IN THE MATTER AND IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of Hearing of Submissions and Further Submissions on the Proposed Gore District Plan

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Gore District Plan – Decisions on Submissions

Topic 45: Ecosystems and Indigenous Biodiversity

Hearings Panel Members

Keith Hovell

Glenys Dickson

Cliff Bolger

Maria Bartlett

Dates of Hearing
24 – 25 February 2025
8 April 2025

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Appendix B. Plan Chapter (attached as a separate document)

1 Introduction

1.1 Scope of this Decision

1.1.1 This document details the evaluation and decisions of the Hearings Panel on the submissions and evidence considered in relation to the Ecosystems and Indigenous Biodiversity provisions of the Proposed Gore District Plan. The Hearings Commissioners comprising the Panel for this hearing was Commissioners Keith Hovell, Cliff Bolger, Maria Bartlett and Glenys Dickson.

1.1.2 This Decision focuses on the key issues in contention. Where there is no contention, such as submitter support for certain provisions, or minor matters where proposed changes are recommended in response to submissions, the Panel has adopted the recommendations and the underlying evaluation contained in the Section 42A Report prepared by Matt Heale.

1.1.3 Attached is the updated provisions for the Ecosystems and Indigenous Biodiversity chapter, referencing changes authorised by this and other Decisions of the Panel. Appendix A summarises the submissions lodged to this chapter of the Proposed District Plan and the decisions of the Panel.

1.1.5 Attention is also drawn to Decision 2, General Submissions and Minor Corrections. This Decision responds to those submissions to the District Plan as a whole, as well as those of a general nature that have been lodged to multiple zones and/or chapters in the PDP. In some cases, these submissions may result in amendments to this chapter as well. Any such changes are annotated as a footnote in the updated provisions. Decision 2 also corrects minor errors and makes minor changes of no material significance throughout the PDP as permitted by clause 16(2) of the First Schedule of the RMA. These latter changes are coloured green without any footnotes.

1.2 Abbreviations

1.2.1 In preparing this decision the Panel has used the following abbreviations:

Full Text	Abbreviation
Department of Conservation	DoC
Environment Southland	ES
Indigenous Vegetation Area	IVA
National Environment Standards for Commercial Forestry	NESCF
National Environment Standards for Electricity Transmission Activities	NESETA
National Policy Statement for Electricity Transmission	NPSET
National Policy Statement for Indigenous Biodiversity	NPSIB
National Policy Statement for Renewable Electricity Generation	NPSREG
Natural Features and Landscapes	NFL
Proposed Gore District Plan	Proposed Plan or PDP
Report prepared under RMA section 42A	s42A Report
Resource Management Act 1991	RMA
Royal Forest and Bird Society of NZ Incorporated	Forest and Bird
Significant Indigenous Vegetation Area	SIVA
Significant Natural Area	SNA
Southland Federated Farmers of NZ	Federated Farmers

Southland Regional Policy Statement	RPS or SRPS
Stoney Creek Station Ltd	Stoney Creek
Transpower NZ Ltd	Transpower
Wildlands Consultants Ltd	Wildlands

1.3 Statutory Considerations

1.3.1 Decision 1 – Statutory Overview sets out the legal framework and requirements for preparing a District Plan, as well as case law referred to in submissions and evidence provided to the Panel. This framework will not be repeated in this Decision. Rather, this Decision should be read in conjunction with Decision 1.

1.3.2 In s42A reports to the Panel, the authors are required to consider any alternative provisions put forward in the context of RMA s32, and when changes are recommended, a further assessment under s32AA is provided if the change is a material departure from what was notified. That same obligation to make a further assessment under s32AA also applies to the Panel if it decides to recommend changes as a result of submissions which materially depart from the notified version.

1.3.3 Through Minute 5, the Panel requested submitters provide material which enables the Panel to undertake an evaluation of their relief sought under s32AA for any changes to the PDP they were seeking.

1.3.4 Where the Panel has made amendments to the PDP that are consistent with the recommendations contained within the s42A Reports and / or rights-of-reply the Panel has adopted the s32AA analysis contained within those reports, unless expressly stated otherwise. Those reports are part of the public record and are available on the Council's website.

1.3.5 Where the Panel has made amendments to the PDP that are not contained within the s42A Report, or which were not subject to a s32AA assessment provided by submitters, the Panel has undertaken the required s32AA analysis and has incorporated it into the body of the decision, with the required assessment forming part of the evaluation. The Panel is satisfied that the required substantive assessment has been undertaken where required.

1.4 Procedural Matters

1.4.1 No members of the Hearings Panel identified any conflicts of interest.

1.4.2 No procedural matters were raised at the hearing.

1.4.3 No matters of trade competition were raised.

1.4.4 The Proposed District Plan was notified on 31 August 2023 and a number of rules came into effect on that date as provided for by RMA s86B(3). One of the rules with immediate effect limited the extent of indigenous vegetation clearance to 1.5 metres each side of an existing fence. At its meeting of 21 November 2023, the Council resolved to withdraw that rule due to landowner concerns as follows:

a. THAT in recognition of the invasive nature on farming operations posed by the maximum width provisions for clearing of vegetation associated with the replacement and construction of fencing contained in the Ecosystems and Indigenous Biodiversity chapter of the Proposed District Plan, the Council withdraw this rule insofar as specifying a maximum distance is concerned.

b. AND THAT the Council seeks to engage in fresh consultation with relevant stakeholders to develop a revised rule which is less restrictive for farming practices.

1.4.5 As a result of the resolution, a public notice was notified, the PDP was amended, and consultation began with relevant stakeholders, with advice being provided by the Biodiversity Technical Working Group (BTWG) made up of the following key stakeholders:

- Gore District Council
- Environment Southland
- Southland District Council
- Department of Conservation
- Southland Federated Farmers
- Forest and Bird
- Southland Fish and Game
- Hokonui Rūnanga.

1.4.6 The purpose of the Working Group was to consider mapping of Significant Natural Areas, progress a district plan variation and guide landowner consultation. Mapping information was provided to the BTWG for their technical review. The feedback from the BTWG was incorporated into indicative mapping included at Appendix G of the s42A Report. Matt Heale noted in his s42A Report that the BTWG also recommended that a non-regulatory support package for landowners be considered by Council prior to landowner engagement. Funding for that purpose was sourced through Environment Southland, with assessment of a number of properties undertaken by an expert ecologist. Landowner consultation and ongoing work with landowners was curtailed at the direction of Council given anticipated changes to the NPSIB in 2024.

1.4.7 At paragraph 52 of her s42A Report with regard to the Natural Features and Landscapes chapter submissions, Mishka Banhidi advised that In May 2024 Stoney Creek Station Ltd (SCSL) and the Gore District Council agreed to convene a Working Group to investigate the opportunity for bespoke District Plan landscape and biodiversity provisions over the Stoney Creek Station land. By consent of both Stoney Creek and the Council, Wantwood Station Trustees were included as an observer in the meetings conducted by the Working Group.

1.4.5 The Working Group met on a number of occasions. In attendance at these meetings and providing expert advice was:

- Mike Moore (Landscape Architect representing GDC)
- Ben Espie (Landscape Architect representing SCSL)
- Andrew Wells (Ecologist representing GDC)
- Glenn Davis (Ecologist representing SCSL)
- Mishka Banhidi and Matt Heale (Planners representing GDC)
- Claire Perkins (Planner representing SLSC).

1.4.6 The experts representing Stoney Creek and the Council reached a consensus on bespoke landscape and biodiversity provisions that could apply within a proposed Hokonui Hills planning precinct. Separate discussions held between the Gore District Council, assisted by expert evaluation provided by the Council's landscape architect and ecologist, and Coral McLeod of Wantwood Station, resulted in a consensus being reached on landscape and biodiversity rules that could be recommended for inclusion in the Proposed Plan.

1.4.7 These agreements were formalised into a Record of Consensus dated 3 December 2024 noting:

(a) A bespoke planning area, to be known as the Hokonui Hills Precinct (the Precinct) is to be recommended for incorporation in the Proposed Plan. The Precinct will comprise the land contained within both Stoney Creek and Wantwood farms.

(b) Vegetation Mapping of the Hokonui Hills identifies biodiversity sensitivity areas within the Precinct based on the degrees of biodiversity sensitivity as critically evaluated by the Working Group ecologists. The map also highlights area of improved pasture and exotic vegetation.

(c) A map profiling the Precinct and its landscape values, identified ridgelines, high sensitivity areas and low sensitivity areas. The map also the boundary of the proposed Outstanding Natural Landscape, as promulgated in the Proposed Plan.

(d) A bespoke suite of rules to apply to the Precinct were agreed. These rules were developed with expert ecological, landscape and planning input and had regard to the degree of sensitivity as identified within the Precinct profiling maps.

(e) Recommended amendments and additions to the Ecosystems and Indigenous Biodiversity chapter and the Natural Features and Landscape chapter were included.

1.4.8 The Record of Consensus was described as a recommendation for consideration into Mishka Banhidi's s42A Report. The Record of Consensus also acknowledged it was not binding on the Council or its appointed independent hearings commissioners.

2. Council Reports and Evidence

2.1 Legal Submissions: Shelley Chadwick

2.1.1 Shelley Chadwick, Counsel for the Council did not file any legal submissions. She did however address the Panel at the commencement of the hearing that her previous legal submissions were also relevant to this hearing, adding that in her view it was not necessary to include provisions in the Ecosystems and Indigenous Biodiversity chapter, or elsewhere in the Plan, referring to existing use rights.

2.1.2 In reply to a query from the Panel, Shelley Chadwick advised that the NPSIB came into force on 4 August 2023. The District Plan was notified on 31 August 2023. As a consequence, Shelley Chadwick advised that the two SNA areas included in the District Plan at notification meet the NPSIB definition of SNA but other areas shown indicatively in an appendix to the notified Plan do not.

2.1.3 Shelley Chadwick also advised that the indicative mapping included in the Plan appendix reflects the criteria contained in the RPS and it does not have the status of a rule. Matt Heale then confirmed that the indicative maps are not referred to in the rules. The rules refer to SIVA and IVA and an assessment is required having regard to the RPS Appendix 3 criteria to determine if a consent is required. He added that the purpose of the mapping is to indicate where the Council considers the SIVAs and IVAs are located. Shelley Chadwick considers the approach is clear and notes it has been adopted by a number of Councils, and given the work done on the Hokonui Hills the mapping for that area is no longer indicative and rules may apply to it.

2.2 Ecological Advice to Section 42A Report: Wildlands Consultants Ltd

2.2.1 In a memo dated 13 January from Wildlands Consultants Ltd, prepared jointly by Kelvin Lloyd and Andrew Wells and reviewed and approved by Des Smith, a summary was given of work undertaken to identify areas of indigenous vegetation, as follows:

> Wildlands was asked to produce updated mapping of terrestrial indigenous vegetation within Gore District. This mapping sought to delineate areas of likely non-significant indigenous terrestrial vegetation (termed 'indigenous vegetation areas', or IVA), and areas of likely significant indigenous terrestrial vegetation (termed 'significant indigenous vegetation areas,' or SIVA). The SIVA are very likely to also be SNA as defined in the NPSIB and to meet the significance criteria in the Southland RPS, subject to confirmation from field survey.

The mapping was undertaken via a desktop exercise recent (post-2022) aerial and satellite imagery. Areas of indigenous vegetation identified were then classed as either SIVA or IVA, based on an assessment of whether each area was likely to meet any of the significance criteria outlined in Appendix 1 of the NPSIB or in the Southland RPS. This assessment was based on the structure of vegetation inferred from aerial imagery combined with the local knowledge and expert opinion of the assessors. Areas classed as IVA were generally of lower quality habitat, with a likely higher proportion of exotic species, and frequently of small size. Ecological context factors such as buffering and connectivity were considered in this process where possible.

2.2.2 With regard to the PDP vegetation rules, and having regard to submissions, the memo from Wildlands stated:

The vegetation clearance rules should allow for permitted clearance of regrowth indigenous vegetation after previous clearance. This will be particularly relevant to farming operations, but also for any areas which were cleared for purposes other than pastoral farming. The regrowing vegetation must be less than 15 years old. While the permitted maintenance of improved pasture would cover this in many cases, addition of this clause will provide clarity and certainty for landowners and Council around historical use rights. It is extremely unlikely that any areas of such young vegetation are mapped as SIVA/IVA.

A rule could possibly permit incidental clearance of a small amount of indigenous vegetation within IVA. Many other plans allow a small amount (e.g. 25-50m^2) of annual or 5-yearly clearance. That would permit additional clearance outside the existing limits at certain locations, for example, such as where a slightly wider band of clearance was required to undertake maintenance or upgrade works. Given the depletion of indigenous forest in Gore District, restricting the rule to non-forest vegetation would be appropriate. The rule could also exclude removal of individual trees greater than 10 centimetres in diameter at breast height, and clearance for the purpose of developing new areas of pasture.

A small, permitted clearance within IVA is not likely to undermine the maintenance of indigenous biodiversity in the district. In the absence of human intervention, indigenous biodiversity values within the many early successional communities represented by SIVA/IVA will increase over the life of the plan as these areas become more mature. The proposed plan's overall focus on protecting indigenous dominant vegetation and habitats within SIVA/IVA will allow for these gains to be realised, ensuring no net loss of indigenous biodiversity.

The clearance thresholds proposed in Table 5 of Ms Hampson's evidence are appropriate widths for permitted activities. Generally, indigenous vegetation should not be cleared under a permitted framework from more than 1.0 metre from a structure that needs to be maintained, except for 1(g) which covers fire risk to buildings. Appropriate vegetation clearance widths around buildings for reducing fire risk will depend on several factors including species flammability, vegetation height and density, vegetation maintenance regime, and climatic factors, and are therefore best assessed on a case-by-case basis at the time of consenting for new developments. Guidance from FENZ regarding an appropriate general clearance threshold around existing buildings in Gore District would however be helpful in setting a permitted clearance limit for existing buildings.

Threatened and At Risk plant species and highly mobile fauna species will sometimes be located outside areas of SIVA/IVA. Threatened/At Risk plants should ideally be protected as they are easily defined, while highly mobile fauna areas have not yet been mapped by Environment Southland.

2.2.3 Wildlands supported the bespoke rules proposed for the Hokonui Hills area, stating:

The permitted clearance limits are not likely to undermine the maintenance of indigenous biodiversity in the Hokonui Hills. In the absence of clearance, indigenous biodiversity values within the many early successional communities represented by SIVA/IVA will increase substantially over the life of the plan as these areas become more mature. This will continue to occur even with ongoing stock grazing, as evidenced by the fact that virtually all indigenous vegetation currently on the properties has itself regenerated in the presence of stock following historic indigenous vegetation clearance and conversion to farmland. The proposed plan's overall focus on protecting indigenous-dominant vegetation and habitats within SIVA/IVA in the Hokonui Hills will allow for these gains to be realised, while allowing for limited additional fencing and track development in appropriate areas of indigenous vegetation. No new fences or tracks are proposed in areas of

> mature forest or high value lizard habitat on rocky ridge crests. The clearance limits are sufficiently low to ensure no net loss of indigenous biodiversity over the life of the plan, and proposed new fences or tracks avoid key areas of high value vegetation and habitats.

2.2.4 The memo also acknowledged the habitats for highly mobile fauna species would need to be assessed further once this assessment is completed. Braided river birds may use gravel bars in the rivers as breeding habitat. Matuku-hūrepo/Australasian bittern (Botaurus poiciloptus) will use wetland habitats. There will also likely be other habitats identified in further investigations.

2.2.5 It was also noted:

> Overall, the generally broader reach of the NPS-IB criteria, and particularly the representativeness criteria, will most likely result in more areas of terrestrial indigenous vegetation and habitats of indigenous fauna being classed as significant under the NPS-IB than under the SRPS criteria. This is consistent with the intention of the NPS-IB expressed during its development phase that it should not result in any narrowing of the recognition currently given to areas of significant indigenous vegetation and the significant habitats of indigenous species under section 6(c) of the RMA.

2.3 Ecology Evidence: Andrew Wells

2.3.1 Andrew Wells is Senior Ecologist/Ecology Team Leader at Wildlands Consultants Ltd with over 25 years' experience working for several Government Departments, Universities and private sector firms as a terrestrial ecologist undertaking ecological research, consultancy and teaching. In a written statement, he summarised the Wildlands Report referred to in section 2.2 above. He then provided additional detail of the work he undertook, noting in July 2024 vegetation was mapped using analysis of aerial imagery within ArcGIS for all the area covered by Wantwood Station and Stoney Creek Station. Vegetation was also viewed with binoculars from public roads and walking tracks where possible, which allowed a large portion of the area to be viewed and aerial imagery analysis refined. Andrew Wells utilised the information gathered to identify three broad areas of vegetation:

1. High value indigenous vegetation where cover of indigenous plants is generally greater than 75% and improved pasture is generally absent. These areas were mapped as SIVA.
2. Mixed indigenous/exotic vegetation where indigenous vegetation canopy cover is 25-50%, and improved pasture dominates the ground cover throughout. Patches entirely comprising improved pasture are present, and there are also small patches where indigenous vegetation forms a closed canopy. These areas are all currently grazed by stock and have been mapped as IVA.
3. Exotic grassland which is comprised predominantly of exotic pasture species. Indigenous species are a minor component of the vegetation, generally occurring as scattered individuals and less than about 10% of overall cover. This vegetation would meet the definition in the NPSIB of regularly maintained improved pasture.

2.3.2 Andrew Wells also identified areas of rocky habitat present across the Hokonui Hills, often on ridge crests. These areas generally contain mixed exotic-indigenous vegetation with grey shrubs prominent and provide very important habitat for lizards. Because of the value of these areas as lizard habitat, all areas of rocky habitat were mapped as 'high value indigenous vegetation'.

2.3.3 Andrew Wells undertook a site visit to Wantwood Station where mapped areas of indigenous vegetation were inspected on foot and the mapping refined where required. Overall, this work confirmed that all other areas of vegetation mapped on Wantwood Station from desktop analysis were accurately categorised.

2.3.4 Andrew Wells was not able to undertake a similarly detailed site inspection of Stoney Creek Station. However, during the site visit undertaken by the Stoney Creek Station Working Group, he was able to visually verify the broad desktop mapping. He therefore relied on the site work

undertaken by e3Scientific and is satisfied as to the accuracy of the desktop exercise. He accepts that the more advanced successional communities of the 'broadleaf forest' and some of the 'manuka shrublands' on Stoney Creek Station are on a trajectory toward mature forests similar in nature to Croydon Bush even in the ongoing presence of stock grazing. He also agreed with Glenn Davis of e3Scientific that indigenous vegetation clearance should be permitted in all areas mapped as improved pasture and exotic vegetation.

2.3.5 Andrew Wells also referred to a 127 hectare area of Stoney Creek Station for which there is a formal management agreement in place between DoC and the landowners that provides for a management regime that ensures the protection of a regionally important population of the "At Risk-Declining" Olearia hectorii, other important plant species, and lizards. He considered this agreement is an additional and very important component of the ecological management of the Hokonui Hills and should be included when assessing overall biodiversity outcomes from management over the area.

2.3.6 By way of conclusion Andrew Wells states at paragraphs 62 – 68 of his statement:

> I am of the same opinion as Mr Davis that the suite of provisions proposed by the working group will support the maintenance and improvement of indigenous biodiversity over the life of the proposed plan, while providing certainty for the proposed farm management regime over this time.
>
> In relation to the Hokonui Hills Precinct, it is my opinion that the possible loss of individuals of threatened plants would have a negligible effect on these species, because of the large areas of habitat available that will remain intact. Nevertheless, adding a condition requiring that vegetation clearance avoids threatened woody plants would provide even greater certainty that there are no adverse effects on these species.
>
> In relation to lizards in the Hokonui Hills Precinct, I consider that areas of rocky habitat should be excluded from permitted vegetation clearance due to their high value for lizards and restricted extent across the Hokonui Hills. If these high value areas of habitat were excluded, I consider that it is reasonable to assume that the potential loss of lizard habitat resulting from the permitted vegetation clearance limits would have a negligible effect on lizard populations within those remaining vegetation and habitat types that occupy a large area and are not restricted in occurrence.
>
> In relation to significance assessments within the Hokonui Hills Precinct, regardless of how these areas are categorised I am satisfied that the proposed management regime for the Hokonui Hills will ensure the overall protection of the ecological values that give importance to Areas A-D.
>
> I consider that mapping the Mataura River avifauna habitat as SIVA/IVA would be inappropriate, given that the rest of the mapping considered indigenous vegetation only. If the Mataura River habitat was included in the plan, I would suggest that it is mapped separately.
>
> Based on the further evidence of submitters, I consider that it would be appropriate to remove the rule permitting clearance of vegetation less than 15 years old. The other proposed permitted clearance limits would adequately cater for those situations that may arise outside of maintenance of improved pasture. and are much easier to monitor.
>
> I consider that the proposed permitted clearance of less than 50m^2 over five years is most unlikely to adversely affect biodiversity, because the many early successional communities represented by SIVA/IVA will increase over the life of the plan as these areas become more mature. In my opinion this rule will support the maintenance and improvement of indigenous biodiversity over the life of the proposed plan, while enabling landowners to undertake routine activities.

2.3.7 In his oral presentation to the Hearings Panel, Andrew Wells clarified that the restriction on removing woody species should only apply to new vegetation clearance not maintenance of previously cleared areas. Matt Heale advised that in preparing his supplementary evidence he misinterpreted this as applying to maintenance of existing activities in Rule ECO-R2(1), which he now accepts is incorrect, as it should only apply to permitted activity clearance of existing indigenous vegetation areas.

2.3.8 In reply to questions from the Panel, Andrew Wells explained that the SIVA and IVA rules apply differently to Stoney Creek Station and Wantwood Station because of the relative proportion of land categorised in those categories on each farm and to ensure no overall loss of biodiversity on each property.

2.3.9 With regard to gorse, Andrew Wells in reply to questions, outlined that gorse is a problem within the District, particularly on the Hokonui Hills where stock levels are low. He noted isolated gorse plants are present within SIVA areas but thought this will naturally disappear. Within IVA areas the issue is more problematic and he doubts it is economic to undertake large scale clearance, so it is more likely that gorse will be left to grow amongst the indigenous plants. If there is a need for control then in his view that should be allowed.

2.3.10 Andrew Wells also considers there will be minimal impact on ecological values in allowing removal of indigenous vegetation adjacent to tracks, because it is highly likely that when tracks were formed far greater clearance was provided at the time, and any regrowth which is cleared cannot be classed as a net loss, and any impact in his view is very minor. In his view if no allowance was enabled for removal of regrowth adjacent to tracks it would become problematic for land occupiers very quickly.

2.3.11 When asked how Rule ECO-R2(1)(j) met the requirements of NPSIB clause 16.1, Andrew Wells advised that the clause requires there be no significant adverse effects, and if there are the effects management hierarchy applies. In his view, the limits recommended in the rules are set at a scale where there will be no significant adverse effects and those limits were set having regard to the policies of the RPS, including the potential of fragmentation and buffering for the adjoining SNA.

2.4 Economic Advice for Section 42A Report

2.4.1 Natalie Hampson has worked in the field of economics for over 20 years for commercial and public sector clients with a particular focus on economic assessment within the RMA framework. This includes undertaking an economic analysis of the NPSIB for the Ministry for the Environment and contributing to the s32 Report for that NPS. She provided a statement of evidence relied on by the s42A Report author in assessing submissions. The conclusions of her evidence as set out in paragraphs 9 – 14 were:

> The absence of any effective regulations in the ODP to manage the effects of indigenous biodiversity clearance on private properties in Gore District means that the PDP introduces significant changes to property rights enjoyed by rural landowners up till now compared with the status quo. However, those changes are necessary to give effect to the NPS-IB and SRPS and halt the continued decline of indigenous vegetation cover in the district (which is already one of the lowest in the country).
>
> I have reviewed the proposed rules in the ECO chapter (as currently recommended relative to the notified version) and consider that they are generally efficient from an economic perspective. They provide for the permitted clearance of indigenous vegetation (within some prescribed limits) for a wide range of existing lawfully established activities that support (or are critical for) economic wellbeing in Gore District.
>
> The recommended amendments acknowledge and better provide for existing farming activities which is a core economic sector for the district. They also incentivise landowners with SIVAs/IVAs on their land to obtain a Council Endorsed Biodiversity Management Plan as these potentially increase the scope and scale of permitted vegetation clearance (and reduce future consent costs) where detailed ecological assessment can confirm no more than minor adverse effects and/or no net loss in indigenous biodiversity.
>
> Beyond permitted vegetation clearance, the transaction and compliance costs potentially attributable to the proposed provisions are not considered to impose costs on landowners that are unfeasible or that constrain landowners from providing for their economic wellbeing. Furthermore, the likely incidence of proposed activities that may trigger a discretionary or non-complying consent

for vegetation clearance over the life of the PDP is estimated to be low (applying to relatively few properties in any one year). Nor are the proposed ECO chapter provisions expected to result in any significant opportunity costs on private landowners such as reduced land value or foregone value uplift.

I have reviewed a number of submissions that relate specifically to the proposed rules of the ECO chapter. While some changes already recommended by Mr Heale address the concerns of many of these submissions (where efficient), I consider that some further amendments to the proposed provisions may further improve the economic efficiency of the rules. My key recommended amendments include:

- a less prescriptive clearance threshold for some non-traversable existing activities listed in ECO-R1(1)(a) to better reflect the practicality of maintenance, repair, upgrade and replacement for those features; *(Noting traversable features are those that vehicles/machinery can drive on)*
- explicit recognition of existing mountain bike and hiking trails in ECO-R1(1)(a);
- an increase in the permitted clearance around existing buildings to help manage fire risk (and more appropriate wording to acknowledge that fire risk is never entirely 'removed'); and
- management of vegetation clearance (as already assessed in detail by ecological experts) in the Hokonui Hills Vegetation Area under ECO-R1 (and a Council Endorsed Biodiversity Management Plan) as an alternative to bespoke provisions currently drafted as ECO-R2.

I also support the retention of 1.0m of vegetation clearance for specific 'traversable' activities in ECO-R1(1)(a) and the notified 1.5m clearance for the maintenance of existing fire breaks

2.4.2 Within the body of her statement, relying on the mapping of Wildlands, Natalie Hampson describes:

(a) SIVAs have a total area of 3,163ha and make up 2.6% of the district land area. SIVAs fall totally within the proposed General Rural Zone and largely on general tenure (private) land (70.1%), with the remaining 29.8% on DOC/Crown land and only 0.1% on Māori Land Court land (i.e. Māori Freehold Land). The largest cohesive area of SIVA is 1,195ha which is the area that includes Croydon Bush/Dolamore Park but also extends onto neighbouring private land. Some of the remnants of SIVA currently defined are very small (for example just 400sqm). The average size of SIVA polygons is 8.3ha.

(b) IVAs have a total area of 841ha and make up 0.7% of the district land area. IVAs fall totally within the proposed General Rural Zone and almost exclusively on general tenure (private) land, with an immaterial 0.3% on non-rateable land. The largest cohesive IVA is 50ha located near the western boundary of the district in Waitane and adjoining SIVA land. The average size of IVAs is 1.2ha.

(c) There are approximately 6,586 general tenure (private) properties in Gore District based on the current rating database.

