direction in (3) applies in all cases regardless of the additional wording). I have also reconsidered the way in which the word “avoid” is used in clause (3) and recommend that it is reworded, so that rather than “activities” being required to be avoided, activities are required to be managed so that the likelihood of reverse sensitivity effects is avoided. Non-industrial activities could therefore still occur where they are managed in such a way that reverse sensitivity *effects* are unlikely to arise.

7.3. Final recommendation

57. My final recommended amendments to the notified version of the pORPS are:

- a. Amend UFD-P6 as follows:

Provide for industrial activities in urban areas by:

- (1) (...)
- (3) managing the establishment of non-industrial activities, in industrial zones, ~~by to avoiding activities likely to result in the likelihood of~~⁵⁵ reverse sensitivity *effects* on existing or potential⁵⁶ *industrial activities arising*, or ~~the likely to result in an inefficient use of industrial zoned land or infrastructure, particularly where:~~

⁵⁴ Brief of Supplementary Evidence of Elizabeth Jane White, Urban Form and Development Chapter (11 October 2022), para 25.

⁵⁵ 00139.260 Dunedin City Council

⁵⁶ 00233.043 Fonterra

- ~~(a) the area provides for a significant *operational need* for a particular *industrial activity* or grouping of *industrial activities* that are unlikely or are less efficiently able to be met in alternative locations, or⁵⁷~~
- ~~(b) the area contains *nationally* or *regionally significant infrastructure* and the requirements of EIT-INF-P15 apply,⁵⁸ and~~
- (4) ~~in areas that are experiencing or expected to experience high demand from other urban activities, and the criteria in (3)(a) or (3)(b) do not apply; managing the establishment of non-industrial activities and only allowing for the transition of industrial zoned areas to other purposes:~~
 - ~~(a) where the area does not provide for a significant *operational need* for a particular *industrial activity* or grouping of *industrial activities* that are unlikely or are less efficiently able to be met in alternative locations, and⁵⁹~~
 - ~~(b) by first applying (1) and (2).~~

8. Rural lifestyle development

58. As notified, UFD-O4(3), UFD-P7(6) and UFD-P8 contained direction relating to rural lifestyle and rural residential development.

8.1. Submissions and evidence

59. Mr Brown for Waterfall Park Development and Boxer Hills Trust and Mr Ferguson for Darby Planning LP & Others have concerns that the direction relating to rural lifestyle development in the pORPS is too restrictive. This relates to directing such development to areas identified through strategic planning or zoned for that purpose (UFD-O4(3) and UFD-P7(5)); and (for Mr Brown) requiring such zones to be located adjacent to existing or planned urban areas (UFD-P8(1)). They are ultimately concerned that such direction would prevent the ability for rural lifestyle development in areas where they consider it may be appropriate (including outside of specific Rural Lifestyle zones), and does not sufficiently take into account other constraints which may preclude such development, or the drivers for demand for such living opportunities.⁶⁰ Mr Brown and Ms McEwan also raise concerns that there is a conflict between the requirement to locate close to existing or planned urban areas (UFD-P8(1)) and the requirement to also avoid locations that are or likely to be used for urban expansion (UFD-P8(2)).⁶¹

60. Ms Tait seeks changes to UFD-O4(3) and (4) to direct avoidance of rural lifestyle development in areas which would compromise those matters currently set out in clause

⁵⁷ 00139.260 Dunedin City Council

⁵⁸ 00139.001 Dunedin City Council

⁵⁹ 00139.260 Dunedin City Council

⁶⁰ Jeff Brown for Waterfall Park Developments/Boxer Hill Trust, paras [2.2] – [2.14], [3.1] – [3.6] and [4.1] – [4.2]; Chris Ferguson for Darby Planning LP & Others, paras [30]-[38].

⁶¹ Jeff Brown for Waterfall Park Developments/Boxer Hill Trust, para [2.9]; Emily McEwan for Dunedin City Council, para [79].