(i) Land classified as SIVA is located on 77 properties and of those:

- 24 have less than 1% SIVA coverage
- 34 have between 1% and 10% of their property covered in SIVA
- 13 have between 10% and 20% SIVA coverage (and these properties range from 20 ha to more than 1,000 ha in total size)
- 5 have between 20% and 35% SIVA coverage (two of which are between 10-20ha in size and the other three are greater than 250ha in size).
- 1 has SIVA coverage of between 35% and 50%. That property is between 5-10ha in size

(ii) Land classified as IVA is located on 68 properties and of those:

- 30 have less than 1% IVA coverage

- 32 have between 1% and 10% of their property covered in IVA
- 5 have between 10% and 20% IVA coverage (and these properties range from 10 ha to more than 1,000 ha in total size)
- 1 has between 20% and 35% SIVA coverage. That property is less than1 ha in size

(d) The Hokonui Hills Vegetation area includes an estimated 354 ha of IVAs and 434ha of SIVAs. This makes up 42% and 14% respectively of total district IVAs and SIVAs. And of this:

(i) Wantwood Station accounts for 27% of the total IVAs and 17% of the total SIVA in the Hokonui Hills Vegetation Area, however total indigenous vegetation coverage of Wantwood Station is only minor at 12% in total (IVAs cover 7% of the property and SIVAs cover 5%).

(ii) Stoney Creek Station accounts for 73% of the total IVAs and 83% of the total SIVA in the Hokonui Hills Vegetation Area, however total indigenous vegetation coverage of Stoney Creek Station is only moderate at 24% in total (IVAs cover 10% of the property and SIVAs cover 14%) .

2.4.3 Natalie Hampson supports permitting incidental removal of indigenous vegetation that is not forest vegetation (up to 50m^2 per 5 years) as it recognises the important role of farming in the district, and the day to day practicalities of farming. However, she does query the addition of rule ECO-R1(1)(n) allowing the clearance of indigenous vegetation that is no older than 15 years ". She added, while Andrew Wells supports this rule and has confirmed that indigenous vegetation regrowth over the last 15 years in Gore District would not meet the criteria of a SNA/SIVA or IVA as currently mapped, this rule sets no limits to the area that could be cleared or no limits on the reason for clearance. She also considers monitoring this rule could be challenging and recommends controlled activity status.

2.4.4 It is the recommendation of Natalie Hampson that ECO-R1 should apply to all rural properties containing indigenous vegetation, inclusive of Stoney Creek Station and Wantwood Station (and ECO-R2 should be removed) subject to:

(a) clearance for the maintenance etc of existing fences and infrastructure should be 'no greater in width that the previously cleared area'.

(b) clearances around buildings as proposed are unduly restrictive and should be increased, although she is unsure as to whether 5.0m or 7.5m is an appropriate threshold.

2.5 Natalie Hampson Evidence

2.5.1 Natalie Hampson in her written statement provides rebuttal evidence in response to criticism on the scope of her previous report to which she states at paragraph 12:

> Economists are often required to identify and consider the tangible and intangible costs of regulatory efficiency, allocative efficiency, social and economic equity, as well as plan certainty, consistency and complexity. I consider that the scope of economic assessment is far broader than Ms Thomas and Ms Hunt appreciate.

2.5.2 Natalie Hampson in response to the evidence of Claire Perkins at her paragraph 8.2 where she states "Ms Hampson argues … that the Hokonui Hills area does not warrant any specific difference in approach compared to other areas or properties within the district" now accepts based on the evidence provided that the bespoke provisions in new ECO-R2 have been justified.

2.5.3 In her oral presentation to the Panel, Natalie Hampson accepted that she has not included any costs associated with cultural impact assessments as they sit outside the Ecosystems and

Biodiversity chapter, but in her view that does not change her overall view that the provisions will not prevent farmers from undertaking farming.

2.5.4 Natalie Hampson also stressed that regard must be given to the number of properties affected by the rules, and the small proportion of each property affected, and the likelihood as a result that farming activities would be undertaken within the indigenous vegetation areas identified, particularly given the lack of evidence from submitters that the highlighted perceived issues will have a real impact. In her view the rules proposed incentivise development of land outside of the areas containing indigenous vegetation. In that regard, she referred to the additional evidence from Andrew Wells that shows an absence of fences passing through indigenous vegetation areas. If there is good reason to locate a fence through vegetated areas, then the consent process enables consideration of that.

2.5.5 In reply to questions from the Panel, Natalie Hampson was comfortable with requiring a consent to establish any firebreaks directed by FENZ particularly given in her view that such action is likely to be rare given the number of properties affected. That would then enable regard to be given to appropriate mitigation to ensure no net loss of biodiversity occurred.

2.6 S42A Report: Matt Heale

2.6.1 Matt Heale is the author of the s42A Report, comprising 143 pages plus 19 appendices. The Report relies on advice from Wildlands Consultants Ltd, Natalie Hampson, the Stoney Creek Station Working Group (SCSWG) and the Biodiversity Technical Working Group (BTWG).

2.6.2 Matt Heale described the role of the Stoney Creek Station Working Group to discuss the submissions lodged seeking bespoke landscape and biodiversity provisions applying to the Hokonui Hills area. The outcome of these meetings was the Record of Consensus that was utilised by him in preparing the s42A Report. He also described the role of the BTWG in reviewing mapping information that, after feedback, was adopted in his Report as indicative mapping of areas of indigenous vegetation.

2.6.3 Matt Heale summarises the changes recommended to the notified Plan provisions in his report as follows:

a. Changes to the Overview to incorporate mana whenua values and update text relating to NPSIB amendments resulting from the Resource Management (Freshwater and other matters) Amendment Act 2024;

b. Amendments to objectives so they are reframed to be outcome focussed and more closely reflect mana whenua values;

c. Amendments to policies to more closely reflect the direction from the NPSIB and other national and regional direction and to improve alignment with the rule framework;

d. Deleting ECO-P8 and ECO-P9 to avoid duplication;

e. Deleting ECO-P12 to acknowledge that the Regional Pest Management Plan will address weeds and pests;

f. Changes to ECO-R1 to enable greater clearance levels around existing infrastructure and provide for development:

- in accordance with a Council Approved Biodiversity Management Plan;
- in plantation forestry areas outside SNAs/SIVAs; and
- allow for a small amount of general clearance;

g. Introducing a new rule, ECO-R2, to recognise the unique characteristics of the Hokonui Hills Area and provide for a range of permitted vegetation clearance that acknowledges the scale and significance of indigenous vegetation coverage and farming operations, as well as landowner conservation practices;

h. Deleting notified ECO-R2 and ECO-R3 to acknowledge that the Regional Pest Management Plan addresses weed and pest issues in accordance with SRPS direction;

i. Deleting the vegetation clearance definition due to limited reference throughout the PDP and reliance on the indigenous vegetation clearance definition;

j. Amendments to the definitions of Council Approved Biodiversity Management Plan, indigenous vegetation clearance and SNA to better reflect national and regional direction;

k. New definitions for Hokonui Hills area, biodiversity offset, biodiversity compensation, ecological district and ecosystem to reflect the NPSIB and enhance PDP interpretation;

l. Minor changes to Appendix 4 and inclusion of Appendix 7 to add maps of Hokonui Hills Area that depict indigenous vegetation values; and

m. The inclusion of indicative maps for the District (excluding the Hokonui Hills) showing Significant Indigenous Vegetation and Significant Habitats of Indigenous Fauna Areas (SIVAs) and Indigenous Vegetation Areas (IVAs) to sit as an information mapping layer to help implement ECO-R1 while further landowner engagement is undertaken ahead of mapping being incorporated into the PDP.

2.6.4 The Report noted that while the government has directed that the provisions of the NPSIB requiring identification of Significant Natural Areas (SNAs) have been suspended, the Council is still required to maintain indigenous biological diversity and protect areas of indigenous vegetation in accordance with the RMA and Southland Regional Policy Statement (SRPS) and manage SNAs already included in District Plans under the NPSIB. In addition, the notified definition of SNA includes sites meeting the criteria in Appendix 4 of the PDP that reflect the criteria in the NPSIB. It is the contested view of Matt Heale that any sites meeting the criteria in Appendix 4 were included in the plan in August 2023, with indicative mapping of these sites being included in the FAQs at the time of PDP notification.

2.6.5 In considering the submissions to the definition of Significant Natural Area, Matt Heale adopted the approach arising from recommendations of Wildlands Consultants Ltd to equate Significant Indigenous Vegetation Areas (SIVAs) to SNAs, both in the definitions and rules. He acknowledged the opposition of submitters to controls on indigenous vegetation areas not shown on the planning maps.

2.6.6 Given the Council still needs to implement the RMA s6(c), the SRPS, and the other provisions of the NPSIB, Matt Heale relied on the updated indicative mapping provided by Andrew Wells to distinguish between SIVA and other Indigenous Vegetation Areas (IVA) to apply Rule ECO-R1. That mapping undertaken remotely adopts the SRPS criteria and the intention is that this mapping will be refined with landowners over time and in the meantime also used as a guideline for resource consents until new NPSIB criteria have been released.

2.6.7 At paragraphs 587 and 588 of his s42A Report Matt Heale states:

> Enabling unconstrained or significant clearance limits will make it difficult to meet national and regional direction for protection of SNA's and no net loss of indigenous biodiversity values. Clearance for and around buildings may be appropriate where this vegetation clearance is off-set by revegetating other areas, particularly when on low coverage indigenous vegetation sites there is ample space (approx. 90%) to locate buildings outside these areas.
>
> More detailed ecological assessments in the Hokonui Hills have allowed the ability to provide greater flexibility for vegetation clearance limits

2.6.8 Arising from the Record of Consensus by the Stoney Creek Station Working Group, Matt Heale recommended a new rule ECO-R2 that in his view recognises the scale of the farming operations on the Hokonui Hills, past conservation efforts and future aspirations of the owners around fencing and tracking. This rule, with consequential changes being required to the policies:

a. Distinguishes between SIVAs and IVAs on the Stoney Creek and Wantwood stations,

b. Provides for maintenance of improved pasture

c. Provides for the maintenance of existing fences and tracks without limits,

d. Provides for construction of new fences, tracks, and activities essential for existing farming operations within IVAs meeting agreed 5 year clearance limits,

e. Provides for construction of new fences within SIVAs meeting agreed 5 year clearance limits,

f. Includes other matters generally provided for in ECO-R1 and not addressed above,

g. Has a restricted discretionary activity status for activities in IVA not meeting permitted standards along with relevant matters of discretion.

2.6.9 The Report acknowledged agreement between the Hokonui Hills landowners and the Council planners could not be reached about the default setting where consent is required within SIVAs. Stoney Creek believe the default setting should be a discretionary activity, while Matt Heale considered the default setting should be non-complying.

2.6.10 Where appropriate, reference is made to the s42A Report in considering the individual submissions later in this Decision.

2.7 Matt Heale Evidence

2.7.1 Matt Heale provided an overview of the evidence of submitters and arising from that made the following further recommendations to the Panel:

(1) In response to Federated Farmers (S126):

a. No changes to ECO-O4;

b. Amending ECO-P7 to “enable” mahinga kai rather than “enhance” it;

c. New definitions of animal pest, firebreak, vehicle track, dam, and walkway;

d. Amendment to ECO-R1 to clarify the width of clearance for fences;

e. Reference to farm tracks as well as vehicle tracks in ECO-R1(1)(a)(ii); and

f. Addition to ECO-R1(1)(k) to permit works that relate to indigenous vegetation that was deliberately planted around the margins of existing dams.

(2) In response to Department of Conservation (S190 and FS31):

a. The removal of reference to Council Approved Biodiversity Management Plans from ECO-R1 (1)(f) and definitions;

b. Clarification of ECO-R1(1)(l) relating to commercial forestry;

c. Deletion of ECO-R1(1)(n) relating to permitted vegetation clearance for vegetation no older than 15 years;

d. Amendment to ECO-R1 to avoid vegetation clearance associated with the margins of the Mataura River referenced in the SRPS; and

e. Amendments to ECO-R2(1) to avoid the loss of threatened or at-risk woody plant species and Hokonui Hills rocky habitat.

(3) In response to Transpower (S101 and FS30):

a. Inclusion of “The values of” in ECO-P3;

b. The inclusion of no “practicable” alternative options in ECO-P2; and

c. Amendments to reference the National Grid in ECO-P3 (6), ECO-P3(9), ECO-P4 and ECO-P11(6),

2.7.2 In his oral presentation to the Panel, Matt Heale drew attention to RMA s6(c) which has an unqualified requirement to protect areas of significant indigenous vegetation and significant habitats of indigenous fauna. He compared that to RMA s6(b) which is to protect outstanding

natural features and landscapes from inappropriate subdivision, use, and development, noting there is no reference to "inappropriate subdivision, use, and development" in s6(c). However, he then noted the purpose of the RMA in s5 was to enable people and communities to provide for their economic wellbeing. That too needed to have regard to the provisions of the NPSIB that required there be no net loss of indigenous biodiversity. In his view there is a distinction between the loss of indigenous biodiversity and the loss of indigenous vegetation, so the latter may occur and as a consequence of other actions there may be no net loss of indigenous biodiversity.

2.7.3 Matt Heale referred to the "Efficiency and Effectiveness Review" undertaken as part of the District Plan review process, noting that during the life of the operative District Plan both indigenous and exotic scrubland, matagouri, deciduous hardwoods, manuka and kanuka areas have all decreased. As a result, he concluded the Operative Plan has no controls over indigenous vegetation and the requirements of s6(c) have not been met and doing nothing has not achieved the outcome of "no net loss". Matt Heale also explained that in drafting Rule ECO-R1 the provisions of the NPSIB were used as the indicator of matters and provisions to be included in the rules.

2.7.4 Matt Heale proffered that while the NPSIB allows for the continuation of existing activities within areas of indigenous vegetation that did not authorise unlimited clearance of indigenous vegetation. Consequentially, the rules recommended place a limit on the amount of clearance allowed for activities such as fencing.

2.7.5 In reply to questions from the Panel, Matt Heale accepted that once decisions are made as to the rules applying to the Hokonui Hills it may be appropriate to revisit the wording of Policy ECO-P13 to be more specific.

2.7.6 When asked how the Plan objectives and policies differentiate new and existing activities (which the NPSIB provides for continuation) Matt Heale referred to ECO-P3 referring to new subdivision, use and development and that is based on section 3.10 of the NPSIB. He accepted that SNAs and SIVA need to be treated differently because there are only two SNAs in the Plan and the wording of ECO-P3 comes from the NPSIB applying only to SNAs not SIVAs. NPSIB Policy 3.16 applies to areas outside of SNAs, which would be SIVA, but regard must still be had to the objectives and policies of the NPSIB and the RPS. It may still be appropriate to use the wording in NPSIB 3.10 when referring to specified infrastructure in relation to SNAs and SIVA, but a check is required on how SNA and SIVA are used throughout the Plan. In some cases they can be retained together, such as Policy ECO-P4, because under the NPSIB the effects management hierarchy applies to areas within and outside of SNAs where the effects are significant. Matt Heale agreed that if the NPS criteria are being used then in those cases the RPS objectives and policies should be relied upon, such as Policy BIO.9, but tempered with the submissions of DoC that the NPSIB dominates. He did note too that NPSIB 3.16 applies the effects management hierarchy regardless of whether it is applied to a resource consent or not.

2.7.7 Matt Heale did accept that the joint definition of SNA and SIVA would require revisiting with the SNA definition applying to the NPSIB and the SIVA relating to the criteria in the RPS. That would also require amending the recommended provisions. When asked what is the difference between the two criteria, the Panel was directed to the Wildlands Report that indicated the NPSIB criteria had a slightly wider reach than the RPS criteria and it could be expected there would be an increase in areas captured using the NPSIB criteria.

2.7.8 Regarding the reference to a "Council endorsed ecologist" in Rule ECO-R3, Matt Heale considered the approach valid given it is part of a resource consent process, although Shelley Chadwick suggested a rewording to refer to a "suitably qualified and experienced ecologist".

2.7.9 Given the NPS-IB allows existing activities to continue, when asked if the list in Rule ECO-R1(a) is required, Matt Heale advised in his view it is appropriate so that the extent of the clearance allowed can be specified for each of the activities. If the specified clearance distances were deleted the clearance along features such as fence lines could only occur as of right if that amount of clearance has always been actioned.

2.7.10 Both Matt Heale and Andrew Wells supported specific identification of the 127 ha subject to the DoC agreement and acknowledgment that no clearance was intended within this area.

2.7.10 In response to questions regarding ecological corridors, Matt Heale advised that the key provision in the Plan relates to the margins of rivers and streams which in many cases provides vegetation links along them. Andrew Wells also indicated that an ecological assessment to support a resource consent would be expected to include consideration of ecological corridors, connectivity, fragmentation and ecological context, and although ecological corridors are not explicitly mentioned in the Plan reference to significance criteria is sufficient to trigger consideration. Given the extent of land developed for farming purposes within the District ecological corridors have tended to be replaced by islands, with avifauna moving from one island to another. Both Matt Heale and Andrew Wells agreed additional reference to ecological values may be appropriate to the subdivision chapter.

3. Submitter Evidence and Submissions

3.1 Stoney Creek Station Ltd

Brett Highsted

3.1.1 Brett Highsted, General Manager of the Tulloch Group and Director of Stoney Creek Station, provided an oral presentation to the Panel, and in addition to the witnesses providing evidence was accompanied by the farm manager Greg Bokser. He noted the Tullochs had owned the property for 26 years and prior to their purchase it was heavily infested with gorse and rabbits. Since then, they have invested heavily in weed and pest management. The adjoining land is owned by the Council and DoC and these areas create a pathway for pest animals to enter the farm area.

3.1.2 Brett Highsted referred to the 127 ha area subject to an agreement with DoC which is fenced off and subject to a no graze agreement with the current landowners. Olearia hectorii can be found in this area.

3.1.3 Brett Highsted set out that fencing is ongoing on the property to reduce paddock size to effectively manage pasture growth, gorse regeneration and gain efficiency. Currently the farm has 150,000 linear metres of fencing and the proposed rules do not allow for relocation, only maintenance. He added the provisions on fencing and other matters in the Agreement of Consensus is the absolute minimum the owners can work with. Stoney Creek has already made significant sacrifice in terms of what it would like to do in order to reach the agreement with the experts and would be concerned if an alternative approach was now put in place.

Glenn Davis Evidence in Chief

3.1.4 Glenn Davis with over 25 years' experience is the Principal Environmental Scientist of e3Scientific Limited, a position he has held since 2007. By way of introduction at paragraph 1.5 of his written evidence in chief Glenn Davis stated:

> I was engaged by Stoney Creek Station Limited to provide ecological advice to a working group established with the Gore District Council with the objective of developing a bespoke set of planning provisions that would support the farming operation while protecting the ecological values of the property. I provided expert ecological advice on behalf of Stoney Creek and worked constructively with council's ecologist Andrew Wells to draft ecological provisions that would ensure the maintenance and enhancement of higher value areas while enabling Stoney Creek Station to undertake farming operations on lower value areas of the farm.

3.1.5 Glenn Davis noted the station lies within two ecological districts, and quoting from historic writings:

- The pre-human vegetation on the lower slopes within the Gore Ecological District was most likely dominated by red tussock grassland with localised podocarp and podocarp-hardwood forest however like most of the Gore ED the gentle lower slopes of Stoney Creek have been intensively developed and most of the indigenous vegetation cover has been removed
- The pre-human vegetation on the steeper slopes and higher elevation country in the Hokonui Hills ED was forested in podocarp and podocarp-hardwood forests. Remnants of these communities are present in Croydon Bush and Dolamore Park however most of the forest has been replaced by extensive areas of red tussock grassland, short tussock grassland, mixed scrub, manuka and exotic pasture

3.1.6 Glenn Davis considers a bespoke set of planning rules is appropriate for the Hokonui Hills as they contain significant geographic, biodiversity and pastoral farming features that are very different to the more intensively developed low lying areas that cover much of the Gore district.

3.1.7 Glenn Davis developed a map showing areas of vegetation on Stoney Creek Station using information provided from desktop assessment and site visits completed by himself and two e3scientific ecologists. A herpetologist was also engaged to examine the lizard values of the property through desktop research and a site visit and although only one lizard was observed more are expected to be present. A list of bird species that were observed during site visits, or expected to be present on the property was also provided.

3.1.8 Glenn Davis, at paragraphs 5.15 – 5.20 of his evidence provided the following summary of the ecological values of Stoney Creek Station:

> In summary, approximately 25% of Stoney Creek Station contains indigenous vegetation communities that contain moderate to high ecological values that are representative of the Hokonui Hills ecological district. While they are all seral in nature, successional processes are well advanced in some areas, particularly in the broadleaf forest and some of the manuka shrublands and these are on a trajectory toward forests similar in nature to Croydon Bush. Other areas of shrubland are more induced communities but they provide habitat for at-risk species such as the tree daisys (Olearia lineata and Olearia fragrantissma), fernbird and NZ pipit and a number of lizard species. It is my view that these are the areas of the property require protections from the plan to ensure the ecological values of Stoney Creek Station are maintained and enhanced.
>
> Based on the ecological values known for Stoney Creek Station, the working group categorised the ecological values into low, medium and high values. This work was completed to support the development of the rules set out in the s42a report. This work was adopted by the working group and incorporated into the Hokonui Hills Vegetation Plan shown in Appendix 7 of the ECO Chapter. For Stoney Creek Station Area A represents areas of medium ecological value with Area C representing areas of high ecological value.
>
> High value areas include the broadleaf forest and older manuka shrubland that is in an advanced successional state where broadleaf species dominate the subcanopy of the manuka stands. The high value areas are representative of biodiversity of the Hokonui Ecological District, has a diverse flora and is contiguous with Croydon Bush and is on an ecological trajectory toward a podocarp forest similar to Croydon Bush. Broadleaf forest is also recognised in the Southland Regional Policy Statement as an 'at-risk' forest type. The high value areas cover approximately 366 ha of Stoney Creek Station. These areas align well with SIVA shown on Appendix G of the s42a report.
>
> Medium value areas include the Whaririki/Dracophyllum/Olearia Scrub, Coprosma/Corokia shrubland and tall tussock grassland/grey shrubland communities that have a complete canopy cover and have not been opened up by pastoral activity. This vegetation is more fragmented than the high value areas described in paragraph 4.17 but are representative of biodiversity of the Hokonui Hills ecological district and support a number of at-risk species. The medium value areas cover approximately 270 ha of Stoney Creek Station.

> Low value areas are dominated by highly developed high producing exotic grassland and areas that contain tall tussock and scattered shrubland that has an open canopy and an understorey dominated by exotic pasture grasses. These areas are all actively grazed and are an important part of the Stoney Creek farming operation. They also have low habitat value for birds, lizards and invertebrates.
>
> I note that 'improved pasture' is a reference to the section 3.17 of the National Policy Statement for Indigenous Biodiversity (NPSIB). This section provides for the maintenance of improved pasture where it may affect a Significant Natural Area (SNA). While the scattered shrubland and open tussock grassland would not meet the SNA criteria it is logical that this provision should also cover improved pasture where the ecological values are not at a level that would meet the SNA criteria.

3.1.9 In describing the proposed new rule ECO-R2, Glenn Davis noted the provisions have been developed with the intent of maintaining and enhancing the ecological values of the Station while enabling typical farming activities to continue such as construction and maintenance of tracks and fences and ongoing maintenance of pastures. It is his view that the activities set out as permitted will not affect the ecological values of the property and the biodiversity of the station will be maintained through these provisions.

3.1.10 Glenn Davis opined that within the improved pasture areas that contain an indigenous component farming activities do not require planning controls to support biodiversity. This is based on his own observations, together with the lizard survey undertaken by Carey Knox that concluded these areas are of low value habitat for lizards.

3.1.11 Glenn Davis considers the clearance of indigenous vegetation of up to 3,750 m^2 per 5 years in Area A, which covers 270 ha, will ensure the maintenance of indigenous biodiversity within this area, noting the provisions only enable construction of new fences, tracks or other activities essential for existing farming operations. He considers these activities will have a low level of disturbance that is similar in nature to historical disturbances that have occurred on the property.

3.1.12 Glenn Davis also supports the clearance of indigenous vegetation of up to 1,250 m^2 per 5 years in Area C, which covers 366 ha, as this will support a significant improvement in biodiversity as this area continues to regenerate.

Glenn Davis Supplementary and Oral Evidence

3.1.13 Glenn Davis provided a supplementary statement of rebuttal evidence in response to criticism by the Department of Conservation that there was insufficient ecological information to support the analysis by the Stoney Creek Station Working Group. He gave a description of the ecological studies and advice provided to the Working Group, concluding that in his view the level of ecological assessment was sufficient to support the Working Group's deliberations on the Hokonui Hills precinct. He then stated at paragraph 2.16 of his supplementary evidence:

> To assist the panel, I can confirm that I have undertaken an analysis of the significance of the vegetation communities on Stoney Creek. In summary I can confirm that the areas mapped as A and C in Appendix 7 are consistent with at least some of the significance assessment criteria set out in both the NPS-IB and SRPS.

3.1.14 It is the view of Glenn Davis that very small numbers of 'at-risk-declining' Olearia species and Carmichaelia australis species may be disturbed by the installation of a new fence or track under the proposed ECO-R2(1)(j) given their low abundance and that the rule only allows for the clearance of a relatively small 3,750 square metres over a 5 year period. Another at-risk species Coprosma rubra is located within the dry rocky ridges which also provide excellent lizard habitat.

3.1.15 The rocky ridges are located on ridgelines and the landscape provisions also afford these areas protection from earthworks associated with farm tracks, walking and cycling tracks within 30 metres of a ridgeline. Glenn Davis stated that the nationally 'threatened-nationally critical'

green skink had been recorded in the 127 ha area subject to an agreement with DoC and therefore not at-risk from any vegetation clearance activities. Having regard to these factors and the high cost he did not consider it appropriate to undertake any additional lizard investigations.

3.1.16 Glenn Davis also stated:

> … it was not the intention of the working group to consider the ecological significance of the communities on Stoney Creek, rather, it was to use ecological information to develop a suite of rules that would be cognisant of the biodiversity of the Stoney Creek Station while providing some scope to allow the installation of some new fences and tracks and carry out other activity essential for existing farming operations
>
> As set out in section 6 of my EIC and my supplementary evidence, I consider the Hokonui Hills precinct provisions ensure suitable protections are in place that will maintain the biodiversity of Stoney Creek Station and therefore achieve the objectives set out in section 1.7 of the NPS-IB. (*Maintaining indigenous biodiversity*)

3.1.17 To reinforce his view Glenn Davis provided a series of photographs from 1949 and 2024, stating:

> These images show shrubland communities have expanded across the station since the middle of last century. This expansion has significantly improved the biodiversity of Stoney Creek. It is my opinion that Hokonui Hils Precinct provisions will support the successional processes within the seral communities such that biodiversity will continue to enhance over time.

3.1.18 In his oral presentation to the Panel, Glenn Davis stressed that in his view the setting aside of the 127 ha in the agreement with DoC is important in its contribution to the protection of the ecological values of Stoney Creek Station. He added, surveys by DoC had identified 140 different species including a number threatened and at-risk nationally.