(4), rather than requiring it to be directed to strategically identified areas or specific zones.⁶²

61. Ms McEwan supports deletion of UFD-P8(1) as she considers that it could otherwise result in pressure for inappropriate rural lifestyle development adjacent to urban areas.⁶³
62. Ms Simpson agrees with allowing for consideration of rural lifestyle development in non-adjacent areas but considers that rather than deleting UFD-P8(1), additional direction should be included in relation to where non-adjacent development may be appropriate.⁶⁴ She is also concerned that the specific changes sought by Mr Ferguson to UFD-O4(3) would reframe the objective to essentially allow for urban development in rural areas.⁶⁵
63. Conversely, Ms Wharfe supports the current direction in relation to rural lifestyle development, on the basis that it better manages the potential for such development to adversely affect primary production activities in rural areas. She opposes the deletion of the rural lifestyle provisions as sought by Mr Ferguson and Ms McEwan.⁶⁶

8.2. Analysis

64. UFD-O4(3) directs that rural lifestyle development only be provided for in locations identified through strategic planning or zoned within district plans as suitable for such development. As part of my earlier recommendation to reframe the objectives, I have recommended deleting this clause, as I consider it is a method rather than an outcome. I agree with Mr Brown and Mr Ferguson that there may be instances where rural lifestyle development is appropriate within a zone, even if it is not the main purpose of that zone. I therefore agree with deleting the requirement in UFD-P7(5) for rural lifestyle development to be directed only to areas zoned for that purpose. However, as UFD-P8 is currently limited to rural lifestyle *zones* I consider it should be consequentially amended to apply to all rural lifestyle development.
65. I also consider that directing that all rural lifestyle development across the region must be located adjacent to existing or planned urban areas and where ready access to employment and services is available is unnecessarily limiting. I consider that where development is able to meet the direction in the remainder of the policy, it will be effective at achieving UFD-O4, without the need for this additional requirement. I also agree with Mr Brown and Ms McEwan that there is a conflict between the requirement to locate close to existing or planned urban areas while also avoiding locations that are or likely to be used for urban expansion.
66. Finally, I note that under the National Planning Standards, the Rural Lifestyle Zone is a rural, not urban, zone described as “*Areas used predominantly for a residential lifestyle **within a rural environment** on lots smaller than those of the General rural and Rural production zones, **while still enabling primary production to occur.***” (Emphasis mine.) As

⁶² Susannah Tait for Fonterra, para [12.14](e).

⁶³ Emily McEwan for Dunedin City Council, paras [77]-[82].

⁶⁴ Rebuttal evidence of Elizabeth Simpson for Queenstown Lakes District Council, paras [3.1]-[3.7].

⁶⁵ Rebuttal evidence of Elizabeth Simpson for Queenstown Lakes District Council, paras [4.1]-[4.6].

⁶⁶ Rebuttal evidence of Lynette Wharfe for Horticulture New Zealand, paras [5]-[14] and [29]-[31].

such, allowing rural lifestyle activities within rural areas is consistent with the zone description. It also reflects that primary production activities are anticipated in such zones and therefore in my view are an expected ‘fit’ within a wider rural area without necessarily needing to be adjacent to an urban area. I therefore recommend UFD-P8(1) is deleted. I consider that the direction in the remainder of the policy is sufficient to address the concerns of Ms Wharfe about effects on primary production activities, noting that primary production activities are also anticipated within rural lifestyle areas, and noting an additional change I have recommended to UFD-P8(3) (set out in the next section).

67. For completeness, I note that these changes are not supported by Ms Wharfe,⁶⁷ and that additional amendments are sought by Silver Fern Farms to UFD-P8(3)⁶⁸ as a consequence of the recommended deletion. I have considered these concerns and the additional drafting, but still consider that the direction in UFD-P8(3) as recommended is the most appropriate way to manage potential conflicts between rural lifestyle development and other rural activities.

8.3. Final recommendation

68. My final recommended amendments to the notified version of the pORPS are:
- a. Delete UFD-P7(5) (“directs rural lifestyle development to areas zoned for that purpose in accordance with UFD-P8”) ⁶⁹.
 - b. Delete UFD-P8(1) (“*the land is adjacent to existing or planned urban areas and ready access to employment and services is available*”) ⁷⁰, and make consequential amendments to clause (2) so that it no longer refers to clause (1).
69. As a consequence of the above, I recommend that the title and chapeau of UFD-P8 is amended to refer to “rural lifestyle development”.
70. In terms of s32AA, I consider that the remainder of the direction in UFD-P8 is sufficient to achieve the outcome sought in UFD-O4. I therefore consider the deletion of these clauses will be more efficient at achieving the outcomes, as it will not restrict rural lifestyle development in locations or circumstances that may still achieve UFD-O4, while not reducing the effectiveness of the approach.

9. Reverse sensitivity

71. A number of submissions seek changes to the UFD chapter to include more directive provisions on the management of reverse sensitivity effects. Several changes were recommended in the section 42A report to address concerns in these submissions.

⁶⁷ Memorandum of Lynette Wharfe in Response to Minute 7, 21 April 2023, paras [47]-[58].

⁶⁸ Silver Fern Farms Response to the Redrafted Urban Form and Development Provisions, 21 April 2023, paras [8]-[12].

⁶⁹ Clause 10(2)(b)(i), Schedule 1, RMA – consequential amendment arising from 00025.004 Boxer Hills Trust, 00023.005 Waterfall Park Developments Limited

⁷⁰ 00025.004 Boxer Hills Trust, 00023.005 Waterfall Park Developments Limited

9.1. Submissions and evidence

72. Ms Wharfe, Mr Ensor and Ms Tait support further changes to a number of provisions,⁷¹ which generally seek to strengthen the direction by requiring avoidance of or protection from reverse sensitivity impacts.⁷² In her oral presentation to the Hearing Panel, Ms O’Sullivan, on behalf of the Queenstown Airport, expressed her view that the management of reverse sensitivity, when looked at across the whole of the UFD chapter, is appropriate.

9.2. Analysis

73. In my view, management of reverse sensitivity is an action, rather than an outcome, and as such, my recommended changes to the UFD objectives do not contain reference to reverse sensitivity. Rather, the outcomes sought are that the development and change of urban areas is effectively integrated with surrounding areas (UFD-O1(2)) and development in rural areas ensures that other activities do not compromise the productive capacity and long-term viability of primary production and rural communities (UFD-O4(4A)). Management of potential reverse sensitivity effects is therefore one component of how these outcomes will be achieved.
74. In terms of the specific wording of the policies, I consider it appropriate that at the strategic planning level, consideration is given to potentially incompatible activities and how to resolve conflict between them (UFD-P1(8A)). However, the strategic planning policy is in my view a ‘bigger picture’ exercise rather than a detailed one, with the direction in the policy being about how the strategic planning process is undertaken and what things the process is to address. At this process-focused level I do not consider that more specific direction on reverse sensitivity is required; specific direction about where and how expansion should occur is instead contained in UFD-P4.
75. UFD-P4(7), which relates to urban expansion, directs consideration of adverse effects, including reverse sensitivity effects, on existing and anticipated primary production or rural industry activities when determining the location of the new urban/rural boundary. Because of the way I have recommended the policy is framed, being things that any expansion must achieve, I consider it appropriate to require consideration of reverse sensitivity effects, rather than requiring avoidance. This is because while I consider it important the reverse sensitivity effects are taken into account when considering the location of urban growth, I consider that it is only one factor which should be balanced against other things, and do not consider that it should act as a veto on expansion.
76. UFD-P7 relates to management of development in rural areas, and clause (6) requires restricting non-rural activities which could adversely affect (including by way of reverse sensitivity) the productive capacity of highly productive land or existing or anticipated primary production and rural industry activities. This requires explicit consideration of reverse sensitivity effects and the restriction of activities that could lead to such effects.

⁷¹ Including UFD-O2, UFD-O3, UFD-O4, UFD-P1, UFD-P4, UFD-P7, UFD-P8 and UFD-M2.

⁷² Lynette Wharfe for Horticulture New Zealand, paras [343]-[426] and [403]-[412]; Susannah Tait for Fonterra, paras [12.3]-[12.7], [12.16]-[12.19], [12.34] and [12.37]; Tim Ensor for Fulton Hogan, paras [25]-[35].