3.1.19 In reply to questions from the Panel, Glenn Davis stated he understood the rationale for seeking an inclusion in the rules to protect the threatened and at-risk species, from his observations these were well scattered so the likelihood of these plants being affected by the permitted clearance regime would be low.

<u>Claire Perkins Evidence in Chief</u>

3.1.20 Claire Perkins at paragraphs 5.1 - 5.3 of her written statement described from her perspective the role of the Stoney Creek Station Working Group of which she was part, as follows:

> Due to the significant level of concern held by Stoney Creek Station of the implications of the notified provisions relating to Ecosystems and Indigenous Biodiversity and to the Outstanding Natural Landscape overlay (ONL - to be covered at Hearing Stream 9), and lack of prior consultation on the draft plan, the Station and Council jointly agreed to form a working group. The purpose of this working group was to investigate the opportunity for a more bespoke or refined set of District Plan provisions that could apply to the Station in regard to landscape and biodiversity.
>
> The key factors guiding the working group was the need to ensure the Station could continue to farm as it has done without unreasonable controls or interference whilst recognising the uniqueness of the Station, and the extent and characteristics of the outstanding natural landscape and indigenous biodiversity on the Station.
>
> Additional important considerations were the conservation work already undertaken by the Tulloch family (owners of the Station) in clearing gorse, broom, noxious weeds and rabbit control over the last 25 years which has given protection to the landscape and indigenous biodiversity values, sympathetic improvements on the Station and their inter-generational approach to farming, conservation, lifestyle and ownership retention.

3.1.21 Claire Perkins referred to the Stoney Creek submission that acknowledged the need for the District Plan provisions to align with the National Policy Statement for Indigenous Biodiversity (NPSIB), noting:

(a) NPSIB Objective 2.1(1)(a) requires indigenous biodiversity to be maintained to ensure no net loss.

(b) Clause 3.15 requires that established activities (including maintenance and upgrade) must be enabled to continue where the effects are no greater in scale, or character over time, and do not result in the loss of extent, or degradation of ecological integrity of an SNA.

(c) Outside of SNAs, any significant adverse effects on indigenous biodiversity must be managed via the effects management hierarchy, while lesser effects must be managed to give effect to the objective and policies of the NPSIB.

(d) Maintenance of improved pasture must be allowed (Clause 3.17(2)) provided effects on any SNA are no greater in intensity, character or scale, and the area has not become and SNA, and a cycle of periodic maintenance of that pasture occurs, where improved pasture is defined as:

> Improved pasture means an area of land where exotic pasture species have been deliberately sown or maintained for the purpose of pasture production, and species composition and growth has been modified and is being managed for livestock grazing"

3.1.22 Having regard to the mandated delay in identifying and incorporating SNAs in the District Plan for 3 years, it is the view of Claire Perkins that only those areas that have already undergone a formal assessment in accordance with Appendix 4 of the notified Plan and included in the Plan can be considered SNAs. She disagrees with Matt Heale that indicative mapping included in the FAQs available to view as part of the PDP notification process complies with the necessary criteria. As a consequence, she asserts there are no formal SNA areas within Stoney Creek Station. She does agree however that it is still necessary for the PDP to consider areas of significant indigenous biodiversity as required by the Southland Regional Policy Statement.

3.1.23 Claire Perkins highlighted what she saw as the key policies of the RPS, as follows:

- The use of Appendix 3 criteria by a qualified ecologist, and in collaboration with landowners, to identify areas of indigenous biodiversity that are significant or otherwise (BIO.1).
- Protection of those areas that are deemed to be significant (BIO.2).
- Maintenance of indigenous biodiversity while making appropriate provision for lawful maintenance and operation of existing activities (BIO.4).
- Supporting biodiversity initiatives of landowners (BIO.5).
- Recognising the critical role of private landowners in maintaining or enhancing and actively managing indigenous biodiversity on private land (BIO.10).

3.1.24 She also noted the explanation to Policy BIO.4 stated: "maintenance and protection of indigenous biodiversity does not necessarily mean maintaining every individual specimen of plant or animal, rather it requires an understanding of the importance of an area or habitat and its contribution to maintaining genetic, species and ecosystem diversity".

3.1.25 Claire Perkins relied on the evidence of Glenn Davis in supporting, with one exception, the District Plan provisions set out in the Record of Consensus and is of the view that it is consistent with the NPSIB and RPS. She added that having considered the s42A Report she supported the recommendation of Matt Heale that any breach of the clearance limits in Area C/D (high value vegetation) is a Non-Complying activity.

3.1.26 Claire Perkins added some may interpret any permitted vegetation clearance as inconsistent with the intent of no net loss. However, in her view, regard needed to be had to the evidence of Glenn Davis where he described how the areas of manuka shrubland have a broadleaf understory that are on a trajectory to transition towards broadleaf domination and eventually

forests similar in nature to Croydon Bush with the current management practices. In her view, even with some permitted clearance for fencing purposes in the high value areas biodiversity will be enhanced.

3.1.27 Claire Perkins opposed the concept of a Council Authorised Biodiversity Management Plan (CABMP) applying to the Hokonui Hills, agreeing with Glenn Davis that it is unnecessary given the work carried out and would fail having regard to the s32 tests.

Claire Perkins Supplementary and Oral Evidence

3.1.28 Claire Perkins also provided a supplementary statement of rebuttal evidence in response to matters raised by the Department of Conservation. It is her expert view that it is appropriate to provide "more lenient" provisions over the Hokonui Hills area compared to the rest of the District because of the detailed work and mapping undertaken by ecology experts representing the Council and Stoney Creek Station. She considers the mapping in ECO-R2 provides more certainty to DoC than future compliance with the permitted rule in ECO-R1 where no formal mapping or report is required by these rules to demonstrate compliance, whereas compliance can be easily demonstrated in the Hokonui Hills as the areas of improved pasture are clearly mapped.

3.1.29 Claire Perkins also stated:

> The areas of indigenous vegetation on Stoney Creek Station are identified as Area A and Area C (Areas B and D are on Wantwood Station) on the map in Appendix 7 of the PDP as included in the s42A report. The total area of clearance permitted by proposed ECOR2 for Area A is 3,750m2 per 5 year period, while for Area C (considered to be higher value vegetation) it is only 1,250m2 per 5 year period. These are very limited areas in the context of the indigenous vegetation coverage of the property. These limits will not allow or enable any long term "continued clearance" as suggested by Ms Warnock or wholesale clearance of areas of vegetation to establish new grazing/crop rotations but instead allow for new fences that Stoney Creek has planned around the fringes of some areas of vegetation. Mr Davis has explained how enabling this small amount of clearance will ensure further protection is provided to the remaining areas of vegetation and additional enhancement will occur above what is proposed to be cleared.

3.1.30 Claire Perkins also referred the obligations of landowners under the Wildlife Act 1953, where a Wildlife Act Authority is required to undertake activities within lizard habitat that may result in a significant impact on a species or habitat, noting it is the responsibility of individual landowners to consider such habitats before undertaking work that may be permitted under District Plan rules.

3.1.31 She also disagreed with the evidence of Elizabeth Williams and the submissions of Ceri Warnock that suggests national and regional direction requires outright "protection" of significant areas of indigenous biodiversity and that would prevent any clearance from being provided for within the PDP. Claire Perkins concludes the recommended provisions are consistent with the intent of the RMA, NPSIB and SRPS and based on the evidence of Glenn Davis the provisions do enable protection of areas of significant indigenous biodiversity and will ensure there is no net loss of biodiversity within the Station or ecological district.

3.1.32 In her oral presentation to the Panel, Claire Perkins indicated under the agreed rules within the IVA areas effectively only 250 metres of new fencing can be constructed each year. As a result no new pasture will be able to be created.

3.1.33 Having heard the presentation from the Council's experts, Claire Perkins advised that in her view the following changes are required to the rules:

a. Rule ECO-R2(1)(j) required an addition to be consistent with the NPSIB and Rule ECO-R1(1)(a) to refer to "The maintenance, repair, replacement or upgrade of established fences and tracks, possibly with the words "existing lawfully established".

b. "Land Disturbance" in the heading of the rule makes it stricter than the earthworks rules, and in her view it would read better referring to "Land Disturbance Associated with Vegetation Clearance". When asked if "land disturbance" needs to be included in the rules at all, she replied "possibly not given the earthworks chapter includes provisions applying to the Hokonui Hills".

c. If reference is required in Rule ECO-R2 to woody species, and in her view it is not necessary because plants are few in number and spread out, then it should only apply to j and k in the Rule.

d. Reference to rocky habitat should be deleted as the Wildlife Act provisions still apply and the rocky habitat has not been defined or mapped.

e. Reference to pest plant species as worded in the rule does not work and possibly should be deleted.

3.1.34 Arising from (c) Andrew Wells was asked to clarify his previous explanation of the rule he was suggesting to avoid removal of the threatened and at-risk species. He referred the Panel to paragraph 63 of his supplementary evidence where he stated:

> The possible loss of individuals of threatened plants would have a negligible effect on these species, because of the large areas of habitat available that will remain intact. Nevertheless, adding a condition requiring that vegetation clearance avoids threatened woody plants would provide even greater certainty that there are no adverse effects on these species.

3.1.35 In response, Claire Perkins indicated from a planning viewpoint, inclusion of the rule sought by Andrew Wells would necessitate a resource consent after the event if any of the isolated and few in number threatened and at-risk species were removed. Having regard to the acknowledged negligible effect she considers such a rule is not justified.

3.1.36 When asked if Policy 13 as worded was an appropriate link to Rule ECO-R2, Claire Perkins replied that while the policy is reasonably broad it would be difficult to bring into the policy the range of ecological values that were important on the Hokonui Hills as they are very diverse. She did accept however that inclusion of reference to the SIVA and IVA areas should be helpful stressing the need for greater protection of the SIVA areas.

3.2 New Zealand Transport Agency

3.2.1 Helen Dempster on behalf of NZTA advised by email dated 10 February 2025 that NZTA accepted the changes recommended in the s42A report for the Ecosystems and Indigenous Biodiversity chapter. Where the s42A report has not changed a provision in response to a NZTA submission point, NZTA accepts the reasoning of the report in these instances.

3.3 Director General of Conservation

Ceri Warnock

3.3.1 Ceri Warnock is legal Counsel for the Director General. In a written statement she submitted:

a. There were no legal impediments to indicatively mapping in the information layer of the District Plan the Mataura River and its margins as a SIVA despite regional councils having the primary statutory responsibility for regulating the use of beds of rivers. She referred to the RPS that states the Regional Council shall be responsible for setting objectives, policies and methods to control the use of land for the maintenance of indigenous biodiversity in rivers and their margins. This would not be inconsistent with the Southland Regional Land and Water Plan, and it would give effect to the RPS.

b. The proposal that vegetation clearance rules in the Hokonui Hills be more permissive than the rest of the District is perverse and does not accord with the provisions of the RMA, NPSIB or Southland RPS.

c. Rule ECO-R2(1)(i) permits vegetation clearance necessary to maintain existing tracks and fences, and in comparison to ECO-R1, does not set any quantitative limits on that clearance. The rule would permit clearance in IVAs and SNA/SIVAs.

d. Without mapping Threatened and At-risk species / habitat it is impossible for Mr Davis (and Dr Wells, and the s 42A Report writer) to conclude that the permitted rules in ECO-R2 would not adversely affect indigenous biodiversity. These omissions are particularly problematic because there are Threatened and At-risk plant species on Stoney Creek, including a nationally important population of Olearia hectorii (Threatened – Nationally Endangered) and the work undertaken to establish whether lizards are present was inadequate.

3.3.2 In her oral presentation to the Panel, Ceri Warnock submitted the RMA, the NPSIB, the RPS and Regional Plans all treat the management of indigenous vegetation differently depending on whether it is significant or not. The NPSIB and the RPS provide a framework for determining significance and while the provisions may differ the core values are the same. As part of the process it is necessary to consider why an area is significant and the NPSIB requires consideration of the size, shape and configuration of an area. Threatened and at-risk species will always contribute to an area being significant and need to be plotted. That has not been done and as a consequence the process adopted to date is not adequate.

3.3.3 Ceri Warnock referred to the evidence of Glenn Davis noting he stated at paragraph 2.17 significance was not being assessed. She submitted the RMA requires areas of significant biodiversity to be protected and other biodiversity to be maintained. At a rule level protection requires avoidance, although limited. Justified exceptions can be provided and the NPSIB 3.11 provides for that, but if limited clearance is to be allowed then the effects management hierarchy applies. She submitted that specifying a quantitative limit is wrong in law because there is no exception test as to whether removal is appropriate and there is no requirement to apply the effects management hierarchy.

3.3.4 In relation to recommended Rule ECO-R2 Ceri Warnock submitted:

- There is no clear significance assessment that enables areas A and B differently to areas C and D.
- There is nothing in the evidence from the ecologists that suggests the test is to protect significant biodiversity as opposed to maintaining indigenous biodiversity.
- The is no evaluation of the law or the higher order planning documents to justify the exceptions provided within the rule.
- clearance and loss of some significant biodiversity is permitted without regard being given to remediation, offsetting or compensation, and if considering offsetting it is necessary to provide like for like.

3.3.5 Ceri Warnock does not agree with Andrew Wells that clearance in one area is acceptable because additional growth is occurring in other parts of the property. With regard to the additional rule recommended by Matt Heale referring to protecting threatened and at-risk species, she submitted the approach is contrary to RMA s6(c) because that requires protection of the habitat not just the plants. In her view, an on the ground ecological assessment is required by way of a resource consent so that monitoring can then be undertaken.

3.3.6 In conclusion Ceri Warnock submitted that recommended Rule ECO-R2 should be deleted and reliance placed on Rule ECO-R1 over the entire District. If that was not accepted then the wording recommended by Matt Heale should be included and further provisions included to protect the 127 ha area subject to the DoC agreement. She also noted that the 2024 RMA Amendment removed the mandatory requirement to map SNAs but still gave the Council the option of doing so.

<u>Bruce McKinlay</u>

3.3.8 Bruce McKinlay is a Senior Technical Advisor Ecology in the Biodiversity Group of the Department of Conservation with more than 40 years' experience in wildlife management. It was his evidence that compared to other Districts in New Zealand, the Gore District does not have a wide variety of ecosystems or expanse of rare, threatened, or at-risk ecosystems. It does however contain a significant amount of the middle reaches of the Mataura River with the River and its margins providing significant habitat for black billed gulls that are classified as "At-risk – declining". It is the opinion of Bruce McKinlay that as part of mapping the Mataura River as a Significant Natural Area this habitat should also be mapped to ensure that the objectives and policies of the District Plan can be implemented efficiently.

3.3.9 Bruce McKinlay also expressed concern that the definition of Sensitive Environments did not include riparian margins and as a consequence foraging, nesting and roosting habitats for wildlife within and beyond SNAs or Areas of Significant Habitat may not be considered when implementing the Plan.

3.3.10 In reply to questions from the Panel Bruce McKinlay acknowledged that the nesting area of the black billed gulls does change depending on river bed location and available habitat, and if disturbed they will move. However, the gulls exploit all of the river and it is the whole river ecosystem that requires protection. He also accepted it is part of the natural character of the river and if the proposed natural character chapter is a better fit to recognise that he would consider that acceptable, noting that in his view the river is a significant natural area and should be recognised as such, while recognising the regional council and district council both have a statutory role in this space.

3.3.11 When asked about what activities impacting on black billed gulls were of concern Bruce McKinlay referred to jetboat activities and the need to exclude them from the river during nesting because the wash from both extends from the water area into adjoining areas where birds nest. The safe time for jetboating on the river is when the birds are away from February to September.

3.3.12 Arising from questions to Juzah Zammit-Ross, Bruce McKinlay stressed that steps had been omitted from the evidence of the ecologists to satisfy the NPSIB and the RPS, and the Panel needed to understand the method, the data, the filter of significance and the outcome of the significance assessment. He also had concerns at the simplistic view that grazing will not impact on indigenous vegetation. Regard must be given to the type of stock and the stage of the plants.

Juzah Zammit-Ross

3.3.13 Juzah Zammit-Ross is a Technical Advisor – Ecology in the Flora and Ecosystem Team at DoC. It was her evidence that based on the mapping undertaken by the Council and Stoney Creek experts and taking into account the known botanical values and past lizard records for Hokonui Hills Precinct, that lizard surveys should be undertaken by a qualified and experienced ecologist and herpetologist to understand the current biodiversity values present in the Precinct. It was also her view these surveys should be undertaken prior to any vegetation clearance or land disturbance in the Hokonui Hills Precinct to properly assess the effects of the activity.

3.3.14 In her oral presentation at the hearing Juzah Zammit-Ross expressed concern at the length of the investigation to assess the presence of lizards in the area. In her view the assessment was inadequate and a comprehensive survey is required using best practice not just a walkover. Maps should also be prepared showing the location of plant and animal species.

3.3.15 While she supported the inclusion of a rule referring to threatened and at-risk species, Juzah Zammit-Ross doubted farm workers would have sufficient knowledge to identify species such as Olearia hectorii. Other species including broom and kowhai should also be added. She

also suggested that while vegetation had increased over time on the Hokonui Hills that did not mean that biodiversity had increased.

3.3.16 It is the view of Juzah Zammit-Ross that prior to working on any area where ground disturbance is taking place (be it grassland, tussock or other vegetation) a survey should be undertaken to determine if any lizards are present and if necessary an approval sought under the Wildlife Act. That is the law and the focus is on the Hokonui Hills rather than other areas because there are records of the Southland Green Skink there and that makes it a significant area.

Elizabeth Williams

3.3.17 Elizabeth Williams has more than 15 years' experience, the last three as a Senior Resource Management Planner with DoC. The key points of her evidence included:

1. Support for the proposed approach over the Hokonui Hills to include reference to Indigenous Vegetation and Significant Habitats of Indigenous Fauna Areas (SIVA) and Indigenous Vegetation Areas (IVAs) as this gives effect to the higher order documents including the RMA Section 6(c) and the Southland Regional Policy Statement (SRPS).
2. Support for the approach to indicatively map SIVAs and IVAs for the rest of the District to guide plan users about when the ECO provisions will apply.
3. A number of concerns with the recommended rules for permitted activities for vegetation clearance in Rule ECO-R1 which she considers uncertain and lacking clarity and not providing adequate protection of biodiversity values. She recommended the approach of providing for Council Authorised Biodiversity Management Plans be amended or removed. It is her view Biodiversity Management Plans should be assessed by way of a resource consent.
4. Not supporting the recommended new provisions addressing the Hokonui Hills Area to provide greater flexibility for vegetation clearance limits given the lack of information for this area. On the basis of the information provided she is unable to determine whether the biodiversity values onsite will be protected and/or maintained in accordance with higher order documents. She recommended provisions of ECO-R1 are relied on and that a Biodiversity Management Plan is assessed through a consenting process.
5. The Mataura River and its margins are identified as a significant habitat for indigenous fauna by indicatively mapping the area as a SIVA.

3.3.18 Elizabeth Williams also provided a table setting out each of the submissions of the Director to this chapter of the Plan summarising the position of the Director General with regard to the recommendations in the s42A Report. This includes acceptance of many of the submission points lodged.

3.3.19 In reply to questions from the Panel Elizabeth Williams agreed there should be a set process to develop Council Approved Biodiversity Management Plans (CABMP), referring to the Selwyn District Council approach. She noted if the intent is to exceed the limit allowed by Rule ECO-R2 then a plan of proposed works and assessment should be required and that can form a CABMP. She prefers that approach to relying on rules in a District Plan and if it is done through a resource consent process then it would have legal weight and can be monitored. She accepted the CABMP would need to be triggered by a rule setting a limit rather than being associated with a permitted activity.

3.3.20 Elizabeth Williams considered the indicative SIVA and IVA plan sitting outside of the District Plan would show areas of potential significance and an assessment should be undertaken to determine whether a consent is required if the exceptions allowed in Rule ECO-R1 are not met. That includes allowing for up to 50 m^2 to be removed over 5 years for non-forest indigenous vegetation.

3.4 Coral McLeod

3.4.1 Coral McLeod of Wantwood Station attended the hearing and spoke to her submission stating that there is not a huge amount of biodiversity on the Wantwood Farm, but what is there she is keen to retain. She considers the consensus reached by the Working Party to be a more manageable and logical approach to the use of the land for farming purposes and supports the additional rules on threatened and at-risk species

3.4.2 Coral McLeod considers it important that farmers are able to maintain, repair and replace existing fences in order to ensure stock do not get into areas they should not be. She also considered the economic analysis undertaken to understate the costs to farmers in terms of time, wages and engaging experts.

3.5 Forest and Bird

3.5.1 Chelsea McGraw, Otago and Southland Regional Conservation Manager for Forest and Bird, appeared by way of video at the hearing. In written evidence she described the major decline in many indigenous land-based species, and in some case their extinction, as largely the result of the substantial reduction in the extent and quality of natural habitats, the impact of introduced predators and herbivores and the legacy of past impacts.

3.5.2 She described that indigenous vegetation continues to disappear with land use change and intensification and within the Gore District there has been high amounts of past ecological loss. This is exacerbated by a limited number of public Conservation Land management areas for protection of biodiversity values or QEII covenants. She also noted the District supports a range of nationally and regionally threatened species and ecosystems including rare plant species such as the nationally critical Rohutu, nationally threatened Hector's tree daisy and the nationally endangered Carex strictissima.

3.5.3 Chelsea McGaw also noted that while the government has suspended the need to comply with the NPSIB's requirement to identify SNAs, they have not abolished this requirement, and Councils are still required to protect areas of national importance under s6 of the RMA. She noted many Councils across the country have identified these areas in their District Plans, and have a process as part of their resource consent processing to map when they are found through Assessments of Environmental Effects or as part of their own Council property and reserves.

3.5.4 While acknowledging the Regional Council is responsible for wetlands, Chelsea McGaw considers the Gore Council "can halt any further loss of these important biodiversity areas by controlling activities through the District Plan and ensuring adequate setbacks, strong vegetation clearance and earthworks rules, preventing grazing and so on." In her view, wins for biodiversity also equal wins for climate.

3.5.5 In reply to questions from the Panel regarding locating and protecting ecological corridors Chelsea McGaw indicated when processing resource consents the Council should adopt a holistic approach and look at ecological values on the land and adjoining areas with a view of retaining vegetation to retain ecological pathways and not fragment habitat. She would support provisions in objectives and policies to guide consent decision-making.

3.5.6 Chelsea McGaw also advised, based on what other Councils require, Forest and Bird support buildings being set back 10 metres from SNA areas. In discussing offsetting, Chelsea McGaw stressed the need to replace like with like. She also encouraged the Council to explore options outside the District Plan to reduce carbon emissions, both in Council policies and other documents such as its Subdivision Bylaw.

3.6 Transpower NZ Ltd

3.6.1 Anisley McLeod in a statement of evidence on behalf of Transpower advised the focus of the Transpower submissions on this chapter related to how the PDP recognises and provides for

the nationally significant National Grid, and particularly the extent to which the provisions of the Proposed District Plan give effect to the National Policy Statement on Electricity Transmission 2008 ("NPSET") and the RPS and appropriately reflect the relationship of the PDP with the Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009 ("NESETA").

3.6.2 The evidence of Ainsley McLeod:

a. Concludes that an amendment to the definition of 'effects management hierarchy' so that it is clear that the definition relates to biodiversity is not necessary;

b. Supports recommended amendments to Objective ECO-O3 and further supports a limited amendment so that the Objective relates to the values of SNAs

c. Supports the inclusion of reference to 'operational need' in Policy ECO-P2 with a further amendment to reflect that the National Grid is not subject to the provisions of the NPSIB;

d. Similarly concludes that Policies ECO-P3 and ECO-P4 require amendment so that these provisions, that are to give effect to the NPSIB, do not impose NPSIB requirements on the National Grid because nothing in the NPSIB applies to the National Grid;

e. Notes that rules for the operation, maintenance and upgrading of the National Grid are not relevant because the NESETA applies to such activities and supports the inclusion of a National Grid specific discretionary activity rule for vegetation clearance and land disturbance to properly reconcile the relevant provisions of higher order planning instruments;

f. Concludes that a further clause should be included in Policy ECO-P11 to provide for offsetting of residual effects of the National Grid in situations where Transpower offers such offsetting, as opposed to imposing the compulsory requirement embedded in the NPSIB;

g. Acknowledges the mapping that has been undertaken and expresses a preference for maps to be incorporated in the Proposed District Plan.

3.7 Federated Farmers

Rachel Thomas and Bernadette Hunt

3.7.1 Rachel Thomas (who appeared remotely) and Bernadette Hunt (who attended in person) provided a joint witness statement that, while supportive of the Council engaging Natalie Hampson to assess the economic implications of the potential rule framework, Federated Farmers had a number of concerns that the report delves into issues beyond the scope and expertise of the author. Particular concern was expressed at the failure to consider the implications of requiring a cultural impact assessment for removal of vegetation and the associated costs of engaging consultants.

3.7.2 Feedback was provided on the s42A Report responses to the Federated Farmers submissions on definitions. Of particular concern was the recommended changes to Significant Natural Areas (SNA) definition, its expansion to include Significant Indigenous Vegetation Areas (SIVAs) and referring to Council Approved Biodiversity Management Plans. Reference was made back to the NPSIB that required inclusion of SNAs in the District Plan with qualifying status based on Appendices of the RPS being opposed.

3.7.3 In considering changes recommended to the objectives and policies, Federated Farmers opposed

- Objective ECO-O4 that refers to the relationship of the mana whenua to indigenous biodiversity, because it would be broad and uncertain in its effect.
- Policy ECO-O7 to add "enhancing mahinga kai" as it goes further than the objective which is about "enabling".
- Policy ECO-P10(8) referring to "farm fencing"
- Policy ECO-P11(5) in the way it set out Ngai Tahu cultural values
- New Policy ECO-P12 as it should apply to the entire District.

3.7.4 Federated Farmers has concerns with the proposed Rules, noting many of the activities covered by ECO-R1 provide positive benefits for indigenous vegetation, such as fencing which helps to eliminate pests and exclude stock and firebreaks which are important to manage potential fire outbreaks, but if these activities require resource consent farmers will be unlikely to carry them out. Federated Farmers is "incredibly concerned" that it was not invited to join the Working Group and considers the agreed outcome only benefits the Hokonui Hills area, not farming generally. Reference is made as an example to the removal of width controls for works beyond farm tracks for the Hokonui Hills and not elsewhere, when the setbacks required cannot be justified on the basis of effects. What is provided for across the wider district is impractical and to meet the compliance timeframe from the issuing of a notice under s62 of the FENZ Act, there must be no restriction on the clearance of indigenous vegetation where it is for the purpose of maintaining, repairing or replacing firebreaks.

3.7.5 On reflection, Federated Farmers considers definition of firebreak, vehicle track, dams and walkways are required to make sense of Rule ECO-R1, but acknowledges there may not be scope for this. Notwithstanding that, controls on clearing overhanging vegetation from dams, waterway crossings and farm tracks are opposed.

3.7.6 Federated Farmers supports the deletion of notified Rule ECO-R2 given exotic weeds are controlled through the Regional Pest Strategy but would prefer to retain notified Rule ECO-R3 notwithstanding animal pests are also subject to Regional Council provisions. Federated Farmers had sought a new rule to allow for minor indigenous vegetation clearance required for normal farming activities, such as the removal of a singular plant. The recommended addition to Rule ECO-R1 allowing 50m^2 over a five period for vegetation less than 15 years old is not practical for landowners nor the Council to administer. It was requested that clearance of vegetation is allowed for "any other activity essential for existing farming operations".

3.7.7 In her oral presentation to the Panel Bernadette Hunt expressed concern that biodiversity would become a liability on farms and a perverse outcome could arise from the uncertainty of what is being proposed by a regulatory approach.

3.7.8 In reply to questions, Rachel Thomas indicated that the reference to mahinga kai values is too general. She said the phrase is five times in the Plan but only once in the Ecosystems and Biodiversity chapter. She would prefer the phrase to be removed and specific values specified.

3.7.9 In considering the number of properties affected by the rules, Rachel Thomas said that Federated Farmers seeks the best outcome for all farmers, and once a rule is in place the number of properties can be increased. Given the total cost for a consent is likely to be up to $20,000, that is not acceptable. Bernadette Hunt added clearing land is expensive and farmers will not clear land that they do not need to clear, but clearance is required around fences, tracks and dams to enable day to day activities to continue unimpeded. In the view of Federated Farmers clearance of indigenous vegetation is low risk along existing fence lines outside of the Hokonui Hills area.

4. Minute 41

4.1 The Minute

4.1.1 On 3 March 2025 the Hearings Panel issued Minute 41 in which it stated:

> Arising from the submissions and evidence presented at the hearing, particularly on behalf of the Director-General of Conservation, there are relevant issues the Hearings Panel wishes to explore further, as follows:
>
> 1. Recognising and providing enduring protection for an area of 127 ha within the Hokonui Hills precinct that is subject to an agreement between the landowners and the Department of Conservation.
> 2. Understanding of the process adopted to identify Significant Indigenous Vegetation Areas (SIVA) within the Hokonui Hills precinct.
> 3. The status of SIVA land outside of the Hokonui Hills precinct.

4.1.2 Directions were given requiring Andrew Wells, in consultation with Glenn Davis, to provide details of the process adopted and criteria had regard to in determining the significance of indigenous vegetation on the Hokonui Hills. Matt Heale was also directed to prepare an update of the Ecosystems and Indigenous Biodiversity chapter having regard to matters highlighted in the Minute, including the option of adopting separate rules for SNA and SIVA areas. Those submitters attending the hearing were also provided with an opportunity to respond to material prepared by Andrew Wells and Matt Heale, and on request to attend the final hearing to present their response.

4.2 Response to Minute 41 from Andrew Wells

4.2.1 Andrew Wells, in a report dated 14 March 2025, advised the criteria of representativeness, diversity and pattern, rarity and distinctiveness, and ecological context are fundamental to all ecological assessments undertaken in New Zealand, and those headings are used both in the NPSIB and Appendix 3 of the RPS, although there are minor variations in the detailed content. The ecologists in their brief for the project were directed not to undertake a formal SNA assessment. Instead, their assessments were based on the RPS criteria. This included using the Schedule of Threatened, At-risk and Rare Habitat Types in Appendix 2 of the RPS, as required by RPS Policy BIO.1.

4.2.2 The inputs informing the assessments were outlined in the evidence of Andrew Wells and Glenn Davis and included relevant contextual information relating to the ecological district and Threatened Environment Classification, desktop assessments of flora and fauna, and detailed field assessments to describe and map vegetation and habitats. This combined ecological information formed the basis for determining ecological values in relation to representativeness, rarity, diversity and ecological context. On this basis the areas were mapped as SIVA or IVA in relation to the RPS significance criteria.

4.2.3 Andrew Wells acknowledged that data supporting the ecological conclusions in relation to SIVA and IVA assessments were not visible in evidence to the Hearings Panel and attached to the report submitted was:

- Appendix 1 – vegetation and habitat type descriptions and mapping for Wantwood Station, from the site visit of Andrew Wells in October 2024.
- Appendix 2 – vascular plant species list for Wantwood Station, from the site visit of Andrew Wells in October 2024.
- Appendix 3 – significance assessment of Wantwood Station using the SRPS criteria, undertaken by Andrew Wells.
- Appendix 4 – significance assessment of Stoney Creek Station using the SRPS criteria, undertaken by Glenn Davis.

4.2.4 The evidence of Glenn Davis stated that in his opinion all areas of indigenous-dominant vegetation at Stoney Creek Station would meet at least one significance criteria (and would therefore be SIVA). Andrew Wells in his evidence noted that indigenous vegetation communities at Wantwood Station included areas meeting a significance criterion and areas not meeting a criterion (i.e. both SIVA and IVA).

4.2.5 On the Hokonui Hills the ecologists ranked indigenous-dominant vegetation as having either medium or high ecological values. The outcome of this process was the mapping of Areas A-D in recommended Appendix 7 of the PDP. The variable clearance limits for each area were then developed to ensure no significant adverse effects on ecological values. The Report prepared by Andrew Wells then states:

> At Wantwood Station, areas assessed as having medium and high values (Areas B and D) corresponded with SIVA and IVA respectively. At Stoney Creek Station, Areas A and C were both classed as SIVA, but Area C was assessed as having higher ecological values in which lower permitted clearance limits were necessary to avoid significant adverse effects. These higher values relate to a more advanced successional stage, and considerably lower abundances of exotic weeds in the canopy/subcanopy tiers and exotic pasture species in the groundcover tier.
>
> These ecological realities formed the basis for our conclusions, including our formulation of permitted clearance limits that would ensure no significant adverse effects on these values. For example, this informed my recommendation of no permitted vegetation clearance in areas where Threatened flora or fauna is present or could be present – specifically within the 127 ha land management agreement area and within rocky habitat at Stoney Creek Station – clearance in these areas could result in significant adverse effects. Similarly, in other areas of SIVA/IVA Mr Davis and I were both satisfied that the proposed permitted clearance limits would not result in significant adverse effects, and especially so if scattered At-risk plants were avoided.
>
> As noted during the hearing, and in the significance assessments in Appendices 3 and 4, detailed lizard surveys were not undertaken as part of our assessment process. Excluding areas of important rocky habitat from permitted clearance was therefore considered important to avoid possible significant adverse effects on lizards. This exclusion should also include the two areas of "broadleaved species/Coprosma shrubland and rocky outcrops" at Wantwood Station (see Appendix 1). Also as noted in the hearing, permitted vegetation clearance may result in some incidental loss of lizards, but we consider this is a minor effect in the context of the small clearance limits, large extent of habitat available, and avoidance of high quality lizard habitat.

4.2.6 Andrew Wells also advised no assessment or field work was undertaken with regard to the 127 ha of land subject to the DoC agreement. Rather, the evidence of the Department of Conservation has been used to confirm that this area is SIVA. Glenn Davis advised this 127 ha area should be mapped as Area C in Appendix 7 of the PDP.

4.2.7 Given the approach adopted in the ecology assessment is consistent regardless of the formal criteria directed by different statutory documents Andrew Wells and Glenn Davis agreed the ecological work undertaken meets the requirements of Appendix 4 of the PDP which is from the NPSIB.

4.2.8 With regard to SIVA areas outside of the Hokonui Hills Andrew Wells agrees with the Hearings Panel that in the absence of a field survey the land identified as SIVA within the wider District cannot be given a classification that equates with an SNA or expressed without qualification as being "significant". He stated:

> Separating the definitions of SIVA and SNA makes sense, as does qualifying mapped SIVA and IVA with a 'potential' status. In the absence of field surveys of potential SIVA within the District, it may be prudent to restrict permitted vegetation clearance to lawfully established existing activities only within mapped SIVA outside of the Hokonui Hills Precinct.

4.3 Response to Minute 41 from Matt Heale

4.3.1 In a statement of supplementary evidence dated 21 March 2025, Matt Heale included a map (provided by DoC) of the 127 ha subject to the agreement between the department and landowners. This mapping indicates that there are some areas of Improved pasture and IVA within the Agreement area, while the vast majority is SIVA. Matt Heale stated that Andrew Wells and Glenn Davis had confirmed, based on the evidence provided by DoC, the Agreement area contains Threatened and At-risk species, as do other areas of the Hokonui Hills. Arising from that, and having regard to NPSIB 3.16, Matt Heale considers a rewording of the Rule ECO-R2(1)(j) and (k) is appropriate to include reference to "threatened or at-risk woody plant species". It is his view this would provide adequate protection to the 127 ha. He added however that evidence from Stoney Creek showed a fence line passing through this land and under the proposed rules disturbance of vegetation is allowed to replace that fence.

4.3.2 Matt Heale agreed that SNA and SIVA should have separate definitions as follows:

> Significant Natural Area - SNA Has the same meaning as SNA in the National Policy Statement for Indigenous Biodiversity and includes (a) Areas identified as SNA 1 (Dolamore Park and Croydon Bush) and SNA 2 (Pukerau Red Tussock Reserve) on the planning maps or (b) any area that is mapped and meets the criteria outlined in Appendix 1 of the National Policy Statement Indigenous Biodiversity.
>
> Significant Indigenous Vegetation Area - SIVA means terrestrial indigenous vegetation meeting the criteria outlined in Appendix 3 of the Southland Regional Policy Statement including those areas identified in Appendix 7, or as part of a resource consent, or Biodiversity Covenant.

4.3.3 With regard to the rules, Matt Heale stated:

> Changes to ECO-R1 and ECO-R2 are not considered necessary to reflect the different approach to SNA and SIVA as these have largely been treated the same given the lack of direction in the SRPS around existing activities and the ecological advice outlined above. This distinction is also less significant given that ECO-R1 and ECO-R2 are triggered by any indigenous vegetation clearance regardless of whether the area is SNA, SIVA, or IVA. The distinction of vegetation significance relates to the consent pathway once this has been confirmed. Arguably, an easier pathway for IVA could be established however NPS-IB policy 4 promotes a precautionary approach for indigenous biodiversity generally which has been adopted with IVA particularly given the indicative nature of mapping of these areas, especially outside the Hokonui Hills area.
>
> The effects management hierarchy requirements of the NPS-IB 3.16 will be met as resource consent for significant clearance associated with new activities will need to be considered as either a discretionary activity (IVA) or non-complying activity (SNA/SIVA) unless the minor clearance limits apply (50m^2 over 5 years outside the Hokonui Hills and 50m^2 to 3,759m^2 within the Hokonui Hills). Furthermore, if consent is required ECO-P4 and ECO-P10 will trigger an effects management hierarchy assessment.

4.3.4 Matt Heale noted consequential changes will be required to the ECO policies and other provisions in the Plan, and he provided details of these.

4.4 Response to Minute 41 on behalf of the Director General

Ceri Warnock

4.4.1 Ceri Warnock provided legal submissions summarising the further evidence on behalf of the Director General. She also made additional legal submissions as follows:

> Now that fuller information is before the Panel, it is evident that the ecologists have employed the wrong test in formulating the bespoke vegetation clearance rules for the Hokonui Hills. As Ms Williams explains, it was incorrect for the formulation to be based on avoiding "significant harm" in areas assessed as significant (see Wildlands Response, p 2-3). In my submission, this error fatally undermines the rationale for ECOR2(1)(j)(k).

> Dr Wells' conclusion is that "permitted vegetation rules [in ECO-R2] may result in some incidental loss of lizards" (Wildland's Response, p 3). As Ms Zammit-Ross notes, such a loss would be an offence under the Wildlife Act 1953. In my respectful submission, it is not legally possible or prudent for the Panel to knowingly promulgate Plan rules that would allow for an offence to be committed. Plan rules are regulations reviewable by the Regulations Review Committee for illegality.

Juzah Zammit-Ross

4.4.2 Juzah Zammit-Ross provided a statement dated 28 March 2025 in which she stated it is not clear how the relative value of the SIVAs (Areas A, C, and D) has been assessed in order to inform the different permitted vegetation clearance rules in those areas and the criteria used by Andrew Wells and Glenn Davis to determine the level of effects of an activity on indigenous vegetation. In her view this needs to be robust and clearly explained to the Council.

4.4.3 Juzah Zammit-Ross referred to the response from Andrew Wells where he stated that any incidental loss of lizards arising from permitted indigenous vegetation clearance is a minor effect. In reply she stated:

> Given there has not been a thorough lizard survey of either Wantwood or Stoney Creek Stations recently, we do not know what lizard species are present or their distribution on either property. Therefore, it is impossible to determine that the effects of indigenous vegetation clearance on lizards will be minor. Further, if Area B on Wantwood was habitat for At-risk or Threatened lizards, it would also meet the significance criteria in the Southland RPS.
>
> In addition, killing lizards or disturbing them to an extent that risks significant harm without a Wildlife Act Authority is a criminal offence under the Wildlife Act 1953.

4.4.4 Juzah Zammit-Ross referred to the rocky outcrops and various plant species on Wantwood Station that require protection, requesting they be mapped and provided with a buffer area for protection. She also agreed that within the 127 ha land management agreement area no level of permitted vegetation clearance is appropriate.

Elizabeth Williams

4.4.5 Elizabeth Williams provided a statement dated 28 March 2025 in which she outlined there is no direction in the higher order documents that requires that areas of indigenous vegetation are 'ranked' in terms of the levels of significance to determine appropriate permitted clearance thresholds for new activities. While she acknowledged that ranking the areas has been carried out to enable bespoke provisions in the Hokonui Hills, she compares this further step to undertaking a site-specific resource consent assessment to determine the actual and potential effects of an activity on the environment. However, based on the comments of Juzah Zammit-Ross, she does not consider the level of information has been provided to determine whether the permitted clearance would result in significant adverse effects or not. Elizabeth Williams repeated her view expressed at the hearing that a better approach may be to rely totally on ECO-R1 and to proceed down a resource consent pathway at a time when there is more certainty about what new activities are proposed for farming operations.

4.4.6 Given the areas on the Hokonui Hills have been identified as significant and have been assessed as such against the Southland Regional Policy Statement criteria Elizabeth Williams considers the approach used is not consistent with the Objectives and Policies of the RPS including Objective BIO.2 and Policy BIO.2 which seek the protection of significant indigenous vegetation and significant habitats of indigenous fauna as a priority, nor with the Policies of the Proposed District Plan.

4.4.7 Given the view of Andrew Wells that "In the absence of field surveys of potential SIVA within the District, it may be prudent to restrict permitted vegetation clearance to lawfully established existing activities only within mapped SIVA outside of the Hokonui Hills Precinct" Elizabeth Williams considered clause ECO-R1(1)(m) allowing the removal of up to 50m^2 per 5-year period of non-forest vegetation should be deleted. Nor did she support the proposed

amendments to remove the provisions relating to avoiding Threatened or At-Risk species where it relates to the maintenance of improved pasture. Also, she considered the proposed rules applying to the 127 ha area appropriate and requested any vegetation removal within that area be subject to a resource consent.

4.5 Response to Minute 41 from Stoney Creek Station Ltd

4.5.1 Claire Perkins in a statement of supplementary evidence dated 28 March 2025 supported the content of the statement provided by Andrew Wells and the inclusion of a condition requiring any clearance to avoid populations of Threatened and At-risk flora and fauna.

4.5.2 Claire Perkins also generally agreed with the assessment undertaken by Matt Heale and supported the definitions of SNA and SIVA. With regard to the DoC management area, she acknowledged the Landowner Agreement prevents the owners of Stoney Creek Station from grazing or clearing this area but noted there will inevitably be ongoing maintenance required to the fencing and this is provided for under the rules.

4.5.3 Claire Perkins did however have concerns regarding the deletion of clauses relating to the clearance of indigenous vegetation associated with the removal of exotic species. She agreed the clause as drafted was not clear enough in its wording and could allow for large areas of indigenous vegetation clearance, but considered it's overall intent needs to be retained, noting Stoney Creek Station has large areas of predominately gorse and broom that need to be cleared in order to continue to control its spread over the wider station, but within these areas there may be a few indigenous plants that cannot be avoided when carrying out spraying activities of the gorse. To accommodate this, she recommended Rule ECO-R2(1)(h) is amended to read:

> The removal of exotic species generally and pest plants and pest animals in accordance with any Regional Pest Management Plan or the Biosecurity Act 1993, <u>within areas that are primarily pest plants but may be located within areas mapped as SIVA in Appendix 7</u>.

4.6 Council Response to Supplementary Evidence Received to Minute 41

<u>Andrew Wells</u>

4.6.1 Andrew Wells in a statement dated 3 April 2025 in reply to issues raised by DoC referred to the evidence submitted by himself and Glenn Davis. He expanded on the approach used to assess the effects of new fencing, noting:

> At Stoney Creek, the level of fencing anticipated by the landowner was considered likely to potentially result in more than minor ecological effects. The permitted clearance levels we agreed upon for Stoney Creek were lower than desired by Stoney Creek, but satisfied us regarding the levels of ecological effects.
>
> At Wantwood Station, the level of fencing anticipated by the landowner was not considered likely to result in more than minor ecological effects. The permitted clearance limits here were therefore set to reflect expected fencing needs.
>
> The reasons for Mr Davis and I concluding that the permitted clearance levels have no more than minor ecological effects were outlined in our respective evidence. For all values, we were satisfied that the key ecological values giving significance to the areas would be well maintained by the permitted clearance, with no more than minor effects.

4.6.2 Andrew Wells accepted that killing lizards or disturbing them to an extent that risks significant harm without a Wildlife Act Authority is a criminal offence under the Wildlife Act 1953. However, he noted that if this was to be recognised in the Plan, it would be necessary to undertake lizard survey prior to undertaking any activity in the District as a whole that involved vegetation disturbance, including control of pest plants, maintenance of improved pasture, and maintenance of vegetation on the margins of tracks and roads. In his view this would impose enormous financial and practical constraints on most existing land management activities.

4.6.3 Andrew Wells agreed with the recommendation of Elizabeth Williams that the 127ha area and rocky habitats are mapped and exempted from the permitted clearance rules for new activities and he provided a map showing those areas. He also accepted it is possible that localised pockets of favourable habitat for Threatened or at-risk species, such as rock piles and dense tussock, are present in other areas and recommends that guidance be provided to landowners to assist in recognising plants and habitat areas of importance.

Matt Heale

4.6.4 Based on the advice of Andrew Wells and his previous evidence on alignment with the NPSIB and RPS Matt Heale recommended changes to the rules and maps as follows:

- In Rule ECO-R2(1):
  - adding reference to rocky habitats in clauses (j) and (k)
  - adding reference to the Land Management Agreement Area in (k)
  - adding reference to clearance of exotic vegetation or pest plants in (k)
  - revising (h) to read "Any residual clearance associated with the removal of exotic species and pest plants in accordance with any Regional Pest Management Plan or the Biosecurity Act 1993"
  - amending (i) to read "The maintenance, repair, replacement or upgrade of existing fences and tracks"
- Amending Appendix 7 to show the Land Management Agreement Area and improve clarity.

5. Panel Consideration of Legal Submissions, Reports and Evidence

5.1 Introduction

5.1.1 This decision has been informed by more than 1,000 pages of submissions, evidence and reports. The Panel has reviewed it all, some of it on several occasions. This has also required consideration of case law referred to in legal submissions, and higher order planning documents, in particular the National Policy Statement Indigenous Biodiversity 2023, Amended October 2024 (NPSIB) and the Southland Regional Policy Statement 2017.

5.1.2 The level of detail in the evidence also provides a challenge to the Panel. Assessment of the ecological values had been undertaken as part of the Stoney Creek Working Party process and evidence by expert ecologists and planners sought to persuade the Panel as to the acceptable level of clearance of indigenous vegetation on Stoney Creek and Wantwood Stations. The Panel considers the level of detail more appropriate for a resource consent hearing, rather than in considering submissions to a District Plan Review. In stating that, the Panel does not wish to undermine the value of the work done by the Working Party, which was intended by submitters and Council advisers to resolve matters raised in submissions. Having regard to the legislative framework however, the Panel has concluded it is constrained to the extent to which the output of that process can be used.

5.1.3 The Panel's decisions as set out below have the effect of requiring resource consent approval for the clearance of indigenous vegetation on the Hokonui Hills at a significantly lower limit than envisaged in the Record of Consensus. Given Stoney Creek Station Ltd entered into the working group process in good faith on the understanding that the output of the process would be to provide well informed and reasoned recommendations in response to the submissions lodged, and that has come at significant cost and time to Stoney Creek, the Hearings Panel recommends to the Gore District Council that it considers waiving fees to process the resource consent that will be required by Stoney Creek Station Ltd to undertaken fencing and track construction on the Hokonui Hills property.

5.2 The Notified and Recommended Rules

5.2.1 Throughout the hearing process various witnesses for submitters made recommendations to the Panel as to the content and wording of the rules, including Claire Perkins for Stoney Creek and Elizabeth Williams for DoC. Much of this evidence was in response to the recommendations of Matt Heale in his s42A Report arising from the output of the Stoney Creek Station Working Party and subsequent statements of evidence. The details set out below serve to illustrate the ebb and flow of the thinking of Matt Heale in providing advice to the Panel.

5.2.2 The Notified Plan had one rule of substance as follows:

ECO-R1 Indigenous vegetation clearance and land disturbance

Activity status: Permitted Where:

1. It is necessary for the following purposes:
   (a) the maintenance, repair or replacement of existing lawfully established:
      (i) fences,
      (ii) vehicle tracks,
      (iii) roads,
      (iv) Critical infrastructure,
      (v) walkways,
      (vi) firebreaks,
      (vii) dams,
      (viii) waterway crossings, or
      (ix) network utilities

      and the clearance or land disturbance is no more than 1.0m in width from those works in (ii), (iii), (iv), (v), (vii), (viii) and (ix), and 1.5m for ~~(i) and~~ (vi).
   (b) The vegetation is causing an imminent danger to human life, structures, and infrastructure or the works are required to address a high risk to public health or safety.
   (c) For Mahinga kai activities or for other Ngāi Tahu cultural purposes where the clearance is by mana whenua and in accordance with tikanga protocols.
   (d) For the safe operation or maintenance of the National Grid.
   (e) Maintenance of improved pasture where:
      (i) the improved pasture has not become a SNA, and
      (ii) the land is not an uncultivated depositional landform, and
      (iii) it will not adversely affect a Threatened or At-risk (declining) species
   (f) In accordance with an approved Reserve Act or Conservation Act reserve management plan.
   (g) For the maintenance, repair or replacement of existing buildings and structures, or to remove a potential fire risk, including an area no further than 2.0m from the exterior wall of an existing building.
   (h) The removal of exotic species generally and pest plants and pest animals in accordance with any Regional Pest Management Plan or the Biosecurity Act 1993.
   (i) The works are undertaken in accordance with a Biodiversity Covenant.
   (j) The works are associated with the harvest of indigenous tree species in accordance with a forest management plan or permit under Part 3A of the Forests Act 1949
   (k) The works relate to indigenous vegetation that was deliberately planted:
   (i) Within a domestic garden; or
   (ii) For the use of screening/shelter belt purposes (such as farm hedgerows)

5.2.3 This rule took effect from the date of notification, 31 August 2023. Following criticism regarding the practicality of the rule by rural landowners, the Council on 21 November 2023 withdrew

that part of the rule limiting the allowable width of indigenous vegetation clearance to 1.5 metres each side of a fence.

5.2.4 Non-compliance with the rule triggered a restricted discretionary or discretionary activity consent, or within a Significant Natural Area (SNA) a non-complying activity consent.

5.2.5 The s42A Report by Matt Heale recommended several amendments to the rule. Those of most significance were:

(a) amending clause (1)(f) as follows:

(f) ~~In accordance with~~ To implement an approved Reserve Act or Conservation Act reserve management plan, a *Biodiversity Covenant*, or a *Council Authorised Biodiversity Management Plan*.

(b) deleting clause (1)(i).

(c) Making three additions to clause (1) as follows:

(l) Located outside SNAs/SIVAs that has grown within an area of plantation forestry.

(m) For any other activity for existing farming operations covering an area of less than 50m^2 per 5-year period involving non-forest vegetation.

(n) Where vegetation is confirmed as being no older than 15 years.

(d) The restricted discretionary status for non-compliance could only be applied if the land was included in a *Council Authorised Biodiversity Management Plan*.

(e) The discretionary status could only apply if:

The *vegetation clearance* or *land disturbance* does not affect a *Threatened or at-risk (declining)* species as confirmed by a Council endorsed ecologist.

(f) A new rule ECO-R2 applying to the Hokonui Hills Area as follows:

ECO-R2 *Indigenous vegetation clearance* and *land disturbance*

Activity status: Permitted

1. Where it is necessary for the following purposes:
   a. It is for the *maintenance of improved pasture* that has been identified in Appendix 7
   b. The vegetation is causing an imminent danger to human life, *structures*, and *infrastructure* or the works are required to address a high risk to public health or safety.
   c. For Mahinga kai activities or for other Ngāi Tahu cultural purposes where the clearance is by mana whenua and in accordance with tikanga protocols.
   d. For the safe operation or maintenance of the National Grid.
   e. In accordance with an approved Reserve Act or Conservation Act reserve management plan.
   f. The works are undertaken in accordance with a Biodiversity Covenant.
   g. The works relate to indigenous vegetation that was deliberately planted:
      i. Within a domestic garden; or
      ii. For the use of screening/shelter belt purposes (such as farm hedgerows).
   h. The removal of exotic species generally and pest plants and pest animals in accordance with any Regional Pest Management Plan or the Biosecurity Act 1993.
   i. The maintenance of existing fences and tracks.
   j. It is located in the Hokonui Indigenous Vegetation Area A or B as shown in Appendix 7 and is necessary for the construction of new fences or tracks, or any other activity essential for existing farming operations covering an area of less than 3,750m^2 per 5 years in Area A and 900m^2 per 5 years in Area B.
   k. It is located in the Hokonui Indigenous Vegetation Area C or D as shown in

Appendix 7 and is necessary for the construction of new fences covering an area of less than 1,250m^2 per 5 years in Area C and 50m^2 per 5 years in Area D

5.2.6 Non-compliance with ECO-R2(1)(a) - (j) triggered a restricted discretionary activity, whereas non-compliance with ECO-R2(1)(k) resulted in consent being required for a non-complying activity.

5.2.7 The Hokonui Hills Rule ECO-R2 differentiated areas, as shown on an accompanying map as follows:

- Vegetation Area A Stoney Creek Station Indigenous Vegetation Areas (IVA)
- Vegetation Area B Wantwood Station Indigenous Vegetation Areas (IVA)
- Vegetation Area C Stoney Creek Station Significant Indigenous Vegetation Areas (SIVA)
- Vegetation Area D Wantwood Station Significant Indigenous Vegetation Areas (SIVA)

5.2.8 The policy and rule framework also treated SIVA areas the same as SNAs.

5.2.9 Matt Heale provided a statement of evidence at the hearing responding to the evidence provided by submitters, amending some of his recommendations in the s42A Report. Those applying to rules included:

(a) Removing reference to “Council Authorised Biodiversity Management Plans”

(b) Deleting Rule ECO-R1(1)(n) referring to vegetation being no older than 15 years.