I consider this appropriate without further amendment, noting ‘restriction’ is already a strong direction.

77. UFD-P8 relates to rural lifestyle development. In considering the evidence, I have recommended a change to clause (3) so that while generally directing that impacts on existing *primary production, rural industry* and other rural activities are minimised, the potential for *reverse sensitivity effects* to arise in adjoining rural production zones is required to be avoided. I consider in this context such direction is more appropriate to achieve UFD-O4 than a requirement to only minimise.
78. I note that in response to the redrafting undertaken in accordance with Minute 7, some parties continue to seek stronger direction in relation to the management of reverse sensitivity impacts;⁷³ while Ms McEwan opposes the recommended addition of ‘avoid’ in UFD-P8(3).⁷⁴ I have considered these responses but remain of the view that the direction in each provision discussed above, when considered in the context of that provision, is the most appropriate.

9.3. Final recommendation

79. My final recommended amendments to the notified version of the pORPS are:
- a. Amend UFD-P8(3) as follows:
- (3) it⁷⁵ minimises impacts on existing or anticipated *primary production, rural industry* and other rural activities⁷⁶ ~~rural production potential, amenity values⁷⁷~~ and avoids⁷⁸ the potential for *reverse sensitivity effects* to arise in adjoining rural production zones⁷⁹,
80. In term of s32AA, I consider that the requirement for rural lifestyle development to avoid the potential for reverse sensitivity will be more effective at achieving UFD-O4. While there are costs associated with such a direction, I consider that they are outweighed by the benefits of ensuring that rural lifestyle development does not compromise the *productive capacity*, and long-term viability of the rural sector and rural communities.

⁷³ Silver Fern Farms Response to the Redrafted Urban Form and Development Provisions, 21 April 2023; Memorandum of Lynette Wharfe in Response to Minute 7, 21 April 2023; Supplementary Evidence of Timothy Alistair Deans for Fulton Hogan, 21 April 2023, paras [9]-[11].

⁷⁴ Memorandum of Emily Kate McEwan for Dunedin City Council, 21 April 2023, para [3.3].

⁷⁵ Clause 16(2), Schedule 1, RMA

⁷⁶ 00236.103 Horticulture NZ, 00208.012 AgResearch, 00235.153 OWRUG, 00410.010 Rural Contractors NZ

⁷⁷ 00211.050 LAC Properties Trustees Limited, 00210.050 Lane Hocking, 00118.066 Maryhill Limited, 00014.066 Mt Cardrona Station, 00209.05 Universal Development Limited

⁷⁸ 00322.042 Fulton Hogan Limited, 00236.103 Horticulture New Zealand, 00235.153 OWRUG, 00221.016 Silver Fern Farms

⁷⁹ 00236.103 Horticulture NZ, 00208.012 AgResearch, 00235.153 OWRUG, 00410.010 Rural Contractors NZ
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10. Regionally significant industry

10.1. Submissions and evidence

81. Fonterra seeks that a number of provisions within the UFD chapter are extended to include reference to regionally significant industry, with a definition of this term being added to the pORPS. Ms Tait considers it appropriate for the pORPS to provide for such industry, particularly in terms of protecting it from inappropriate urban encroachment.⁸⁰ Ms Simpson is concerned that Ms Tait’s approach is a blunt way to manage reverse sensitivity effects and considers that justification for including direction on regionally significant industry is not the same as that for infrastructure. In particular, she does not consider it to be something that should be required to be adopted for all local authorities through direction in the pORPS.⁸¹

10.2. Analysis

82. I firstly note that there are a number of provisions in the UFD chapter (as redrafted) that apply directly or indirectly to rural industry, regardless of its level of significance. These include:

- a. The integration between urban and rural areas (UFD-O1(2));
- b. Provision for ongoing use of rural areas for rural industry in appropriate locations (UFD-O4(4));
- c. Identification of potential conflict between incompatible activities and methods for resolution of these when undertaking strategic planning (UFD-P1(8A));
- d. Considering adverse effects on rural industry activities when determining changes to the rural/urban boundary (UFD-P4(7)); and
- e. Managing development in rural areas to provide for rural industry and restrict non-rural activities which could adversely affect existing or anticipated rural industry activities (UFD-P7(6)).