(c) Amending the chapeau of Rule ECO-R2 as follows:

Where it avoids the loss of threatened or at-risk woody plant species and Hokonui Hills rocky habitat (refer Appendix XX) and is necessary for the following:

5.2.10 Following the hearing, the Panel issued Minute 41. Matt Heale in his reply to the Minute, dated 21 March 2025, made further recommendations on the content of the Ecosystems and Indigenous Biodiversity chapter. With regard to the rules these included:

(a) Reversing the addition to chapeau of Rule ECO(2) in paragraph 5.2.11(c) above.

(b) Removing clause (1)(h) from both Rules EC-R1(1) and ECO-R2(1) referring to exotic species, pest plants and pest animals.

(c) Amending clauses (j) and (k) of permitted activity Rule ECO-R2(1) to require avoidance of threatened and at-risk species and rocky habitats, while adding reference to the DoC Land Management Agreement Area in clause (k) in the Hokonui Hills, as follows:

j. It is located in the Hokonui Indigenous Vegetation Area A or B as shown in Appendix 7 it avoids Threatened and At-risk species and is necessary for the construction of new fences or tracks, or any other activity essential for existing farming operations covering an area of less than 3,750m^2 per 5 years in Area A and 900m^2 per 5 years in Area B.

k. It is located in the Hokonui Indigenous Vegetation Area C or D as shown in Appendix 7, it avoids Threatened and At-risk species and is necessary for the construction of new fences covering an area of less than 1,250m^2 per 5 years in Area C and 50m^2 per 5 years in Area D

5.2.11 After responses to Minute 41 were received from DoC and Stoney Creek, Matt Heale submitted a further statement of evidence date 3 April 2025 in which he made further recommendations to amend Rule ECO-R2(1)(i) - (k) as follows:

i. The maintenance, repair, replacement or upgrade of existing fences and tracks.

j. It is located in the Hokonui Indigenous Vegetation Area A or B as shown in Appendix 7 it avoids Threatened and At-risk species and Rocky Habitats and is necessary for the construction of new fences or tracks, or any other activity essential for existing farming operations covering an area of less than 3,750m^2 per 5 years in Area A and 900m^2 per 5 years in Area B.

k. It is located in the Hokonui Indigenous Vegetation Area C or D as shown in Appendix 7, it avoids Threatened and At-risk species, Rocky Habitats and the Land Management Agreement Area and is necessary for the construction of new fences or the clearance of exotic vegetation or pest plants covering an area of less than 1,250m^2 per 5 years in Area

5.2.12 Matt Heale also recommended the inclusion of a definition for Significant Indigenous Vegetation Area - SIVA as follows:

> means terrestrial indigenous vegetation meeting the criteria outlined in Appendix 3 of the Southland Regional Policy Statement including those areas identified in Appendix 7, or as part of a resource consent, or Biodiversity Covenant.

5.2.13 It is the view of the Panel that the toing and froing within the recommendations reinforced that the outputs of the Hokonui Hills Working Party required refinement in response to evidence received through the hearing from DOC, the Council and Stoney Creek Station.

5.2.14 The regime recommended to the Panel by Matt Heale at the conclusion of the hearing process in a simplified form has three main components:

(1) A number of indigenous vegetation clearance permitted activities with no maximum area specified, including:

- Existing lawfully established activities, some of which are subject to conditions
- Vegetation causing imminent danger
- Mahinga kai activities
- Associated with the National Grid
- Maintenance of improved pasture subject to conditions

(2) For reasons other than in (1), clearance of indigenous vegetation over a five year period of up to a maximum of:

- 50m^2 of non-forest vegetation in areas other than the Hokonui Hills
- 3,750m^2 Stoney Creek Station Area A (IVA)
- 900m^2 Wantwood Station Area B (IVA)
- 1,250m^2 Stoney Creek Station Area C (SIVA) and the DoC Land Management Agreement Area.
- 50m^2 Wantwood Station Area D (SIVA)

(3) Where vegetation clearance exceeds limits specified in (2):

- Outside of the Hokonui Hills:
  - A restricted discretionary consent is required for fences, firebreaks and within commercial forestry areas (outside of SNA or SIVA)
  - For other activities an assessment is required with:
    - discretionary activity status applying for indigenous vegetation not meeting the significance threshold of the RPS and does not contain threatened or at-risk species as confirmed by a Council endorsed ecologist, and
    - non-complying status applying in other cases.
- Within the Hokonui Hills a non-complying consent is required.

5.2.15 The Panel notes however, the recommended rules above do not take into account the supplementary evidence of Andrew Wells that acknowledges the statement of Glenn Davis in his supplementary statement of rebuttal evidence at paragraph 2.16 that “the areas mapped as A and C in Appendix 7 are consistent with at least some of the significance assessment criteria set out in both the NPSIB and SRPS”. On that basis Andrew Wells submitted an updated map showing Areas A and C on Stoney Creek Station as SIVA. This information necessitated a change to the labelling of these two mapped areas within Stoney Creek Station

as part of this decision, to recognise the significance of indigenous vegetation present in both areas, and a consistent approach to management of both areas within the rules.

5.3 Legal Submissions

5.3.1 Shelley Chadwick, Counsel for the Council did not present any written legal submissions. In response to questions from the Panel she advised that in her view the two SNAs included in the District Plan at notification meet the NPSIB definition of SNA, but other areas shown indicatively in an appendix to the s42A Report do not. She advised that clause 3.16 of the NPSIB should apply to all areas of indigenous vegetation outside SNAs.

5.3.2 Shelley Chadwick also advised that she considers the approach of requiring an assessment having regard to the RPS Appendix 3 criteria to determine if a consent is required is clear, and it is an approach adopted by other Councils.

5.3.3 Ceri Warnock provided legal submissions on behalf of the Department of Conservation and these are summarised in section 3.3 above. The Panel considers the thrust of her legal submissions were summarised in the following statement made as part of her oral presentation:

> The RMA, the NPS-IB, the RPS and Regional Plans all treat the management of indigenous vegetation differently depending on whether it is significant or not. The NPS-IB and the RPS provide a framework for determining significance and while the provisions may differ the core values are the same. As part of the process it is necessary to consider why an area is significant and the NPS-IB requires consideration of the size, shape and configuration of an area. Threatened and at-risk species will always contribute to an area being significant and need to be plotted. That has not been done and as a consequence the process adopted to date is not adequate.

5.3.4 The Panel fully accepts this submission and agrees that the RMA requires areas of significant biodiversity to be protected and other biodiversity to be maintained. Consequential to that, the Panel agrees there is some force in the criticism of Ceri Warnock of Rule ECO-R2 that:

- There is no clear significance assessment that enables areas A and B to be treated differently to areas C and D;
- There is nothing in the evidence from the ecologists that suggests the proposed limits protect significant biodiversity as opposed to maintaining indigenous biodiversity;
- The is no evaluation of the law or the higher order planning documents to justify the exceptions provided within the rule; and
- Clearance and loss of some significant biodiversity is permitted without regard being given to remediation, offsetting or compensation, and if considering offsetting that it is necessary to provide like for like.

5.3.5 Having regard to the legal submissions of Ceri Warnock, the Panel accepts that the recommended rule regime does not accord with the provisions of the RMA, NPSIB or Southland RPS. The Panel does not agree however, that Rule ECO-R2 should be deleted and reliance placed on Rule ECO-R1 for the District as a whole. The investigations undertaken, together with the output of the Hokonui Hills Working Party as reflected in the Record of Consensus, provides a level of detail not available elsewhere in the District that does facilitate bespoke rules for that area, but not as recommended to the Panel. Ceri Warnock foreshadowed that response, noting if her submission to delete Rule ECO-R2 was not accepted then the rule required widening as recommended by Matt Heale, and also to protect the 127 ha area subject to the DoC agreement.

5.4 Higher Order Documents

Introduction

5.4.1 The Panel considers that the higher order planning documents provide the direction for determining the appropriate framework and content of the Ecosystems and Indigenous Biodiversity chapter of the Gore District Plan. Matt Heale provided a very useful overview of various statutory documents in section 4 of his s42A Report and while the Panel is cautious of his overall analysis those considered of key significance are referred to below.

Resource Management Act 1991

5.4.2 Section 5 sets out the purpose of the RMA, which is to promote the sustainable management of natural and physical resources while (among other things) safeguarding the life-supporting capacity of air, water, soil, and ecosystems. Section 6(c) is more directive, requiring the Panel to recognise and provide for the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna. Section 7 lists various matters to have particular regard to, including Kaitiakitanga, the ethic of stewardship and the intrinsic values of ecosystems.

National Planning Instruments

5.4.3 The National Planning Instruments relevant to biodiversity and indigenous vegetation include:

- National Policy Statement for Indigenous Biodiversity 2023, Amended October 2024
- National Policy Statement for Electricity Transmission 2008
- National Policy Statement for Renewable Electricity Generation 2011
- National Policy Statement for Freshwater Management 2022
- National Environmental Statement for Electricity Transmission Activities 2009
- National Environmental Statement for Telecommunication Facilities 2016
- National Environmental Statement for Commercial Forestry 2023

5.4.4 The Panel considers the National Policy Statement for Indigenous Biodiversity (NPSIB) is a key document. Its objective is "to maintain indigenous biodiversity across Aotearoa New Zealand so that there is at least no overall loss in indigenous biodiversity". This is reflected in clause 1.7 that states:

> **Maintaining indigenous biodiversity**
> Maintaining indigenous biodiversity requires:
> (a) the maintenance and at least no overall reduction of all the following:
> (i) the size of populations of indigenous species:
> (ii) indigenous species occupancy across their natural range:
> (iii) the properties and function of ecosystems and habitats used or occupied by indigenous biodiversity:
> (iv) the full range and extent of ecosystems and habitats used or occupied by indigenous biodiversity:
> (v) connectivity between, and buffering around, ecosystems used or occupied by indigenous biodiversity:
> (vi) the resilience and adaptability of ecosystems; and
> (b) where necessary, the restoration and enhancement of ecosystems and habitats.

5.4.5 While all policies in the NPSIB have equal weight, those the Panel considers most relevant are:

> Policy 3: A precautionary approach is adopted when considering adverse effects on indigenous biodiversity.

Policy 7: SNAs are protected by avoiding or managing adverse effects from new subdivision, use and development.

Policy 8: The importance of maintaining indigenous biodiversity outside SNAs is recognised and provided for.

Policy 9: Certain established activities are provided for within and outside SNAs.

Policy 12: Indigenous biodiversity is managed within plantation forestry while providing for plantation forestry activities.

Policy 13: Restoration of indigenous biodiversity is promoted and provided for.

Policy 14: Increased indigenous vegetation cover is promoted in both urban and non urban environments.

Policy 15: Areas outside SNAs that support specified highly mobile fauna are identified and managed to maintain their populations across their natural range, and information and awareness of highly mobile fauna is improved.

5.4.6 The District Plan as notified contains two SNAs, both on public land. As a consequence, the provisions applying to indigenous biodiversity outside SNAs is particularly important. Clause 3.16 of the NPSIB provides the overall guidance as follows:

> **3.16 Indigenous biodiversity outside SNAs**
>
> (1) If a new subdivision, use, or development is outside an SNA and not on specified Māori land, any significant adverse effects of the new subdivision, use, or development on indigenous biodiversity outside the SNA must be managed by applying the effects management hierarchy.
>
> (2) All other adverse effects of any activities that may adversely affect indigenous biodiversity that is outside an SNA (other than indigenous biodiversity on specified Māori land (see clause 3.18)), must be managed to give effect to the objective and policies of this National Policy Statement.
>
> (3) Every local authority must make or change its policy statements and plans to be consistent with the requirements of this clause.

5.4.7 The NPSIB sets out the criteria that must be met for an area to qualify as an SNA in Appendix 1 to that document. The assessment process is underpinned by six principles, including:

> **partnership**: territorial authorities engage early with tangata whenua and landowners and share information about indigenous biodiversity, potential management options, and any support and incentives that may be available:
>
> **transparency**: territorial authorities clearly inform tangata whenua and landowners about how any information gathered will be used and make existing information, draft assessments and other relevant information available to tangata whenua and relevant landowners for review:

5.4.8 Transpower in submissions and during the presentation of evidence referred to the NPSIB not applying to the National Grid. The District Plan uses the term “specified infrastructure” adopting the definition from the NPSIB within which it is stated:

> Renewable electricity generation assets and activities, and electricity transmission network assets and activities, are not "specified infrastructure" for the purposes of this National Policy Statement.

5.4.9 As a consequence, where the term “specified infrastructure” is used in the context of giving effect to the NPSIB it excludes the National Grid and exemptions recommended in provisions following the term “specified infrastructure” are not necessary. However, the more general terms “infrastructure” (adopting the RMA definition) and critical infrastructure (defined in the Plan) do apply to the National Grid.

5.4.10 Further, as noted by Matt Heale and Ainsley McLeod for Transpower, the provisions of the National Environmental Standard for Electricity Transmission Activities (NESETA) apply. As stated by Matt Heale:

> The NESETA provides for vegetation clearance associated with existing transmission lines in Natural Areas (which include SNAs) generally as a controlled activity (s31), while clearance associated with new lines is outside the scope of NESETA and will be considered via the District Plan.

5.4.11 The Panel accepts the role of NESETA in controlling indigenous vegetation clearance associated with existing National Grid infrastructure and recognises the role of the Plan in managing the effects of indigenous vegetation removal associated with new National Grid infrastructure. The Panel also accepts that while NESETA provides applicable rules, the District Plan policy framework is relevant when consents are required under NESETA.

Southland Regional Policy Statement (RPS)

5.4.12 While the District Plan must give effect to all the provisions of the RPS, the Panel considers the following to be of key importance:

> **Objective BIO.2 – Maintain and protect**
> Maintain indigenous biodiversity in Southland and protect areas of significant indigenous vegetation and significant habitats of indigenous fauna for present and future generations.
>
> Policy BIO.1 – Identification of significant areas
> Identify areas of significant indigenous vegetation and significant habitats of indigenous fauna using the following:
> (a) the Schedule of Threatened, At-risk and Rare Habitat Types in Appendix 2, which provides an indication of areas likely to be significant;
> (b) ecological assessments undertaken by a suitably qualified ecologist using the ecological significance criteria listed in Appendix 3 to ascertain whether an area listed is significant or otherwise;
> (c) the ecological significance criteria listed in Appendix 3, which incorporate the following matters:
> (i) representativeness;
> (ii) rarity or distinctiveness;
> (iii) diversity and pattern; and
> (iv) ecological context;
> (d) in collaboration with landowners, the investigation and identification of areas of indigenous vegetation on private land that are likely to be significant.

5.4.13 The Panel notes the chapeau for the RPS Appendix 3: Significance Assessment Criteria states:

> The purpose of the following criteria is to determine whether an area is significant in terms of Section 6(c) of the Resource Management Act 1991.

Overview

5.4.14 The Panel notes that both RMA s6(c) and the RPS use the same wording, referring to "the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna". The NPSIB on the other hand, for areas not in an SNA, requires:

(a) managing any significant adverse effects of the new subdivision, use, or development on indigenous biodiversity by applying the effects management hierarchy; and

(b) managing all other adverse effects of activities that may adversely affect indigenous biodiversity to give effect to the objective and policies of the NPSIB.

5.4.15 Both the NPSIB and the RPS have an appendix listing the criteria to be used for undertaking an assessment of indigenous vegetation and indigenous fauna. However, the appendices are for two different purposes. The appendix in the RPS, as stated, is for determining whether an area is significant in terms of RMA s6(c), whereas the appendix in the NPSIB sets out the

criteria for assessing whether an area qualifies as an SNA. In each case only one of the listed criteria needs to be met to reach the threshold. The NPSIB is very prescriptive in the manner and form of assessment to be undertaken, with an extensive list of principles to apply in assessing each of the criteria. The RPS on the other hand is more generic in guiding the assessment of the criteria.

5.4.16 The Panel is mindful of the comment contained in the report by Wildlands Consultants appended to the s42A Report in which it was stated:

> Overall, the generally broader reach of the NPS-IB criteria, and particularly the representativeness criteria, will most likely result in more areas of terrestrial indigenous vegetation and habitats of indigenous fauna being classed as significant under the NPS-IB than under the SRPS criteria.

5.4.17 The Notified Plan contains the appendices from both the NPSIB and the RPS and the Plan provisions provide for significance to be determined having regard to either. Given the difference in purpose of the two appendices, and the potential difference in outcome, the Panel concludes that for the purpose of determining significance under the District Plan that criteria from the RPS should be the sole determinant. However, that does not override the direction and guidance in the NPSIB on the content of the Ecosystems and Indigenous Biodiversity chapter of the Plan, or use of the NPSIB criteria to establish additional SNAs for a future plan change.

5.4.18 The Panel also concludes that before the management regime can be determined there must first be an assessment, and if that assessment determines an area to be significant then the RMA and the RPS requires that it be protected. The Panel accepts the viewpoint of Ceri Warnock that within areas of significance, protection is to be afforded from all adverse effects. Whereas the evidence presented by expert ecologists and planners for the Council and Stoney Creek Station Ltd appeared to the Panel to be focusing on significant adverse effects without first assessing areas of significance. This is highlighted by the supplementary evidence of Glenn Davis at his paragraph 2.17 where he states:

> Notwithstanding the above, it was not the intention of the working group to consider the ecological significance of the communities on Stoney Creek, rather, it was to use ecological information to develop a suite of rules that would be cognisant of the biodiversity of the Stoney Creek Station while providing some scope to allow the installation of some new fences and tracks and carry out other activity essential for existing farming operations.

5.4.19 Put simply, the Panel is persuaded by the Department of Conservation that the wrong test was applied. Similarly, to equate SNAs with Significant Indigenous Vegetation areas (SIVA) in the objective, policy and rule framework does not in the Panel's view correctly implement the requirements and regimes required in the higher order documents.

5.4.20 Within the context of the District Plan, the Panel considers the directive of the NPSIB is that where there are significant adverse effects on indigenous vegetation and indigenous fauna outside of SNAs then the effects management hierarchy is to be applied. Where adverse effects are not significant then they are to be avoided, remedied or mitigated and the objective and policies of the NPSIB applied. That is separate from determining whether an area is significant, for the purposes of giving effect to RMA s6(c), and is reliant upon the process described in the NPSIB having been undertaken to determine SNAs, which has yet to take place in the Gore District.

5.5 Land Disturbance

5.5.1 Decision 37 Earthworks considers the manner in which land disturbance is considered in the Plan as a whole. It is the conclusion of the Panel that land disturbance should be dealt with solely within the Earthworks chapter because "land disturbance" is part of the definition of "earthworks". In addition, "land disturbance" is referred to in the rules of the Ecosystems and Indigenous Biodiversity chapter but not the policies and therefore there is no policy guidance

in considering the effects of land disturbance associated with the removal of indigenous vegetation in this chapter. The policies applying to land disturbance and earthworks generally are located in the Earthworks chapter, together with associated rules. To avoid duplication and potential confusion, as a corollary to the Earthworks Decision, reference to land disturbance is removed from the rules of this chapter.

5.6 Terminology

5.6.1 The reports and evidence provided to the Panel identified Significant Indigenous Vegetation Areas (SIVAs) and Indigenous Vegetation Areas (IVAs) across the District. Recommended Appendix 7, included as part of Appendix A of the s42A Report showed SIVAs and IVAs within the Hokonui Hills, and also Areas of Improved Pasture and Exotic Vegetation.

5.6.2 Appendix G of the s42A Report included a map inferring areas outside of the Hokonui Hills were indicative SIVA and IVA. These areas were recommended as an information layer.

5.6.3 Stoney Creek Station and others have requested the inclusion of a Hokonui Hills Special Precinct in the Plan. This request is considered in section 5.2 of Decision 46 Natural Features and Landscapes where it was noted the Record of Consensus set out agreement between the various parties and their experts that an overlay of landscape management areas should apply to the Hokonui Hills Outstanding Natural Landscape rather than the requested precinct. The Panel accepts the advice of Mishka Banhidi to adopt that approach.

5.6.4 Matt Heale in his s42A Report did not explicitly consider the option of applying a Precinct over the Hokonui Hills focusing on biodiversity issues. Rather, at paragraph 614 he stated:

> I therefore recommended a new rule to cover the Hokonui Hills area as outlined in Appendix A and PDP Appendix 7. Some minor consequential changes to permitted standards and matters of discretion are also recommended to align with amendments recommended to ECO-R1 and policies above should the panel agree to delete ECO-P8 and ECO-P9 and include ECO-P13. Another consequential amendement [sic] is necessary to include a definition of Hokonui Hills Area as follows:
>
> > Hokonui Hills Area includes the land depicted in Appendix 7

5.6.5 In considering whether a Precinct or some other approach is appropriate, the Panel notes the National Planning Standards Table 18 “Spatial layers for district plans and district plan components of combined plans table” provides the following options”

Spatial Layer Name	Function	Location of spatial layer provisions
Overlays	An overlay spatially identifies distinctive values, risks or other factors which require management in a different manner from underlying zone provisions.	Zone chapters of sections
Precincts	A precinct spatially identifies and manages an area where additional place-based provisions apply to modify or refine aspects of the policy approach or outcomes anticipated in the underlying zone(s).	District-wide matters chapters for district plans Domain and topic chapters for combined plans with a district component
Specific controls	A specific control spatially identifies where a site or area has provisions that are different from other spatial layers or district-wide provisions that apply to that site or area (for example where verandah requirements apply, or where a different maximum height on a particular site applies). Relevant chapters or sections	If apply to only one zone, in the associated zone chapter or section If apply to multiple zones, in the multi-zone precincts chapters

5.6.6 In considering these options it is the view of the Panel:

(a) Overlays apply to distinctive values, such as Outstanding Natural Landscapes, that are limited in extent and verified by expert assessment. Indigenous vegetation is present throughout the District but the quality of available information varies between the

Hokonui Hills and elsewhere. The information available in recommended Appendix 7 does not lend itself to an overlay approach.

(b) Precincts refine policy aspects of the underlying zoning and that is not the situation over the Hokonui Hills.

(c) Specific controls apply where areas have bespoke provisions that differ from the wider District. That is consistent with the amended rule framework adopted by the Panel and the Panel concludes that this is the correct approach for the Hokonui Hills.

5.6.7 The function of "specific controls" is to identify a site or area. The Panel notes the final evidence of Andrew Wells identified three distinct areas, and the Panel adopts the following descriptors of these:

- Hokonui Hills Area A Significant Indigenous Vegetation or HH Area A SIV, described in the evidence as the 127 ha land subject to agreement with DoC;
- Hokonui Hills Area B Significant Indigenous Vegetation or HH Area B SIV, described in the evidence of Andrew Wells as all indigenous vegetation areas (as all are significant) on Stoney Creek Station and significant indigenous vegetation areas on Wantwood Station; and
- Hokonui Hills Area C Indigenous Vegetation or HH Area C IV, described in the evidence as areas of indigenous vegetation (that is not significant) on Wantwood Station.

5.6.8 The Panel is satisfied that the work undertaken mapping and assessing areas of indigenous vegetation, by two expert ecologists, Andrew Wells on behalf of the Council and Glenn Davis on behalf of Stoney Creek Station is of a standard that can be relied upon. The process was rigorous, combining a mix a table top review, field inspection and joint professional review and agreement. Showing these areas on the Plan maps provides certainty to the landowners and the Council in applying the District Plan Rules. Matt Heale recommended that these areas be shown in Appendix 7 of the Plan. However, the preference of the Panel is the areas to be included on the Plan maps. In the Panel's view that results in more efficient implementation of the rules in the Plan.

5.6.9 The maps prepared by Andrew Wells and Glenn Davis also showed agreed "Areas of Improved Pasture and Exotic Vegetation" being the remainder of the Hokonui Hills area not shown as indigenous vegetation. As this is wider than the "areas of improved pasture" referred to in the NPSIB and notified Plan rules (subject to change) the Panel considers it is not appropriate to show these areas on the Plan maps.

5.6.10 Matt Heale had recommended showing areas over the rest of the District (outside the Hokonui Hills) assessed by way of a table top assessment as Significant Indigenous Vegetation (SIVA) and Indigenous Vegetation (IVA) on an Information layer linked to the Plan. The Panel agrees it is not appropriate to include these other areas on the District Plan maps. The data has not been subject to on-site inspection by a suitably qualified expert and no input has been obtained from landowners. As it sits outside of the Plan then it is a matter for the Council to determine how it is shown and how it is labelled. The Panel considers it important however that it be presented in a way that it is clear that it has no status and represents unverified information held by the Council. As such the Panel does not consider there is a need to adopt terminology describing those other areas.

5.7 Context

5.7.1 The conclusions and determinations made in sections 5.1 - 5.6 above inform the decisions set out in the remainder of this decision.

6. District Plan Definitions

6.1 Definitions Supported

Submitter (S)	Decision Requested
S109.002 Department of Conservation	Retain Interpretation 'Biodiversity Covenant' as notified
S109.018 Department of Conservation	Retain Threatened or At Risk, and Threatened or At Risk (declining) definition as notified.
S3.092 Stoney Creek Station Limited S113.092 Trudy Bokser S116.092 Nathan Bokser S118.092 AW+ JA Johnston Family Trust S127.128 Peters Farm Ltd Karen Peters S18.094 Reaby Downs Farm Ltd S19.094 Karen Temple S20.094 Sarah and Peter Barclay S24.094 Helen McIntosh S68.096 John Baynes S117.092 Greg Bokser S148.198 Alistair & Bernadette Hunt	Retain 'improved pasture' definition as drafted.
S109.009 Department of Conservation S3.098 Stoney Creek Station Limited S113.098 Trudy Bokser S116.098 Nathan Bokser S118.098 AW+ JA Johnston Family Trust S127.134 Peters Farm Ltd Karen Peters S18.100 Reaby Downs Farm Ltd S19.100 Karen Temple S20.100 Sarah and Peter Barclay S24.100 Helen McIntosh S68.102 John Baynes S117.098 Greg Bokser	Retain 'maintenance of improved pasture' definition as notified

6.1.1 The Panel acknowledges support for the definitions of 'Biodiversity Covenant', 'improved pasture' and 'maintenance of improved pasture'. No opposing submissions have been lodged to these definitions and no changes are made to them. Accordingly, these submissions are accepted.

6.2 Interpretation: Biological diversity (or biodiversity)

Submitter (S)	Decision Requested
S109.012 Department of Conservation	Retain Interpretation: Biological diversity (or biodiversity) as notified
S126.009 Southland Federated Farmers of NZ S115.010 Kevin Robertson S143.021 Rural Ratepayers Group S148.022 Alistair & Bernadette Hunt S60.012 Ronald Crispin S68.130 John Baynes	Amend term and make any necessary consequential amendments: Biological diversity ~~(or biodiversity)~~ Only the RMA term should be used.

6.2.1 The Panel notes the definition in the Interpretation chapter of the Plan is as follows:

> biological diversity (or biodiversity) Has the same meaning as per the Resource Management Act – means the variability among living organisms, and the ecological complexes of which they are a part, including diversity within species, between species, and of ecosystems.

6.2.2 The term "biological diversity" is only used once in the Plan, in the Interpretation chapter. It is not used in the body of the Plan and therefore is not required as a definition. Accordingly, as a minor matter under clause 16(2) the definition is deleted.

6.2.3 The Panel considers the term "biodiversity" is well understood and it is used in the NPSIB without an associated definition. Accordingly, the Panel concludes a definition of "biodiversity" is not required either.