83. I consider that this direction appropriately addresses rural industry and that there is no further need to ‘elevate’ and include a suite of additional clauses throughout the chapter pertaining to a new category of ‘regionally significant industry’. I also agree with Ms Simpson that justification for including direction on regionally significant industry is not the same as that for infrastructure; and with Ms Boyd, that “regionally significant industry” and “regionally significant infrastructure” are not congruent.⁸²

84. In particular, I do not consider that regionally significant industry will have the same functional, operational or locational requirements that regionally significant

⁸⁰ Susannah Tait for Fonterra, para [3.1], Section 4, paras [12.6]-[12.7], [12.23]-[12.26], [12.30]-[12.32], [12.34] and [12.37](b).

⁸¹ Rebuttal evidence of Elizabeth Simpson for Queenstown Lakes District Council, paras [6.1]-[6.3].

⁸² Section 42A Hearing Report, Chapter 1: Introduction and general themes, Felicity Boyd (4 May 2022), para [120].

infrastructure has. While I consider it broadly appropriate that local authorities consider effects on regionally significant industries, I do not consider that the detailed additions sought relating to regionally significant industry⁸³ should necessarily apply in all instances as would be the case if they were included in the RPS. I consider it inappropriate to require that urban intensification and urban expansion must in all cases not compromise regionally significant industry.⁸⁴

85. As a minor point, I also consider that other changes sought to the drafting are inappropriate as:
- a. they result in process-related clauses being added back into the objective level (as sought through additions to UFD-O1); or
 - b. they add unnecessary ‘inclusions’ to clauses where this does not change the effect of the clause, but in my view, result in less clarity (UFD-O4(4A), UFD-P7(4)).

11. Other changes

86. This section records changes that I recommend in response to evidence, or following further consideration of matters raised in submissions, which I consider are appropriate. As they relate to more discrete issues generally raised by one party, I have addressed them in the table below for efficiency.

11.1. Submissions, evidence, analysis and recommendations

Provision	Evidence	Change Sought	Recommendation
UFD-P2	Emily McEwan, para 42 and Annexure A	Reframe stem of policy, delete clauses (1)-(4) as these simply refer to other policies and add no value, and split clause (5) into two.	Agree that these changes are appropriate.
UFD-P4(7)	Susannah Tait, paras 12.25-12.26	Amendments to clause (7)(a) to improve understanding and clarity.	Agree with some of the changes proposed by Ms Tait. However, as a consequence of deleting (b) and (c) (refer below) this no longer needs to be a sub-clause, and re-ordering of wording is therefore also recommended for readability.
UFD-P4(7)	Emily McEwan, para 45(d) and Annexure A	Delete (7)(b) and (c) as they contain direction which is too detailed for RPS.	Agree. Do not consider the direction is necessary to achieve the outcomes sought.

⁸³ Memorandum of counsel on behalf of Fonterra Limited, 21 April 2023.

⁸⁴ As sought through changes to UFD-P3 and UFD-P4 noted in Memorandum of counsel on behalf of Fonterra Limited, 21 April 2023.

UFD-P5	Emily McEwan, paras 51-52 and Annexure A	Add “where appropriate” to clause (1) as some zones will provide for some commercial activities, but appropriately limit others. Delete clause (3) because it is covered by UFD-P2. Amend clause 4 to “provide for” rather than “allow for” because the latter implies permitted activities, whereas another activity status may be more appropriate to ensure adverse effects can be managed.	Agree. Also consider clause (3) is also effectively covered already between P2, P3 and P4 and in clauses (1) and (2). This clause therefore does not appear to add anything further. “Provide for” is also more consistent with terminology used elsewhere in this chapter.
UFD-P6(3)	Liz Simpson, paras 4.3-4.5	Remove previously recommend addition of “(particularly residential or retail activities except yard-based retail),” in clause (3) as has the potential to unnecessarily narrow the application of the policy.	Agree. I also do not consider that this level of specificity is necessary at the pORPS level. I also consider it unclear what “particularly” is intended to mean and whether it implies a hierarchy.
UFD-P7(2) UFD-P8(3) UFD-E1	00211.050 LAC Properties Trustees Limited, 00210.050 Lane Hocking, 00118.066 Maryhill Limited, 00014.066 Mt Cardrona Station, 00209.05 Universal Development Limited	Remove all references to amenity values and rural character as they are contrary to proposed replacement legislation and may stymie necessary growth and development opportunities.	While I do not agree with the submitter’s reasoning, I do not consider it appropriate at the RPS level to direct that the amenity and character of rural areas are ‘maintained’. I do not consider that this is linked back to the identified resource management issue, nor will maintenance of existing amenity and character in all instances necessarily align with the outcomes sought across the pORPS.
UFD-P7(4)	Lynette Wharfe, paras 394-400	Amend to use the word “provide” rather than “facilitate” as ‘provide’ gives clearer direction than ‘facilitates’, which is	Agree. “Provide for” is also more consistent with terminology used elsewhere in this chapter.

		more a direction of 'assisting'	
UFD-P7(4)	Anita Collie, paras 5.9-5.10	Amend clause (4)(b) to use terminology consistent with the Crown Minerals Act and improve the clarity of the policy.	Agree
UFD-P7(6)	Susannah Tait, paras 12.31-12.32	Amend to refer to "existing or permitted" primary production rather than "existing or potential".	Do not agree with referring to "permitted" at the pORPS level. However consider that "anticipated" provides better guidance than "potential" and recommend this change instead.
UFD-P7(6)	Tim Ensor, paras 33-35	Clause (6) should stand on its own without recourse to UFD-P4(7) and that this connection should be deleted.	Agree that reference to UFD-P4 is not required as urban expansion is governed by UFD-P4 and once established, the area will no longer be rural. Therefore this policy will not apply (but reference to UFD-P4 implies it does.) Reference to UFD-P8 is also not required as UFD-P8 is recommended to apply to all rural lifestyle development.
UFD-P8	Steve Tuck, Appendix C page 12	Amend title for consistency with other recommendations to remove reference to 'rural residential'.	Agree.
UFD-M1(4)	Liz Simpson, paras 5.1-5.2	Split requirements into two as the additional have resulted in the clause being too long and difficult to understand.	Agree.
UFD-AER12	Liz Simpson, paras 6.1-6.5	Amend wording so that it does not focus on 'inappropriate urban expansion and urban activities' as current wording implies they are anticipated within the region's rural areas.	Agree. For completeness I note that the final recommended wording of UFD-AER12 also removes reference to "productive capacity" as a result of Ms Boyd's analysis of this. ⁸⁵

87. In addition to the above changes, I also consider that a range of changes are required to the methods, explanation, principal reasons and anticipated environmental results as a consequence of the changes I have recommended in this report. For the sake of brevity, I have not set these out in this report, but they are shown in the "reply report" version of the pORPS provided alongside this suite of reports.

⁸⁵ See Reply report 9: LF – Land and freshwater
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88. I have also considered the responses received in relation to the redrafting provided in response to Minute 7, and where I consider additional changes to be appropriate to improve the drafting, these changes are reflected in the recommended wording contained in this report and in the “marked up” version of the final recommendations. Where these are not explicitly discussed it is because they are of a minor nature.
89. In terms of s32AA I consider that the amendments recommended will provide greater clarity and in doing so will be more efficient and effective at achieving UFD-O1 and UFD-O4. Most changes also do not alter the intent of the policies, methods or anticipated environmental results, but will in my view make their application clearer. In those cases where the recommendation includes the removal of direction,⁸⁶ I consider the direction is not necessary to achieve the outcomes sought, making the approach more efficient while still being effective.

⁸⁶ UFD-P4(7)(b) and (c); and parts of UFD-P6(3), UFD-P7(2), UFD-P8(3), UFD-E1.