6.2.4 Submissions S126.009 Southland Federated Farmers of NZ and others are accepted by deleting the definition of "biological diversity ~~(or biodiversity)".~~

6.2.5 The submission in support is acknowledged by the Panel. Given the definition is deleted submission S109.012 Department of Conservation is rejected.

6.3 Interpretation: Council Authorised Biodiversity Management Plan

Submitter (S)	Decision Requested
S109.004 Department of Conservation	Amend the definition of 'Council Authorised Biodiversity Management Plan' as follows: "means a management plan that is approved by the Council and mana whenua as part of an assessment of the ~~biodiveristy~~ biodiversity values undertaken or reviewed by a Council endorsed ecologist. The plan will ensure that Significant Natural Area and taonga species values are protected.
S139.022 Hokonui Rūnanga Inc	Add definition: "approved biodiversity management plan means a management plan approved by the council as appropriate for the management of the biodiversity values of a site and includes a QEII Trust management plan for the site or a mana whenua endorsed site plan."

6.3.1 Matt Heale at paragraph 172 of his s42A Report recommended amending the definition of Council Authorised Biodiversity Management Plan (CABMP) to include reference to SIVA and IVA and adding some explanatory text. He considered such a change would meet some of the concerns of Hokonui Rūnanga. However, in paragraph 12(a) of his supplementary evidence dated 20 February 2025 he recommended the deletion of reference to Council Approved Biodiversity Management Plans from ECO-R1(1)(f) and the Interpretation chapter. The Panel agrees with the latter recommendation because it is not satisfied that the process of obtaining Council approval for the CABMP is robust and *intra vires*. There was no pathway identified if the Council refused to approve a CABMP submitted to it. Equally, the Panel considers it inappropriate that an activity (and resource consent) status should be determined on the basis of a document approved by the Council.

6.3.2 The Panel considers the same issues arise from the Hokonui Rūnanga submission, with a lack of formal linkages to QEII Trust management plans. It is not clear to the Panel what is intended by a “mana whenua endorsed site plan”. Agreement by a third party cannot legally also be deemed to be an approval by the Council. The Panel is, however, including a definition of Biodiversity Management Plan (BMP), without reference to any approval process. As a tool, the Panel considers there are benefits in preparing a Biodiversity Management Plan as part of a resource consent process and that is reflected in amendments made to the rules and policies. The Panel considers it helpful to include a definition for that purpose. Arising from that, the submissions of Director General of Conservation and Hokonui Rūnanga are accepted in part, incorporating the evidence on behalf of the Director General that recommended reference to a suitably qualified or experienced ecologist, and aligning with RMA s6(c) and the objective of the NPSIB.

6.3.3 Submissions S109.004 Department of Conservation and S139.022 Hokonui Rūnanga Inc are accepted in part by:

(a) amending the definition of Council Approved Biodiversity Management Plan as follows:

~~Council Approved~~ Biodiversity Management Plan: means ~~a management~~ an implementation plan that ~~is approved by the Council and mana whenua as part of~~ results from an assessment of the biodiversity values of an area ~~undertaken or reviewed~~ and is prepared by a ~~Council endorsed~~ suitably qualified or experienced ecologist to ~~This plan will~~ ensure that ~~Significant Natural Area and taonga species~~ areas of significant indigenous vegetation and significant habitats of indigenous fauna are protected and indigenous biodiversity is maintained.

6.4 Interpretation: effects management hierarchy

Submitter (S) Further Submitter (FS)	Decision Requested
S109.005 Department of Conservation	Retain as notified effects management hierarchy

S130.002 Mercury NZ Limited	Refine to hierarchy for management of biodiversity, which sets out tests where avoiding, remedying, mitigating cannot be achieved, and offsetting/compensating becomes a necessary tool. (REG) activities require placement in proximity to renewable energy resources, and there may be instances where offsetting or compensation is necessary. Amend Biodiversity Effects Management Hierarchy
FS30.050 Transpower NZ Limited FS24.003 Contact Energy Ltd	Allow S130.002 Mercury NZ Limited

6.4.1 The Panel notes the advice of Matt Heale at paragraph 237 of his s42A Report that "effects management hierarchy" is only used in the Ecosystems and Indigenous Biodiversity chapter and the Panel considers that the context dictates the meaning and no addition is required. Further, the definition is from the NPSIB and it refers to the term applying to the effects management hierarchy, as follows:

> Effects Management Hierarchy: Has the same meaning as the NPSIB –
> means an approach to managing the adverse effects of an activity on indigenous biodiversity that requires that:
> (a) adverse effects are avoided where practicable; then
> (b) where adverse effects cannot be avoided, they are minimised where practicable; then
> (c) where adverse effects cannot be minimised, they are remedied where practicable; then
> (d) where more than minor residual adverse effects cannot be avoided, minimised, or remedied, biodiversity offsetting is provided where possible; then
> (e) where biodiversity offsetting of more than minor residual adverse effects is not possible, biodiversity compensation is provided; then
> (f) if biodiversity compensation is not appropriate, the activity itself is avoided.

6.4.2 Accordingly, submission S130.002 Mercury NZ Limited is rejected, noting also that the NPSIB does not apply to renewable electricity generation activities, and that the full suite of potential responses is available for such activities, including avoidance, remedy, mitigation, offset and compensation.

6.4.3 The Panel acknowledges the submission in support of the definition. As the provision remains unchanged, submission S109.005 Department of Conservation is accepted.

6.5 Interpretation: indigenous vegetation

Submitter (S) Further Submitter (FS)	Decision Requested
S126.025 Southland Federated Farmers of NZ S3.093 Stoney Creek Station Limited S113.093 Trudy Bokser S116.093 Nathan Bokser S118.093 AW+ JA Johnston Family Trust S127.129 Peters Farm Ltd Karen Peters S18.095 Reaby Downs Farm Ltd S19.095 Karen Temple S20.095 Sarah and Peter Barclay S24.095 Helen McIntosh S68.097 John Baynes S115.026 Kevin Robertson S143.037 Rural Ratepayers Group S148.038 Alistair & Bernadette Hunt S60.028 Ronald Crispin S68.146 John Baynes S117.093 Greg Bokser S109.006 Department of Conservation	Retain indigenous vegetation definition as notified
FS31.005 Department of Conservation	Allow S109.006 Department of Conservation. This definition requires correction in line with the NPS-IB as the definition refers to the National Planning Standards which does not contain a definition of indigenous vegetation.

6.5.1 The Director General in a further submission highlights a minor error in the definition. As this error relates to a matter of fact and has no material effect it is appropriate to amend the definition as follows:

Indigenous vegetation Has the same meaning as per the National ~~Planning Standard~~ Policy Statement for Indigenous Biodiversity – means vascular and non-vascular plants that, in relation to a particular area, are native to the ecological district in which that area is located.

6.5.2 The Panel acknowledges the submissions in support of the definition. As the provision is subject to a minor change submissions S126.025 Southland Federated Farmers of NZ and others are accepted in part.

6.6 Interpretation: indigenous vegetation clearance

Submitter (S)	Decision Requested
S104.015 McLeod- Wantwood Trust /Wantwood Station S105.015 Farm Manager - Wantwood Station S127.015 Peters Farm Ltd Karen Peters	Clarification required for the reasoning of having two definitions for vegetation clearance and indigenous vegetation clearance or amalgamate them together.
S109.007 Department of Conservation	Amend as follows: means any activity that destroys, damages or removes ~~means the clearing or removal of~~ 'indigenous vegetation' by any means, including clearing, cutting, crushing, cultivation, covering, irrigation, chemical application, drainage, stopbanking, overplanting, burning, or any other mechanical means as well as mob stocking.
S3.094 Stoney Creek Station Limited S113.094 Trudy Bokser S116.094 Nathan Bokser S118.094 AW+ JA Johnston Family Trust S127.130 Peters Farm Ltd Karen Peters S18.096 Reaby Downs Farm Ltd S19.096 Karen Temple S20.096 Sarah and Peter Barclay S24.096 Helen McIntosh S68.098 John Baynes S117.094 Greg Bokser	Either: Amend the definition for indigenous vegetation clearance as follows: Means the ~~clearing or~~ removal of indigenous vegetation by vegetation clearance ~~any means, including cutting, crushing, cultivation, irrigation, chemical application, drainage, stopbanking, overplanting, burning or any other mechanical means as well as mob stocking.~~ Or: Delete the definition of Indigenous Vegetation Clearance entirely
S126.026 Southland Federated Farmers of NZ S115.027 Kevin Robertson S143.038 Rural Ratepayers Group S148.039 Alistair & Bernadette Hunt S60.029 Ronald Crispin S68.147 John Baynes S115.049 Kevin Robertson	Amend definition and make any necessary consequential amendments: Means the clearing or removal of indigenous vegetation by any means, including cutting, crushing, cultivation, irrigation, chemical application, drainage, stopbanking, burning or any other mechanical means. ~~as well as mob stocking.~~ It does not include grazing of pasture or improved pasture species in that area of indigenous vegetation.

6.6.1 The Panel prefer the wording suggested by the Director General but does not consider the undefined term “mob stocking” to be appropriate.

6.6.2 Federated Farmers and others request that the definition should exclude reference to grazing clarifying at the Hearing that the intent is to avoid notified Rule ECO-R1 requiring consent for animal grazing on pasture within which indigenous vegetation is growing. The Panel does not agree that the definition should be amended. Rather, it has redrafted the rule to refer to the maintenance of improved pasture which by implication also applies to animal grazing within improved pasture areas. The Panel has been guided in this respect by the NPSIB.

6.6.3 The submissions above are accepted in part by amending the definition of “indigenous vegetation clearance” as follows:

Means ~~the clearing or removal of~~ any activity that destroys, damages or removes indigenous vegetation by any means, including cutting, crushing, cultivation, irrigation, chemical application, drainage, stopbanking, overplanting, burning or any other mechanical means ~~as well as mob stocking~~.

6.7 Interpretation: significant natural area (SNA)

Submitter (S) Further Submitter (FS)	Decision Requested
S148.002 Alistair & Bernadette Hunt	Add SNAs to be mapped in collaboration with landowners before being included in rules. Further, if an SNA is not mapped, it cannot and should not have any restrictions on it.
S104.017 McLeod- Wantwood	The whole waterfall range is not identified as SNA1, waterfall

Trust/Wantwood Station S105.017 Farm Manager - Wantwood Station S127.017 Peters Farm Ltd Karen Peters S113.105 Trudy Bokser S116.105 Nathan Bokser S118.105 AW+ JA Johnston Family Trust S127.141 Peters Farm Ltd Karen Peters S18.107 Reaby Downs Farm Ltd S19.107 Karen Temple S20.107 Sarah and Peter Barclay S24.107 Helen McIntosh S68.109 John Baynes	range is predominately identified as an ONL. Amend the definition as follows: Has the same meaning as per the National Policy Statement for Indigenous Biodiversity and means: (a) Areas identified as SNA-1 ~~(Waterfall Range)~~ and SNA-2 (Pukerau Red Tussock Reserve) on the planning maps until a suitably qualified ecologist engaged by Gore District Council determines that it is not an SNA (b) any area that is notified or included in a district plan as an SNA following an assessment of the area in accordance with Appendix 4 SNA also includes areas meeting the criteria outlined in Appendix 4 ~~including those identified at resource consent stage or as part of a Farm Environment Plan~~ assessment or as part of a Biodiversity Covenant.
S109.016 Department of Conservation	Retain with amendments as follows: Has the same meaning as per the National Policy Statement for Indigenous Biodiversity and means: ~~(a) Areas identified as SNA-1 (Waterfall Range) and SNA-2 (Pukerau Red Tussock Reserve)~~ Any area that is identified as an SNA on the planning maps until a suitably qualified ecologist engaged by Gore District Council determines that it is not a SNA. (b) Any area that is notified or included in a district plan as an SNA following an assessment of the area in accordance with the criteria set out in Appendix 4. For the avoidance of doubt, a SNA also includes areas meeting the criteria outlined in Appendix 4 that may not yet be identified on the planning maps including those identified at the resource consent stage or as part of a Farm Environment Plan assessment or as part of a Biodiversity Covenant.
FS10.006 Port Blakely Limited	Disallow S109.016 Department of Conservation. Contrary to how territorial authorities should assess and identify SNAs under the NPS-IB.
S126.048 Southland Federated Farmers of NZ	Amend definition and make any necessary consequential amendments: Has the same meaning as per the National Policy Statement for Indigenous Biodiversity and means: (a) Areas identified as SNA-1 (Waterfall Range) and SNA-2 (Pukerau Red Tussock Reserve) on the planning maps until a suitably qualified ecologist engaged by Gore District Council in partnership with landowners determines that it is not an SNA**;** or (b) any area that is notified or included in a district plan as an SNA following an assessment of the area in accordance with Appendix 4 and in consultation with the landowner. ~~SNA also includes areas meeting the criteria outlined in Appendix 4 including those identified at resource consent stage or as part of a Farm Environment Plan assessment or as part of a Biodiversity Covenant.~~
FS10.007 Port Blakely Limited	Allow S126.048 Southland Federated Farmers of NZ
S3.105 Stoney Creek Station Limited	Amend the definition for significant natural area to reflect the NPSIB wording, as follows: Has the same meaning as per the National Policy Statement for Indigenous Biodiversity and means: ~~(a) Areas identified as SNA-1 (Waterfall Range) and SNA-2 Pukerau Red Tussock Reserve) on the planning maps until a suitably qualified ecologist engaged by Gore District Council determines that it is not an SNA (b) any area that is notified or included in a district plan as an SNA following an assessment of the area in accordance with Appendix 4SNA also includes areas meeting the criteria outlined in Appendix 4 including those identified at resource consent stage or as part of a Farm Environment Plan assessment or as part of a Biodiversity Covenant.~~ (a) any area that, after 4 August 2023, is notified or included in a district plan as an SNA following an assessment of the area in accordance with Appendix 1 of the NPSIB; and (b) any area that, on 4 August 2023, is already identified in a policy statement or plan as an area of significant indigenous vegetation or significant habitat of indigenous fauna (regardless of how it is described); in which case it remains as an SNA unless or until a suitably qualified ecologist engaged by the relevant local authority determines that it is not an area of significant indigenous vegetation or significant habitat of indigenous fauna.
FS17.099 Federated Farmers	Allow S3.105 Stoney Creek Station Limited

6.7.1 The definition of SNA in the Plan as notified was as follows:

> Significant Natural Area (SNA) Has the same meaning as per the National Policy Statement for Indigenous Biodiversity and means:
> (a) Areas identified as SNA-1 (Waterfall Range) and SNA-2 (Pukerau Red Tussock Reserve) on the planning maps until a suitably qualified ecologist engaged by Gore District Council determines that it is not an SNA
> (b) any area that is notified or included in a district plan as an SNA following an assessment of the area in accordance with Appendix 4
> SNA also includes areas meeting the criteria outlined in Appendix 4 including those identified at resource consent stage or as part of a Farm Environment Plan assessment or as part of a Biodiversity Covenant.

6.7.2 Matt Heale in his s42A Report equated Significant Indigenous Vegetation Areas (SIVA) to SNAs and his recommended definition included reference to SIVA and areas assessed under Appendix 3 of the RPS. Later in supplementary evidence he moved away from that referring to the NPSIB and the two areas of SNA included in the Plan at the time of notification as follows:

> Significant Natural Area - SNA Has the same meaning as SNA in the National Policy Statement for Indigenous Biodiversity and includes (a) Areas identified as SNA 1 (Dolamore Park and Croydon Bush) and SNA 2 (Pukerau Red Tussock Reserve) on the planning maps

6.7.3 The Panel notes there is no definition of SNA in the RMA, nor the National Planning Standards. The term in a regulatory sense originates from the NPSIB as follows:

> SNA, or significant natural area, means:
> (a) any area that, after the commencement date, is notified or included in a district plan as an SNA following an assessment of the area in accordance with Appendix 1; and
> (b) any area that, on the commencement date, is already identified in a policy statement or plan as an area of significant indigenous vegetation or significant habitat of indigenous fauna (regardless of how it is described); in which case it remains as an SNA unless or until a suitably qualified ecologist engaged by the relevant local authority determines that it is not an area of significant indigenous vegetation or significant habitat of indigenous fauna.

6.7.4 To the Panel, a key feature of the definition is that an SNA must be notified or included in a District Plan following an assessment in accordance with Appendix 1 of the NPSIB. While the NPSIB triggers assessment by different pathways, such as when a resource consent is lodged, the area is not an SNA until notified or included in the Plan. The NPSIB also sets out that a collaborative procedure must be followed when assessing areas as a potential new SNA and for that reason does not need to be included in the definition.

6.7.5 The Panel does not consider it appropriate to list SNAs in the definition. Whether a particular area meets the criteria after the collaborative procedure is not relevant to the definition. Currently there are two SNAs included in the Plan, but the Panel anticipates more could be added over time. It is therefore inappropriate to list sites in the definition.

6.7.6 Part (b) of the NPSIB definition of SNA refers to areas already included in the Plan. In that regard the Panel was advised by Andrew Wells an assessment has been undertaken and the two areas included in the Plan at notification meet the necessary criteria to be classed as SNAs. Reference to the second paragraph of the NPSIB definition is therefore not required.

6.7.7 Having regard to the above matters and the submissions lodged, the Panel is adopting what it considers a pragmatic definition. Having regard to the legal submissions and evidence, and the higher order planning documents, the Panel is firm in the belief that an SNA can only be assigned to areas within Plans that have been identified following the process and assessment criteria of the NPSIB. Adopting the RPS approach does not lead to an area being assigned SNA status. Similarly, applying the criteria in Appendix 1 to the NPSIB, which is appropriately adopted in Appendix 4 to the Plan, by itself does not assign SNA status without the full process outlined in the NPSIB having been followed. However, applying the criteria in Appendix 4 will identify whether there is an area of significant indigenous vegetation present and therefore

allow for protection of the area through application of provisions in the Plan specific to areas of significant indigenous vegetation. These provisions often also apply to SNAs to ensure consistent outcomes across the district where significant indigenous vegetation is known to be present.

6.7.8 The submissions listed above are accepted in part by replacing the District Plan definition of Significant Natural Area with the following:

Significant Natural Area (SNA) ~~Has the same meaning as per the National Policy Statement for Indigenous Biodiversity and~~ means:
~~(a) Areas identified as SNA-1 (Waterfall Range) and SNA-2 (Pukerau Red Tussock Reserve) on the planning maps until a suitably qualified ecologist engaged by Gore District Council determines that it is not an SNA~~
~~(b)~~ any area that is notified or included in a district plan as a SNA ~~following an assessment of the area in accordance with Appendix 4~~
~~SNA also includes areas meeting the criteria outlined in Appendix 4 including those identified at resource consent stage or as part of a Farm Environment Plan assessment or as part of a Biodiversity Covenant~~.

6.8 Interpretation: specified highly mobile fauna

Submitter (S)	Decision Requested
S109.017 Department of Conservation	~~Has the same meaning as the NPSIB -~~ means the Threatened or At Risk species of highly mobile fauna that are identified in Appendix 2 of the NPSIB or listed in an Appendix to this plan or are identified in an assessment of effects or evidence filed during the course of a resource consent application.

6.8.1 Matt Heale at paragraphs 211 of his s42A Report referred to clause 3.20 of the NPSIB that anticipates specified highly mobile fauna areas will be identified by Environment Southland ahead of the Council including them in their District Plan. In his view, at this stage it is appropriate that the definition refer only to Appendix 2 of the NPSIB. He recommended rejecting this submission. Elizabeth Williams in the table attached to her evidence supported the recommendation and analysis. Accordingly, submission S109.017 Department of Conservation is rejected.

6.9 Interpretation: vegetation clearance

Submitter (S)	Decision Requested
S122.002 Fulton Hogan	Either extend the reference so that it is clear that it references back to the NES-F, for example: "(i) the removal of sphagnum moss for the purpose of a harvest in accordance with regulation 48 or 49 of the National Environmental Standards for Freshwater Regulations 2020"; or delete the reference to regulations 48 and 49. "(i) the removal of sphagnum moss for the purpose of a harvest ~~in accordance with regulation 48 or 49;"~~
S104.016 McLeod- Wantwood Trust/Wantwood Station S105.016 Farm Manager - Wantwood Station S127.016 Peters Farm Ltd Karen Peters	Hard to distinguish the difference between Vegetation Clearance and Indigenous Vegetation Clearance. Clarify the reasoning for having two definitions or amalgamate them into one. Remove references to application of seeds from exotic pasture species as a method of vegetation clearance.
S3.106 Stoney Creek Station Limited S113.106 Trudy Bokser S116.106 Nathan Bokser S118.106 AW+ JA Johnston Family Trust S127.142 Peters Farm Ltd Karen Peters S18.108 Reaby Downs Farm Ltd S19.108 Karen Temple S20.108 Sarah and Peter Barclay S24.108 Helen McIntosh S68.110 John Baynes S117.106 Greg Bokser	Querying why grazing has been so limited in this definition as when managed should not constitute vegetation clearance. Amend the definition of vegetation clearance to read:- (a) the disturbance, damage, destruction, or removal of vegetation by any means (for example, by cutting, crushing, application of chemicals, or burning); and b) includes activities that result in the disturbance, damage, destruction, or removal of vegetation (for example, ~~over-planting,~~ applying the seed of exotic pasture species, ~~mob-stocking~~, or draining away water); but (c) does not include-- v) ~~the~~ grazing ~~of improved pasture within the relevant setback from a natural wetland~~
S143.061 Rural Ratepayers Group S115.050 Kevin Robertson	Amend definition and make any necessary consequential amendments: Means (...)(c) does not include vegetation

148.062 Alistair & Bernadette Hunt S60.052 Ronald Crispin S68.170 John Baynes S126.049 Southland Federated Farmers of NZ	clearance which is ancillary to primary production activities, such as-- (i) the removal of sphagnum moss for the purpose of a harvest in accordance with regulation 48 or (...) (v) ~~the grazing of improved pasture within the relevant setback from a natural wetland.~~pasture maintenance; (vi) clearance for the purpose of maintaining rural fire breaks; (vii) clearance of airstrips, helipads, vehicle entranceways, accessways and driveways, farm tracks and stock crossings of waterways; (viii) clearance around farm buildings and farm infrastructure, water supply dams, pipelines and troughs; (ix) cultivation; (x) clearance or disturbance by animals including grazing; (xi) activities associated with fruit tree or fruit vine plantations; and (xii) clearance of vegetation

6.9.1 Matt Heale at paragraphs 189 -191 of his s42A Report advised the term "vegetation clearance" is only used in the definition of renewable electricity generation activities – large scale, while indigenous vegetation clearance is used in various rules. The Panel notes there is no formal definition it is aware of in any higher order document that is required to be used and there appears to be no apparent reason why the definition is required. The Panel therefore agrees with Matt Heale that the definition can be deleted.

6.9.2 With regard to "renewable electricity generation activities – large scale" the Panel notes the NPSIB refers in general terms to "vegetation removal" in some provisions and "indigenous vegetation removal" in others. No change is therefore required to the definition of "electricity generation activities – large scale".

6.9.3 The submissions listed above are accepted in part by deleting the definition "vegetation clearance".

6.10 New Definitions Sought

Submitter (S) Further Submitter (FS)	Decision Requested
S109.020 Department of Conservation	Insert a new definition for "biodiversity compensation" as follows (or words to similar effect): Has the same meaning as per the National Policy Statement for Indigenous Biodiversity and means: Means a measurable conservation outcome that meets the requirements of the NPS-IB Appendix 3 and results from actions that are intended to redress any positive actions (excluding biodiversity offsets) to compensate for residual adverse biodiversity effects arising from activities after all appropriate avoidance, remediation, mitigation and biodiversity offset measures have been sequentially applied.
FS9.8 The Royal Forest and Bird Society of NZ Incorporated FS24.002 Contact Energy Ltd	Allow S109.020 Department of Conservation
FS20.002 Hokonui Runanga Inc	Allow in part S109.020 Department of Conservation The plan must achieve the purpose of the Act and give effect to relevant higher-order planning documents.
S109.019 Department of Conservation	Insert a new definition for "biodiversity offset" as follows (or words to similar effect): Has the same meaning as per the National Policy Statement for Indigenous Biodiversity and means: "means a measurable conservation outcome that meets the requirements in the NPS-IB Appendix 3 and results from actions that: a. redress any more than minor residual adverse effects on indigenous biodiversity after all appropriate avoidance, minimisation, and remediation measures have been sequentially applied; and b. achieves a measurable net gain compared to that lost.
FS9.1 The Royal Forest and Bird Society of NZ Incorporated FS24.001 Contact Energy Ltd	Allow S109.019 Department of Conservation
FS20.001 Hokonui Runanga Inc	Allow S109.019 Department of Conservation in part. The plan must achieve the purpose of the Act and give effect to relevant higher-order planning documents.
S110.001 Royal Forest and Bird Society of NZ Inc	Add: Ecological District: A particular geographical region that has a characteristic landscape and range of biological communities.

FS17.101 Federated Farmers	Disallow S110.001 Royal Forest and Bird Society of NZ Inc. The proposed definition does not align with the NPS-IB definition

6.10.1 The Panel notes the terms "biodiversity compensation", "biodiversity offset" and "Ecological District" are used in policies and rules in this chapter and agrees with Matt Heale that it is appropriate to include the definitions. The Panel also consider that the contents of Appendix 3 and Appendix 4 of the NPSIB should be included as an appendix to the Plan in order to ensure ease of use of the Plan, and that the definitions in the NPSIB should be preferred, with amendment so that elements not relevant to the Gore District are not included.

6.10.2 Submissions S109.020, S109.019 Department of Conservation and S110.001 Royal Forest and Bird Society of NZ Inc are accepted by including the following definitions in the Plan:

Biodiversity compensation has the same meaning as per the National Policy Statement for Indigenous Biodiversity and means: a conservation outcome that meets the requirements in the NPSIB Appendix 4 and results from actions that are intended to compensate for any more than minor residual adverse effects on indigenous biodiversity after all appropriate avoidance, minimisation, remediation, and biodiversity offsetting measures have been sequentially applied.

Biodiversity offset has the same meaning as per the National Policy Statement for Indigenous Biodiversity and means: a measurable conservation outcome that meets the requirements in the NPSIB Appendix 3 and results from actions that are intended to: a. redress any more than minor residual adverse effects on indigenous biodiversity after all appropriate avoidance, minimisation, and remediation measures have been sequentially applied; and b. achieve a net gain in type, amount, and condition of indigenous biodiversity compared to that lost.

Ecological district has the same meaning as per the National Policy Statement for Indigenous Biodiversity and means: the ecological districts as shown in McEwen, W Mary (ed), 1987. *Ecological regions and districts of New Zealand*. Wellington: Department of Conservation.

Submitter (S) Further Submitter (FS)	Decision Requested
S110.002 Royal Forest and Bird Society of NZ Inc	Add: Ecosystem Services: The benefits obtained from ecosystems such as: (a) supporting services, (e.g., nutrient cycling, soil formation, habitat creation); and (b) provisioning services, (e.g., food, freshwater, wood, fibre, fuel); and (c) regulating services, (e.g., water purification, climate regulation, flood regulation, disease regulation); and (d) cultural services, (e.g., aesthetic, spiritual, educational, recreational)
FS17.102 Federated Farmers	Allow in part S110.002 Royal Forest and Bird Society of NZ Inc. The proposed definition does not follow the NPSIB definition verbatim.

6.1.32 The Panel notes the term "ecosystem services" is not used in the Plan at all and therefore is not required. Matt Heale at paragraph 183 of his s42A Report suggested the Panel may wish to include a definition of ecosystems if it considered there was scope. The Panel considers that the effect of including a definition of "ecosystems" is neutral in effect and is something that can be done as a minor addition under clause 16(2) of the RMA First Schedule. However, the term is well known and the Panel does not consider there to be any benefit of its inclusion. Accordingly, submission S110.002 Royal Forest and Bird Society of NZ Inc is rejected.

Submitter (S) Further Submitter (FS)	Decision Requested
S126.092 Southland Federated Farmers of NZ S115.093 Kevin Robertson S143.104 Rural Ratepayers Group S148.105 Alistair & Bernadette Hunt S60.095 Ronald Crispin S68.213 John Baynes	Include a definition of exotic weed. The classification of plants as a weed can be subjective, for example white clover is considered a weed by some while its growth is encouraged by others
FS31.004 Department of Conservation	Allow S126.092 Southland Federated Farmers of NZ

6.10.3 As a consequence of revising policies and rules in this chapter the term "exotic weed" no longer appears in the Plan. A definition is no longer required. Accordingly, submission S126.092 Southland Federated Farmers of NZ is rejected.

7. Ecosystems and Indigenous Biodiversity: General

7.1 General Submissions in Support

Submitter (S) Further Submitter (FS)	Decision Requested
S146.035 Southland District Council	Good provisions on restoration of significant management areas.
S69.004 Ian Davidson-Watts	Agree with the proposed plan's approach to protect all indigenous vegetation until the SNA process is resolved. Identification of SNAs is completed ideally within 18 months of notification, engagement with affected landowners and full discussions about the value of their SNAs and the support they can receive can be undertaken. Recognition of those with the stewardship of these areas with rates relief, financial incentives and support, advice, management plan approach, free council consent process for agreed activities support, help for funding applications to assist with fencing, pest and weed control and work with local iwi.
FS25.015 Stoney Creek Station Ltd	Disallow in part S69.004 Ian Davidson- Watts. Stoney Creek does not support the significant restrictions proposed through the protection of all indigenous vegetation until the SNA process is resolved.
S128.021 Greenbriar Ltd.	Identifies that further work required to give effect to NPSIB so current provisions a partial step.

7.1.1 The Panel acknowledges the support for the entire chapter. As changes are made to the provisions, submission S146.035 Southland District Council is accepted in part.

7.1.2 Ian Davidson-Watts and Greenbriar both refer to matters contained in the NPSIB. The thrust of the decisions of the Panel is to better align the Plan provisions with the NPSIB and provide a degree of future proofing, recognising that additional SNAs may be identified and included in the Plan. In that regard, as no specific changes were sought, submissions S69.004 Ian Davidson-Watts and S128.021 Greenbriar Ltd are accepted in part.

7.1.3 The Panel also notes that during 2024 the Council was able to source funding through Environment Southland, and a small number of landowners took the opportunity of having an expert ecologist visit their properties and assess the significance of the indigenous vegetation present. The Panel does not have any delegation that enables it to seek additional funding in the future. That is a matter for the Council to decide, as is any financial assistance or other incentives such as rates relief.

7.2 Submissions Seeking Additional Outcomes

Submitter (S) Further Submitter (FS)	Decision Requested
S136.007 Jenny Campbell	Significant Natural Areas should be retained above all other considerations e.g., possible buildings.
FS9.14 The Royal Forest and Bird Society of NZ Incorporated	Allow S136.007 Jenny Campbell
FS25.011 Stoney Creek Station Ltd	Disallow S136.007 Jenny Campbell as it is inconsistent with the provisions of the NPSIB which allow for some development and grazing within SNAs
S136.008 Jenny Campbell	SNA's need to be identified & protected, with no grazing in them
FS9.15 The Royal Forest and Bird Society of NZ Incorporated	Allow S136.008 Jenny Campbell
FS17.008 Federated Farmers FS25.012 Stoney Creek Station Ltd	Disallow S136.008 Jenny Campbell

7.2.1 The NPSIB provides a high degree of protection to SNAs but does allow for existing uses, including stock grazing to continue. The Panel agrees that SNAs represent the highest order on the hierarchy of areas containing indigenous vegetation and habitats of indigenous fauna and that is recognised in the rules revised by the Panel, with consent being required for other activities and for the construction of buildings. The NPSIB includes criteria and processes for the identification of SNAs. Currently there are two SNAs in the District, both on public land, but the Panel anticipates that number will increase over time once the government imposed moratorium on undertaking such work expires. No specific changes are being made in

response to these submissions and as a consequence, submissions S136.007 and 136.008 Jenny Campbell are accepted in part.

Submitter (S) Further Submitter (FS)	Decision Requested
S136.009 Jenny Campbell	Ecological corridors in conjunction with SNA's are an imperative in order for organism to be able to travel along these eg between food sources & seasonally.
FS9.16 The Royal Forest and Bird Society of NZ Incorporated	Allow S136.009 Jenny Campbell
FS25.013 Stoney Creek Station Ltd	Disallow S136.009 Jenny Campbell as it is inconsistent with the provisions of the NPSIB which allow for some development and grazing within SNAs
S140.006 Robina Johnston	Consider Southern Rata and Haumuri Reserve and native species corridors. Allow for earthworks for stock access via culvert crossings and consented wetland

7.2.2 The Panel recognises there is very little factual information available related to ecological corridors within the Gore District, which is dominated by pastoral farming and a noticeable almost absence of corridors of vegetation, even along river and stream banks. Certainly, none are obvious to the Panel connecting to SNAs. Given the lack of identifiable ecological corridors the Panel is unable to justify (having regard to RMA s32) the inclusion of rules protecting ecological corridors, but it can at a policy level promote their creation and protection. Arising from that the Panel has in its decision included reference to ecological corridors as follows:

ECO-P3 Protect, enhance and restore indigenous biodiversity by:

2. promoting the creation of connections and ecological corridors between areas of indigenous vegetation and habitats of indigenous fauna;

7.2.3 The District Plan recognises Haumuri Reserve (Croydon Bush) as an SNA and that provides a high degree of protection to indigenous vegetation species such as rātā (Southern Rata). New activities such as stock access under the revised rules require resource consent approval, and this would be in addition to any approvals under the Reserves Act.

7.2.4 Having regard to the above, submissions S136.009 Jenny Campbell and S140.006 Robina Johnston are accepted in part.

Submitter (S) Further Submitter (FS)	Decision Requested
S109.047 Department of Conservation	It is recommended that any SNA assessments that have been undertaken to date are included in the proposed plan in accordance with the NPS-IB. In the interim period, the D-G recommends that there are provisions in the plan that capture the identification and protection of new SNAs that are not yet mapped and any highly mobile fauna areas at the resource consent stage. It is not clear how the policies relating to SNAs (ECO P2, ECO P3, ECO P4 and ECO P9) work together and it is recommended that these are amended so that they accurately reflect the NPS-IB
FS9.11 The Royal Forest and Bird Society of NZ Incorporated	Allow S109.047 Department of Conservation
FS20.004 Hokonui Runanga Inc	Allow in part S109.047 Department of Conservation The plan must achieve the purpose of the Act and give effect to relevant higher-order planning documents.
FS25.0010 Stoney Creek Station Ltd	Disallow S109.047 Department of Conservation. that further work to implement the NPSIB should be paused until further direction is provided by the new Government.

7.2.5 The Panel notes that SNAs can only be included in the District Plan following an assessment having regard to the criteria set out in Appendix 1 of the NPSIB and the consultative process involving landowner input contained in the NPSIB. It is the view of the Panel that there is no mechanism whereby an interim approach can be adopted to identify and protect new SNAs.

7.2.6 The Panel accepts it is important to reflect the NPSIB provisions and that requires a restructuring of the policies to better manage and protect areas of indigenous vegetation and habitats of indigenous fauna, giving effect to relevant provisions of the NPSIB.

7.2.7 Submission S109.047 Department of Conservation is accepted in part, as is S85.035 Environment Southland discussed later in this decision, by restructuring the policies, summarised as follows:

Policies

ECO-P1	Precautionary approach
ECO-P2	Priorities for restoration and enhancement
ECO-P3	Achieving protection, enhancement and restoration
ECO-P4	Assessing effects on Ngāi Tahu cultural values
ECO-P5	Mapping significant indigenous biodiversity
ECO-P6	Permitted activities in significant areas
ECO-P7	Existing and new activities in significant areas
ECO-P8	Forestry activities
ECO-P9	New subdivision, use and development in significant areas
ECO-P10	New subdivision, use and development outside significant areas
ECO-P11	New subdivision, use and development and the Effects Management Hierarchy
ECO-P12	Offsetting and compensation principles
ECO-P13	Renewable electricity generation and the electricity transmission network
ECO-P14	Activities on specified Māori Land

7.2.8 The full revised text is attached to this decision. In addition to comprehensive change to the Plan provisions arising from submission S109.047 Department of Conservation, individual changes also arise from other submissions.

7.3 General Submissions in Opposition

Submitter (S) Further Submitter (FS)	Decision Requested
S68.001 John Baynes	Withdraw chapter. Lack of consultation and impact of provisions that have immediate legal effect
S3.116 Stoney Creek Station Limited S113.116 Trudy Bokser S116.116 Nathan Bokser S118.116 AW+ JA Johnston Family Trust S18.118 Reaby Downs Farm Ltd S19.118 Karen Temple S24.118 Helen McIntosh S68.120 John Baynes S127.152 Peters Farm Ltd Karen Peters S117.116 Greg Bokser	Withdraw chapter. A plan change will be necessary to amend rules and map Significant Natural Areas and blanket protections provide little to no ability for essential pastoral farming practices such as fencing and the construction or maintenance of farm tracks to be undertaken without resource consent.
FS9.17, FS9.19, FS9.20, FS9.21, FS9.22, FS9.23, FS9.24, FS9.25, FS9.26, FS9.27 FS9.34 The Royal Forest and Bird Society of NZ Incorporated	Disallow S3.116 Stoney Creek Station Limited, S113.116 Trudy Bokser, S116.116 Nathan Bokser, S118.116 AW+ JA Johnston Family Trust, S18.118 Reaby Downs Farm Ltd, S19.118 Karen Temple, S20.118 Sarah and Peter Barclay, S24.118 Helen McIntosh, S68.120 John Baynes, S127.152 Peters Farm Ltd Karen Peters, S117.116 Greg Bokser. The protections offered in the ECO chapter are a minimum to achieve the NPS-IB objectives and RMA objectives, however, we agree that the approach in the proposed Gore DP needs refinement
FS20.033 Hokonui Runanga Inc	Disallow in part S3.116 Stoney Creek Station Limited The plan needs to address matters in s6 of the RMA but the approach in the proposed Gore DP needs refinement.
FS17.009 Federated Farmers	Allow S3.116 Stoney Creek Station Limited
S18.002 Reaby Downs Farm Ltd S24.002 Helen McIntosh	Seeks the relief sought within the Stoney Creek submission. Consider that the blanket protections do not provide sufficient

S20.002 Sarah and Peter Barclay S19.002 Karen Temple	ability for pastoral farming practices such as fencing and vegetation clearance for farm tracks
FS9.9, FS9.10 The Royal Forest and Bird Society of NZ Incorporated	Disallow S20.002 Sarah and Peter Barclay, S19.002 Karen Temple 'Good farming practice' is ambiguous and open to personal interpretation
S126.177 Southland Federated Farmers of NZ S115.178 Kevin Robertson S60.180 Ronald Crispin S143.189 Rural Ratepayers Group S148.190 Alistair & Bernadette Hunt S68.298 John Baynes	We note that the Council did not include these chapters in the early consultation on the exposure draft. We believe these chapters need to be removed and rewritten with a more practical and enabling approach
FS9.18, FS9.29, FS9.30, FS9.31, FS9.32 FS9.33 The Royal Forest and Bird Society of NZ Incorporated	Disallow S126.177 Southland Federated Farmers of NZ. The protections offered in the ECO chapter are a minimum to achieve the NPS-IB objectives and RMA objectives
FS20.026 Hokonui Runanga Inc	Disallow in part S126.177 Southland Federated Farmers of NZ, S115.178 Kevin Robertson, S60.180 Ronald Crispin, S143.189 Rural Ratepayers Group, S148.190 Alistair & Bernadette Hunt, S68.298 John Baynes. The plan needs to address matters in s6 of the RMA but the approach in the proposed Gore DP needs refinement.
FS25.014 Stoney Creek Station Ltd	Allow S126.177 Southland Federated Farmers of NZ

7.3.1 The Panel notes that on 21 November 2023 the Gore District Council considered a request to withdraw parts of the Proposed Plan, including the Ecosystems and Indigenous Biodiversity chapter. While the Council concluded there was no breach of the statutory obligations to consult under the RMA, it would have preferred that consultation had taken place prior to notification with key affected landowners, such as Stoney Creek Station. The Panel agrees with that sentiment, noting that landowner input into this chapter prior to notification would have likely resulted in more robust and practical provisions. Having regard to these matters, submissions S68.001 John Baynes, S3.116 Stoney Creek Station Limited and others, S18.002 Reaby Downs Farm Ltd and S126.177 Southland Federated Farmers of NZ are rejected.

Submitter (S) **Further Submitter (FS)**	**Decision Requested**
S59.005 Adrienne Crispin S60.002 Ronald Crispin	SNAs should not be incorporated in the plan
FS9.12, FS9.13 The Royal Forest and Bird Society of NZ Incorporated	Disallow S59.005 Adrienne Crispin, S60.002 Ronald Crispin as it is a requirement on territorial authorities to include SNA's in their District Plans in the NPS-IB (3.9)
S148.013 Alistair & Bernadette Hunt	If an SNA is not mapped, it cannot and should not have any restrictions on it. Requiring farmers to map these themselves via farm environment plans is Council "passing the buck".
FS9.28 The Royal Forest and Bird Society of NZ Incorporated	Disallow S148.013 Alistair & Bernadette Hunt. Council still has a duty under the RMA and other legislation to protect significant indigenous vegetation and significant habitats of indigenous fauna
FS17.001 0 Federated Farmers FS25.016 Stoney Creek Station Ltd	Allow S148.013 Alistair & Bernadette Hunt

7.3.2 The Panel notes that by definition, through the requirements of the NPSIB, an SNA is an area of indigenous vegetation and/or habitat of indigenous fauna that meets the criteria contained in the NPSIB and is included in the District Plan. In that regard there cannot be unmapped SNAs. However, in addition to the requirements of RMA s6(c) and the RPS, the Plan must protect areas of significant indigenous vegetation and significant habitats of indigenous fauna and these can be mapped in the Plan with provisions applying to them. The Panel agrees with Alister and Bernadette Hunt that it is not necessary for the Plan to require the preparation of farm management plans, which are required under the regional water and land plan and national direction, and that has been deleted from the Plan provisions through its decisions on submissions. Although, as part of a resource consent to remove indigenous vegetation, landowners may find it helpful to include a strategy outlining how areas of indigenous vegetation and habitats of indigenous fauna are to be managed, including by way of a Biodiversity Management Plan.

7.3.3 Having regard to the above, submissions S59.005 Adrienne Crispin and S60.002 Ronald Crispin are rejected and submission S148.013 Alistair & Bernadette Hunt accepted in part, although no changes are required to the Plan.

8. Ecosystems and Indigenous Biodiversity: Overview

8.1 Overview Submissions

Submitter (S)	Decision Requested
S109.048 Department of Conservation	Retain with the following amendments. Provide a description of the important ecological values of Gore District and what the provisions are setting out to achieve. - Identify the issues for the District and how they are going to be addressed (drawing on issues from the Southland RPS and the s32 report). - Include a commitment to mapping any high mobile fauna areas and taonga species in consultation with Environment Southland and iwi (for example, river segments hosting threatened species, including non-diadromous galaxiids, kanakana lamprey larval rearing areas and spawning habitat, threatened blackbilled gulls and their habitats, lizards etc).
FS9.35 The Royal Forest and Bird Society of NZ Incorporated	Allow S109.048 Department of Conservation
FS20.005 Hokonui Runanga Inc	Allow in part S109.048 Department of Conservation. The plan must achieve the purpose of the Act and give effect to relevant higher-order planning documents
FS25.017 Stoney Creek Station Ltd	Disallow S109.048 Department of Conservation
S110.026 Royal Forest and Bird Society of NZ Inc	Change: based on changes to national and regional policy direction, there is a gap in current identified SNAs that ~~will~~ needs to be addressed following the release of the National Policy Statement on Indigenous Biodiversity.
S110.027 Royal Forest and Bird Society of NZ Inc	A 10-year implementation timeframe for the NPSIB ~~is anticipated~~ has been given**,** which includes the development of a regional biodiversity strategy, an integrated approach across administrative boundaries, the need to work in partnership with tangata whenua and landowners, and notes that support will be provided from the regional council for mapping which must be completed by August 2028.
S85.017 Environment Southland	1. Remove '~~While comprehensive mapping has not been undertaken to identify SNAs in the Gore~~ District' 2. Mandate consideration of wetlands for all proposed subdivisions, developments, or land uses.
S139.011 Hokonui Rūnanga Inc	The relationship of mana whenua with indigenous vegetation is recognised in ECO-O4 but is not discussed in the overview and purpose. Add a new second paragraph after the first paragraph that reads: "All indigenous vegetation is a taonga to mana whenua. Many species are highly valued for mahinga kai (as food, fibre or medicine). Healthy, robust indigenous ecosystems are important to maintain the mauri of the whenua (land), wai (water) and te taiao (environment). Recognising and providing for the relationship of Māori and their customs and traditions with their ancestral lands, waters, sites wāhi tapu and other taonga is a Matter of National Importance under s6(c) of the RMA. For mana whenua the issue does not turn on the protection of specific sites which are identified as 'significant'. The takiwā is home so mana whenua have a relationship with all whenua, wai and ecosystems within the takiwā. Therefore, the focus is on enhancing the quality and quantity of indigenous biodiversity within the District: maintaining the ecological function, integrity and value of established indigenous ecosystems and the habitats that support them; and encouraging areas of regeneration and new planting. As such, mana whenua support an approach which encourages landholders to both retain and enhance indigenous biodiversity and ecosystems on-site. "
FS9.36 The Royal Forest and Bird Society of NZ Incorporated	Allow S139.011 Hokonui Rūnanga Inc
FS17.011 Federated Farmers	Disallow S139.011 Hokonui Rūnanga Inc

8.1.1 The Proposed District Plan was largely drafted prior to the NPSIB coming in to force on 7 July 2023 and amended to the extent possible to reflect the new national direction within the weeks prior to its notification. This is reflected in some of the submissions lodged seeking changes to various parts of this chapter. Changes to the NPSIB in October 2024 also necessitates changes in the approach to this chapter of the Plan and the Overview. In making those

changes the Panel does not consider there to be any benefit in referring to the effectiveness of the provision in the Operative District Plan. Rather, the focus needs to be providing for the future.

8.1.2 DoC requests the identification of issues in the Overview. However, that is not the style adopted in the Plan. The issues are set out in background reports, including the s32 documents prepared during the Plan drafting process. Those issues have informed the objectives and policies of the Plan and in the view of the Panel are not a necessary component of the notified Plan.

8.1.3 DoC also sought a commitment to mapping any high mobile fauna areas and taonga species. Notified Policy ECO-P1 refers to mapping and describing specified highly mobile fauna areas. In considering submissions that provision has been revised to describe that highly mobile fauna areas will be mapped in the Plan with information provided, once those areas have been included in the RPS. The Panel anticipates that will meet the intent of the submission.

8.1.4 Environment Southland seeks consideration of wetlands for all proposed subdivisions, developments, or land uses. The Panel notes on page 77 of the RPS the following direction is given:

> The Southland Regional Council: (1) will be responsible for specifying the objectives, policies and methods for the control of the use of land for the maintenance of indigenous biodiversity in the coastal marine area, wetlands, and lakes and rivers and their margins.

8.1.5 Having regard to that provision the Panel does not consider there is authority to manage indigenous biodiversity is relation to wetlands. The Panel relies on the provisions of the NESF and implementation of the NPSFM through the Southland Water and Land Plan.

8.1.6 The Panel agrees with the intent of the Hokonui Rūnanga submission seeking an addition to the Overview. It has incorporated much of the requested text into the revised section.

8.1.7 Submissions S109.048 Department of Conservation, S110.027 Royal Forest and Bird Society of NZ Inc, S85.017 Environment Southland and S139.011 Hokonui Rūnanga Inc are accepted in part by replacing the Overview of the Ecosystems and Indigenous Biodiversity chapter with the following:

> **Overview**
>
> The District contains reduced areas of vegetation which have species and ecosystems that are native to New Zealand and the local area, including ~~are classified as significant~~ areas of significant *indigenous vegetation* or significant habitats of indigenous fauna under Section 6(c) of the Resource Management Act 1991 (RMA). To achieve the purpose of the RMA and promote *sustainable management*, the District Plan must identify and protect ~~significant~~ these remaining areas of significant *indigenous vegetation* and significant habitats of indigenous fauna as a matter of national importance.
>
> The ~~Operative District Plan (2006) predates the~~ Southland Regional Policy Statement 2017 (RPS) and the ~~release of the~~ National Policy Statement Indigenous Biodiversity 2023 (NPSIB)~~. The RPS and NPSIB~~ both contain criteria for identifying areas of significant indigenous vegetation or significant habitats of indigenous fauna~~ (SNA)~~. Appendix 3 of the RPS sets out the criteria to determine whether an area is significant in terms of section 6(c) of the RMA. The NPSIB provides for the identification of Significant Natural Areas (SNAs) and their inclusion in District Plans by way of a plan change. Appendix 1 of the NPSIB sets the criteria to be used in assessing whether an area meets the threshold of an SNA, as included in Appendix 4 of this Plan. Other provisions mandate the collaborative process to be undertaken in assessing areas, working together with landowners and tangata whenua. ~~While comprehensive mapping has not been undertaken to identify SNAs in the Gore District, the Gore District Plan Efficiency and Effectiveness Review 2023 indicates that:~~
>
> ~~• the Operative plan provisions have been partially effective at protecting identified SNAs, and~~

~~• there has been a reduction in native vegetation which would suggest further protection needs to be afforded to biodiversity within the District; and~~

~~• based on changes to national and regional policy direction, there is a gap in current identified SNAs that will need to be addressed following the release of the National Policy Statement on Indigenous Biodiversity.~~

The RPS and NPSIB also have a ~~broader~~ range of objectives and policies that have been considered in developing the provisions of this chapter, which apply to all areas containing indigenous vegetation within the District. Specific provisions have been included relating to indigenous vegetation clearance within the Hokonui Hills to recognise the knowledge and understanding of the ecological values of that area. ~~A 10 year implementation timeframe for the NPSIB is anticipated, which includes the development of a regional biodiversity strategy, an integrated approach across administrative boundaries, the need to work in partnership with tangata whenua and landowners, and notes that support will be provided from the regional council for mapping which must be completed by August 2028. It is proposed that a variation will be notified to the Proposed District Plan once mapping has been completed.~~

A key function of Territorial Authorities under the RMA is the maintenance of indigenous biological diversity under Section 31(1)(b)(iii). The District Plan is required to give effect to the NPSIB and its objective:

(a) to maintain indigenous biodiversity across Aotearoa New Zealand so that there is at least no overall loss in indigenous biodiversity after the commencement date; and

(b) to achieve this:
  (i) through recognising the mana of tangata whenua as kaitiaki of indigenous biodiversity; and
  (ii) by recognising people and communities, including landowners, as stewards of indigenous biodiversity; and
  (iii) by protecting and restoring indigenous biodiversity as necessary to achieve the overall maintenance of indigenous biodiversity; and
  (iv) while providing for the social, economic, and cultural wellbeing of people and communities now and in the future.

The NPSIB provides for continuation of existing activities (subject to qualification) within SNAs, and specifies various adverse effects of new subdivision, use, or development in within SNAs that must be avoided, with other adverse effects being subject to the effects management hierarchy. There are a number of limited exceptions. The NPSIB requires any significant adverse effects of new subdivision, use, or development on indigenous biodiversity outside SNAs to be managed by applying the effects management hierarchy, while other adverse effects must be managed to give effect to the objective and policies of the NPSIB. The NPSIB also provides for the preparation of a regional biodiversity strategy. The NPSIB is not applicable to the development, operation, maintenance or upgrade of renewable electricity generation assets and activities and electricity transmission network assets and activities, which are subject to national direction specific to them.

Healthy, robust indigenous ecosystems are important to mana whenua to maintain the mauri of the whenua (land), wai (water) and te taiao (environment). All indigenous vegetation is a taonga and many species are highly valued for mahinga kai (as food, fibre or medicine). The focus of mana whenua is on enhancing the quality and quantity of indigenous biodiversity within the District: maintaining the ecological function, integrity and value of established indigenous ecosystems and the habitats that support them; and encouraging areas of regeneration and new planting. As such, mana whenua support an approach that encourages landholders to both retain and enhance indigenous biodiversity and ecosystems.

The removal of exotic plant species is not subject to the provisions of the District Plan but may be subject to control under a Regional Plan, or National or Regional Pest Management Plan approved under the Biosecurity Act 1993.

9. Ecosystems and Indigenous Biodiversity: Objectives

9.1 Introduction

9.1.1 A number of submitters highlighted that the objectives were worded in a style that resembled policies. Matt Heale at paragraph 273 of his s42A Report agreed and recommended redrafting the objectives to read as outcomes. The Panel accepts the intent of that recommendation but notes additional changes are appropriate having regard to the submissions lodged.

9.1.2 It appears to the Panel that there is considerable overlap between the objectives as drafted and matters raised by submitters to individual objectives and policies. This necessitates a wide perspective from the Panel in assessing and responding to the submissions to better reflect the purpose of objectives, and the purpose of policies, to improve the efficiency and effectiveness of the chapter provisions.

9.1.3 Submission S85.035 Environment Southland has requested full effect be given to the NPSIB. The Panel agrees this is required and the provisions of the NPSIB are central to the changes made to this chapter. Notwithstanding the matters raised in individual submissions, the Panel relies also on this submission to provide scope for the redrafting of the content of this chapter.

9.2 Objective ECO-O1

9.2.1 Objective ECO-O1 as notified states:

> Maintain Indigenous biological diversity in the Gore District and protect areas of significant indigenous vegetation and significant habitats of indigenous fauna (Significant Natural Areas).

9.2.2 Matt Heale recommended the objective would be better worded to read as an outcome rather than a policy as follows:

> Indigenous biological diversity is maintained, and areas of significant indigenous vegetation and significant habitats of indigenous fauna (Significant Natural Areas) are protected in the Gore District.

Submitter (S) Further Submitter (FS)	Decision Requested
S128.022 Greenbriar Ltd.	No amendments required
S139.012 Hokonui Rūnanga Inc	Delete ECO-O1 and replace with "<u>The quantum, quality and health of indigenous ecosystems and habitats is enhanced within Gore District</u>." The narrow focus of the objectives on SNAs alone fails to give effect to the purpose of the Act, the NPS for Indigenous Biodiversity or the Regional Policy Statement for Southland. It is also inconsistent with ECO-P8 & ECO- P10 which apply more broadly than SNAs. The objectives and policies should align under s75(1) of the RMA. Objectives should be written as outcomes not actions.
FS17.013 Federated Farmers FS25.020 Stoney Creek Station Ltd	Disallow S139.012 Hokonui Rūnanga Inc
S85.018 Environment Southland	Rearrange the objective so that the "protect" statement comes before the "maintain" statement. Maintain should also mean "no overall loss" or aligning the wording to the objective 1 in the NPS-IB
S109.049 Department of Conservation	Retain with the following amendments: Maintain, <u>enhance and restore</u> indigenous biological diversity in the Gore District and protect areas of significant indigenous vegetation and significant habitats of indigenous fauna (Significant Natural Areas). ECO-O1 should be amended in order to respond to the deterioration of indigenous biodiversity in the District as identified in the Overview
FS9.37 The Royal Forest and Bird Society of NZ Incorporated	Allow S109.049 Department of Conservation
FS25.019 Stoney Creek Station Ltd	Disallow S109.049 Department of Conservation
S127.041 Peters Farm Ltd Karen Peters S142.002 Alan Taylor S24.007 Helen McIntosh S68.009 John Baynes	Amend ECO-O1 to read: Maintain Indigenous biological diversity in the Gore District and protect areas of significant indigenous vegetation and significant habitats of indigenous fauna ~~(Significant Natural Areas).~~ <u>through the identification of Significant</u>

S115.080 Kevin Robertson S143.091 Rural Ratepayers Group S148.092 Alistair & Bernadette Hunt S60.082 Ronald Crispin S68.200 John Baynes S117.005 Greg Bokser S3.005 Stoney Creek Station Limited S126.079 Southland Federated Farmers of NZ S113.005 Trudy Bokser S116.005 Nathan Bokser S118.005 AW+ JA Johnston Family Trust S18.007 Reaby Downs Farm Ltd S19.007 Karen Temple S20.007 Sarah and Peter Barclay	Natural Areas. The use of 'significant indigenous vegetation' and 'significant habitats of indigenous fauna' is unclear.
FS9.38, FS9.39, FS9.40, FS9.41, FS9.42, FS9.43, FS9.44, FS9.45 The Royal Forest and Bird Society of NZ Incorporated	Disallow S3.005 Stoney Creek Station Limited, S126.079 Southland Federated Farmers of NZ, S113.005 Trudy Bokser, S116.005 Nathan Bokser, S118.005 AW+ JA Johnston Family Trust, S18.007 Reaby Downs Farm Ltd, S19.007 Karen Temple, S20.007 Sarah and Peter Barclay ECO-O2 covers the identification of SNAs, ECO-O1 is about maintaining indigenous biodiversity. Amendment not required.
FS17.012 Federated Farmers	Support S3.005 Stoney Creek Station Limited
FS25.021, FS25.023 Stoney Creek Station Ltd	Support S126.079 Southland Federated Farmers of NZ
S153.002 Oakland Farming Ltd	Maintain Indigenous biological diversity in the Gore District and protect areas of significant indigenous vegetation and significant habitats of indigenous fauna (Significant Natural Areas). through the identification of Significant Natural Areas. Wording should reflect the NPSIB and to be clear SNAs should be identified
FS25.018 Stoney Creek Station Ltd	Allow S153.002 Oakland Farming Ltd

9.2.3 The Panel acknowledges the support for the objective. As the provision is being altered and expanded submission S128.022 Greenbriar Ltd is accepted in part.

9.2.4 The Panel considers submitters have raised the following key points:

- Reference should be made to the health of ecosystems (Hokonui Rūnanga)
- “Protect” should come before “maintain’ (Environment Southland)
- Align wording with NPSIB objective (Environment Southland, Oakland Farming Ltd))
- Add “enhance and restore” (DoC)
- Refer to identification of SNAs (Peters Farm Ltd Karen Peters and others)

9.2.4 Having regard to the matters raised in submissions, the Panel considers there is a need for more than two objectives dealing with these issues, referring to

(a) the objective of the NPSIB that there is at least no overall loss in indigenous biodiversity;

(b) identification, protection and where practical enhancement of SNAs and other areas of significant indigenous biodiversity;

9.2.5 The Panel considers reference to the health of ecosystems is better provided for in the policies, although it is embodied in part by the reference to no overall loss of indigenous biodiversity. Similarly, no overall loss also incorporates “maintaining” as referred to by Environment Southland.

9.2.6 Submissions S139.012 Hokonui Rūnanga Inc, S85.018 Environment Southland, S109.049 Department of Conservation, S127.041 Peters Farm Ltd Karen Peters and others and S153.002 Oakland Farming Ltd are accepted in part by replacing Objective ECO-O1 with the following:

ECO-O1 ~~Maintain~~ Indigenous biological diversity is maintained ~~in the Gore District~~ so there is at least no overall loss within the Gore District ~~and protect areas of significant indigenous vegetation and significant habitats of indigenous fauna (Significant Natural Areas)~~.

9.3 Objective ECO-O2

9.3.1 Objective ECO-O2 as notified states:

> Work in partnership with Local Authorities, Government agencies, mana whenua, stakeholders and landowners to identify and protect Significant Natural Areas.

9.3.2 Matt Heale recommended the objective would be better worded to read as an outcome rather than a policy as follows:

> Significant Natural Areas are identified and protected by working in partnership with Local Authorities, Government agencies, mana whenua, stakeholders and landowners

Submitter (S) Further Submitter (FS)	Decision Requested
S109.050 Department of Conservation S125.031 Ministry of Education S128.023 Greenbriar Ltd. S126.080 Southland Federated Farmers of NZ S115.081 Kevin Robertson S143.092 Rural Ratepayers Group S148.093 Alistair & Bernadette Hunt S60.083 Ronald Crispin S68.201 John Baynes	Retain ECO-O2 as notified

9.3.3 The submissions in support are acknowledged by the Panel. As the objective is being amended submissions S109.050 Department of Conservation and others are accepted in part.

Submitter (S) Further Submitter (FS)	Decision Requested
S146.036 Southland District Council	SDC and GDC could work together to ensure the region's criteria for significant natural areas are aligned. Potentially, some significant natural areas would be on the boundary between the two councils. The section could be served by addressing methods other than rules, as in the Operative Southland District Plan.

9.3.4 Southland District Council seeks alignment with the provisions of their Plan. Although alignment is provided through the RPS and the NPSIB, the Panel recognises the importance of working in harmony with adjoining Councils, particularly where areas of indigenous biodiversity straddle territorial authority boundaries, sometimes within the same property.

9.3.5 The Panel notes notified Policy ECO-P1 mirrors Objective ECO-O2 in referring to “work in partnership”. The Panel considers such terminology is more appropriate at a policy level and has deleted it from the objective. In revising Policy ECO-P1, the Panel has incorporated the intent of the submission. Accordingly, submission S146.036 Southland District Council is accepted in part by adopting the decision in paragraph 10.2.9 below.

Submitter (S) Further Submitter (FS)	Decision Requested
S85.019 Environment Southland	Support but include the addition of "restore" as this aligns with 3.8(2) of the NPS-IB and give effect to 3.21
FS17.015 Federated Farmers	Disallow S85.019 Environment Southland
S139.013 Hokonui Rūnanga Inc	Delete and replace ECO-O2 with "Sites of significant indigenous vegetation and habitats of indigenous fauna are recognised and protected from inappropriate subdivision, use or development."
FS17.014 Federated Farmers FS25.022 Stoney Creek Station Ltd	Disallow S139.013 Hokonui Rūnanga Inc

9.3.4 The Panel notes that NPSIB clauses 3.10 and 3.11 provide for activities that affect SNAs where they are for the purpose of restoration, and that clause 3.21 requires the inclusion of objectives, policies and methods in the District Plan to promote the restoration of indigenous biodiversity. In the revised objective, the Panel has also included “enhanced” recognising that clause 3.21(4) differentiates between “restoration” and “enhancement”, while only “restoration” is defined in the NPSIB in relation to modified or degraded areas of indigenous biodiversity.

9.3.5 The Panel agrees with Hokonui Rūnanga. Neither the notified version nor that recommended by Matt Heale provide for an environmental outcome, rather they both read like a policy and that is recognised further in this decision. The Panel considers there is some strength in an objective referring to inappropriate development, notwithstanding the wording of RMA s6(c), having regard to the various exemptions provided by the NPSIB. However, rather than adopting the wording suggested by Hokonui Rūnanga, the Panel has redrafted the objective to provide a consistency of wording through the chapter.

9.3.6 Submissions S139.013 Hokonui Rūnanga Inc and S85.019 Environment Southland are accepted in part by replacing Objective ECO-O2 as follows:

ECO-O2 ~~Work in partnership with Local Authorities, Government agencies, mana whenua, stakeholders and landowners to identify and protect~~ Significant Natural Areas and areas of significant indigenous vegetation and significant habitats of indigenous fauna are:

(1) identified;

(2) protected; and

(3) where practical, restored or enhanced.

9.4 Objective ECO-O3

9.4.1 Objective ECO-O3 as notified states:

> Provide for appropriate subdivision, use and development within Significant Natural Areas where the values of the area can be maintained and enhanced.

9.4.2 Matt Heale recommended the objective would be better worded to read as an outcome rather than a policy as follows:

> Significant Natural Areas are protected by avoiding or managing adverse effects from new subdivision, use and development.

9.4.3 Following consideration of the submissions, Matt Heale amended his recommendation for the Objective to read as follows:

> The values of Significant Natural Areas/ Significant Indigenous Vegetation Areas are protected by avoiding or managing adverse effects from new subdivision, use and development

Submitter (S) Further Submitter (FS)	Decision Requested
S112.063 Waka Kotahi NZ Transport Agency	Retain as notified
S139.014 Hokonui Rūnanga Inc	Delete and replace ECO-O3 with Indigenous biodiversity is recognised as a taonga to mana whenua and the relationship of mana whenua and their customs and traditions with indigenous vegetation and ecosystems is recognised and provided for including: - Enabling the exercise of kaitiakitanga; - Enabling mahinga kai; and - Maintaining or where degraded restoring the mauri of indigenous ecosystems. The narrow focus of the objectives on SNAs alone fails to give effect to the purpose of the Act, the NPS for Indigenous Biodiversity or the Regional Policy Statement for Southland. It is also inconsistent with ECO-P8 & ECO- P10 which apply more broadly than SNAs. The objectives and policies should align under s75(1) of the RMA. Objectives should be written as outcomes not actions.
FS17.018 Federated Farmers FS25.027 Stoney Creek Station Ltd	Disallow S139.014 Hokonui Rūnanga Inc
S109.051 Department of Conservation	The policies already address where activities can be provided for in SNAs whilst still meeting ECO-O1. Remove ECO-O3: ~~Provide for appropriate subdivision, use and development within~~

	~~Significant Natural Areas where the values of the area can be maintained and enhanced.~~
FS17.017 Federated Farmers FS24.028 Contact Energy Ltd FS25.025 Stoney Creek Station Ltd	Disallow S109.051 Department of Conservation
S113.006 Trudy Bokser S116.006 Nathan Bokser S118.006 AW+ JA Johnston Family Trust S127.042 Peters Farm Ltd Karen Peters S18.008 Reaby Downs Farm Ltd S19.008 Karen Temple S20.008 Sarah and Peter Barclay S24.008 Helen McIntosh S68.010 John Baynes S115.082 Kevin Robertson S143.093 Rural Ratepayers Group S148.094 Alistair & Bernadette Hunt S60.084 Ronald Crispin S68.202 John Baynes S117.006 Greg Bokser S3.006 Stoney Creek Station Limited	Amend ECO-O3 to read: Provide for ~~appropriate~~ new subdivision, use and development within and adjacent to Significant Natural Areas where adverse effects on the values of the area can be avoided or managed. ~~maintained and enhanced.~~ The wording of this policy is more stringent than the NPSIB as it requires the "enhancement" of values. Amend wording to align with NPSIB.
FS17.016 Federated Farmers	Allow S3.006 Stoney Creek Station Limited
S126.081 Southland Federated Farmers of NZ	Ensure alignment with Policy 7 of the NPS-IB. Amend ECO-O3: Provide for ~~appropriate~~ new subdivision, use and development within Significant Natural Areas where the values of the area can be ~~maintained and enhanced~~ avoided or managed.
FS25.046 Stoney Creek Station Ltd	Allow S126.081 Southland Federated Farmers of NZ
S130.055 Mercury NZ Limited	Provide for ~~appropriate~~ subdivision, use and development within Significant Natural Areas where the effects can be appropriately managed. ~~values of the area can be maintained and enhanced.~~
FS24.029 Contact Energy Ltd FS24.033 Contact Energy Ltd FS25.047 Stoney Creek Station Ltd	Allow S130.055 Mercury NZ Limited
S101.051 Transpower NZ Limited	Seeks that the Objective better reflects Policy BIO.2 of the SRPS. Amend Objective ECO-O3 as follows: ECO-O3 Provide for ~~appropriate~~ subdivision, use and development within Significant Natural Areas where the values of the area ~~can be~~ are maintained or ~~and,~~ where appropriate, enhanced.
FS25.024 Stoney Creek Station Ltd	Allow in part S101.051 Transpower NZ Limited

9.4.4 The Panel agrees with the intent of those submitters seeking changes to the objective and also with the comments from Matt Heale that adverse effects are to be avoided or otherwise managed by the effects management hierarchy consistent with the NPSIB. The Panel sought to revise the objective in a manner that accommodated the changes sought together with the recommendations of Mat Heale. However, this resulted in a provision that read like a policy or duplicated matters contained in policies. Mindful of, and in agreement with the submission from DoC that it is the role of policies (and rules) to identify any specific activities enabled in Significant Natural Areas, the Panel has concluded the objective should be deleted.

9.4.5 Deleting the objective was sought by DoC and Hokonui Rūnanga although with regard to the latter the replacement sought is more relevant to Objective ECO-O4 that focuses on cultural values and the submission has been considered in that context in section 9.5 below.

9.4.6 The Panel acknowledges the submission supporting the objective. As this provision has been deleted, submission S112.063 Waka Kotahi NZ Transport Agency is rejected.

9.4.7 Submission S109.051 Department of Conservation is accepted by deleting Objective ECO-O3.

9.4.8 Consequently submission S139.014 Hokonui Rūnanga Inc is accepted in part and Submissions S113.006 Trudy Bokser and others, S126.081 Southland Federated Farmers of NZ, S130.055 Mercury NZ Limited and S101.051 Transpower NZ Limited are rejected.

9.5 Objective ECO-O4

9.5.1 Objective ECO-O4 as notified states:

> The relationship of mana whenua and their customs and traditions with Significant Natural Areas is recognised and provided for including through:
> 1. Facilitation and support for the exercise of kaitiakitanga in relation to indigenous species and habitats;
> 2. Maintenance, enhancement, and restoration of habitats that support mahinga kai activities and sustain taonga species; and
> 3. Enabling customary use

9.5.2 Matt Heale did not recommended rewording of the objective as he did for the other objectives, but at paragraph 322 of his s42A Report expressed the view the objective was too narrow and should be amended along the lines sought by the Hokonui Rūnanga submission to Objective ECO-O3 as follows:

> Indigenous biodiversity is recognised as a taonga to mana whenua and the relationship of mana whenua and their customs and traditions with indigenous vegetation and ecosystems is recognised and provided for including by:
> 1. Enabling the exercise of kaitiakitanga;
> 2. Enabling mahinga kai; and
> 3. Maintaining or where degraded restoring the mauri of indigenous ecosystems.

Submitter (S)	Decision Requested
S109.052 Department of Conservation	Retain ECO-O4 as notified
S115.083 Kevin Robertson S143.094 Rural Ratepayers Group S148.095 Alistair & Bernadette Hunt S60.085 Ronald Crispin S68.203 John Baynes S126.082 Southland Federated Farmers of NZ	Amend ECO-O4: 3. 'enabling customary use <u>upon landowner consent</u> A concern that has been raised is the level of public accessibility that may be required to be provided to enable customary use. Consideration also may need to be given to appropriate compensation where protection / enablement of customary use comes at a cost to the landowner.
FS25.028 Stoney Creek Station Ltd	Allow S126.082 Southland Federated Farmers of NZ

9.5.3 The Panel acknowledges the submission supporting the objective. As this provision has been revised, submission S109.052 Department of Conservation is accepted in part.

9.5.4 Kevin Robertson and others seek an addition referring to landowner approval. The Panel does not consider that necessary. There are many provisions in the Plan where the same issue could be raised, but landowner property rights prevail. Accordingly, submissions S115.083 Kevin Robertson and others are rejected.

Submitter (S)	Decision Requested
S139.015 Hokonui Rūnanga Inc	Delete ECO-O4. .It is also inconsistent with ECO-P8 & ECO- P10 which apply more broadly than SNAs. The objectives and policies should align under s75(1) of the RMA. ECO-O4 is a policy rather than objective.
S85.021 Environment Southland	Include a new sub point '<u>takes into account the principles (sic) to Te Titiriti</u>**'.** Replace SNAs with <u>"indigenous biodiversity".</u>

9.5.5 The Panel considers an objective in this chapter needs to refer to cultural values because of the relationship of all Māori to indigenous biodiversity. The Panel views the Hokonui Rūnanga submission to delete the objective as a corollary to their submission to Objective ECO-O3 seeking rewording to refer to mana whenua values and considers their submission here in the context of a more relevant objective. The Hokonui Rūnanga submission seeks that:

- Indigenous biodiversity is recognised as a taonga to mana whenua;
- The relationship of mana whenua and their customs and traditions with indigenous vegetation and ecosystems is recognised and provided for;
- and particular reference to kaitiakitanga, mahinga kai and mauri.

9.5.6 The Panel agrees these are suitable for inclusion in an objective. However, the Panel does not consider that fulsome wording in relation to the particular values, as notified or as requested, are needed in the objective, because detail is more relevant at a policy level.

9.5.6 Environment Southland seeks widening of the objective to refer to indigenous biodiversity rather than SNAs and the Panel agrees that is appropriate.

9.5.7 Submissions S139.014, S139.015 Hokonui Rūnanga Inc and S85.021 Environment Southland are accepted in part by replacing Objective ECO-O4 with the following:

ECO-O4 Indigenous biodiversity is recognised as a taonga to mana whenua and ~~T~~the relationship of *mana whenua* and their customs and traditions with ~~Significant Natural Areas~~ indigenous biodiversity is recognised and provided for.~~including through:~~

~~1. Facilitation and support for the exercise of kaitiakitanga, in relation to indigenous species and habitats;~~

~~2. Maintenance, enhancement, and restoration of habitats that support mahinga kai activities and sustain taonga species; and~~

~~3. Enabling customary use.~~

9.6 Additional Objectives Sought

Submitter (S) Further Submitter (FS)	Decision Requested
S85.035 Environment Southland	Give full effect to the NPS-IB. 1. The inclusion of a new objective that promotes the restoration of indigenous biodiversity. 2. The inclusion of an objectives to 'manage the effects of Indigenous biodiversity outside of SNAs' to' acknowledge and identify Taonga' and to 'manage adverse effects on Highly Mobile Species). 3. Mapping of SNAs throughout GDC area. 4. The inclusion of an objective that provides for Tangata Whenua's active participation in other decision making relating to Biodiversity. 5. Recommend you work in partnership with Maori to ensure the implementation meets section 3.18 of the NPS.
FS5.45 Hamish Weir	Disallow S85.035 Environment Southland
FS20.007 Hokonui Runanga Inc	Allow in part S85.035 Environment Southland. Mana whenua prefer the management of all indigenous vegetation as it is a taonga, rather than a focus on SNAs; and an approach that encourages landowners to protect and enhance indigenous biodiversity
FS31.013 Department of Conservation	Allow S85.035 Environment Southland
S85.020 Environment Southland	We recommend that an additional objective is added to take account of section 3.16 in the NPS- IB. This meets the requirements of the NPS-IB providing the definition of 'appropriate' and the subsequent policies take account of sections 3.10, 3.11, 3.12, 3.14 3.15 and 3.17.
FS25.026 Stoney Creek Station Ltd	Disallow S85.020 Environment Southland

9.6.1 Environment Southland has requested that full effect be given to the NPSIB. As noted in paragraph 9.1.3 above, the Panel agrees and in addition to the changes sought by individual submissions relies on this submission to provide scope for the changes made to this chapter. It is the view of the Panel that neither the notified chapter nor that recommended in the s42A Report and supplementary evidence, correctly provided for the provisions of the NPSIB and that is highlighted by this submission.

9.6.2 Five issues have been referred to in the submission and the Panel responds on each as follows:

1. The inclusion of a new objective that promotes the restoration of indigenous biodiversity.

Revised Objective ECO-O2 refers to restoration and enhancement, supported by revised Objective ECO-O4, while revised Policies ECO-P2 and ECO-P3 include promotion of restoration and enhancement.

2. *The inclusion of an objectives to 'manage the effects of Indigenous biodiversity outside of SNAs' to' acknowledge and identify Taonga' and to 'manage adverse effects on Highly Mobile Species).*

   Clause 3.16 of the NPSIB (Indigenous biodiversity outside SNAs) is provided for throughout the revised policy framework by including reference to SNAs and other areas of significant indigenous biodiversity and significant habitats of indigenous fauna as separate from other areas of indigenous biodiversity. The revised Policy ECO-P5(3) refers explicitly to highly mobile fauna, mirroring the provisions of the NPSIB, while revised Objective ECO-O4incorporates reference to taonga.

3. *Mapping of SNAs throughout GDC area.*

   Mapping is the subject of the revised Policy ECO-P5.

4. *The inclusion of an objective that provides for Tangata Whenua's active participation in other decision making relating to Biodiversity.*

   Participation of mana whenua is provided for in revised Objective ECO-O4 and Policies ECO-P3, ECO-P4 and ECO-P5.

9.6.3 Having regard to these matters, submission S85.035 Environment Southland is accepted by adopting the changes made to the Ecosystems and Indigenous Biodiversity chapter throughout this Decision.

Submitter (S) Further Submitter (FS)	Decision Requested
S110.028 Royal Forest and Bird Society of NZ Inc	Add: ECO-05 Utilise the identification and restoration of Significant Natural Areas to enhance ecosystem services, community knowledge and education.
FS20.018 Hokonui Runanga Inc	Allow in part S110.028 Royal Forest and Bird Society of NZ Inc. The plan must achieve the purpose of the Act and give effect to relevant higher-order planning documents.
FS17.019 Federated Farmers	Allow in part S110.028 Royal Forest and Bird Society of NZ Inc as Federated Farmers supports promotion of education to manage SNAs, however the submitter's proposed wording goes beyond this. Federated Farmers proposes: Utilise the identification of Significant Natural Areas to enhance community knowledge and education.

9.6.4 The Panel considers the additional objective sought reads like a policy. In that regard, revised Policy ECO-P2 refers to “enhancing community knowledge and education”. Submission S110.028 Royal Forest and Bird Society of NZ Inc is accepted in part by the redrafting of that policy.

Submitter (S) Further Submitter (FS)	Decision Requested
S130.056 Mercury NZ Limited	New objective: Recognise functional and operational needs of critical infrastructure, whilst managing effects on biodiversity values to maintain and enhance where practicable.
FS31.017 Department of Conservation	Disallow S130.056 Mercury NZ Limited
FS24.037 Contact Energy Ltd	Allow S130.056 Mercury NZ Limited

9.6.5 The Panel considers the additional objective sought reads like a policy. In that regard, revised Policy ECO-P10 (notified ECO-P3) refers to “functional need and operational need”, as do a number of the revised rules. Submission S130.056 Mercury NZ Limited is therefore accepted.

10 Ecosystems and Indigenous Biodiversity: Policies

10.1 Introduction

10.1.1 Submission S85.035 Environment Southland has requested full effect be given to the NPSIB. The Panel agrees this is required and the provisions of the NPSIB are central to the changes made to this chapter. Notwithstanding the matters raised in individual submissions, the Panel relies also on this submission to provide scope for the redrafting of the content of this chapter.

10.1.2 In the context of the policies of this chapter, having regard to the submissions lodged and the NPSIB, additional policies are being included. This includes expanding existing policies to provide more clarity and ensure consistency with higher order documents. The Panel also considers it requires amending the order of the policies. In assessing submissions to the policies, the numbering from the notified Plan is used. In Panel decisions the revised numbering is adopted.

10.2 Policy ECO-P1

10.2.1 Policy ECO-P1 as notified is as follows:

Work in partnership with Local Authorities, mana whenua, stakeholders and landowners to:

1. identify Significant Natural Areas (SNAs) to include:
   (a) Areas identified as SNA-1 (Waterfall Range) and SNA-2 (Pukerau Red Tussock Reserve) on the planning maps, and
   (b) A variation to the Proposed District Plan to identify areas that meet the criteria set out in Appendix 4; and
2. map and describe each specified highly mobile fauna area.

Submitter (S) Further Submitter (FS)	Decision Requested
S109.053 Department of Conservation S126.083 Southland Federated Farmers of NZ S115.084 Kevin Robertson S143.095 Rural Ratepayers Group S148.096 Alistair & Bernadette Hunt S60.086 Ronald Crispin S68.204 John Baynes	Retain as notified ECO-P1
S105.020 Farm Manager - Wantwood Station S127.020 Peters Farm Ltd Karen Peters S104.020 McLeod- Wantwood Trust/Wantwood Station	Amend ECO -P1 as follows: (a) Areas identified as SNA-1 ~~(Waterfall Range)~~ This policy suggests that the whole Waterfall Range is an SNA-1 which is incorrect
FS17.020 Federated Farmers	Allow S104.020 McLeod- Wantwood Trust/Wantwood Station
S139.016 Hokonui Rūnanga Inc	The policy as written doesn't quite make sense and it is not clear if it intended to apply to sites that meet the criteria in Appendix 4 now or only once they are mapped and listed in the plan. Amend to read:1. To identify as Significant Natural Areas (SNAs) ~~to include~~ : (a) Areas identified as SNA-1 (Waterfall Range) and SNA-2 (Pukerau Red Tussock Reserve) on the planning maps, and ~~A variation to the Proposed District Plan to identify~~ areas that meet the criteria set out in Appendix 4 once they are assessed and shown on the planning maps; and
S85.022 Environment Southland	Policy regarding SNAs should be "to identify all areas of significant indigenous vegetation or significant habitats of indigenous fauna and include them in the district plan as SNAs" Identify by undertaking a district wide assessment using partnerships, transparency, quality, access, consistency and boundaries Policy regarding Highly Mobile Fauna should be 'To provide information to the community about Highly Mobile Species, their habitat and the management of adverse effects' and to amend the Plan, if required once Highly Mobile Species areas have been identified in the Policy Statement.

10.2.2 The submissions in support of the policy are acknowledged. As the provision is being amended submissions S109.053 Department of Conservation and others are accepted in part.

10.2.3 Since the Proposed Plan was notified the NPSIB has been amended to defer mapping of additional SNAs for three years, which has altered the Council programme of work.

10.2.4 Matt Heale at paragraph 341 of his s42A Report advised:

> Since notification of the PDP the Biodiversity Technical Working Group (BTWG) was established to review existing SNA mapping. Councils' consultant Ecologist has reviewed the feedback of the BTWG and refined SNA mapping using the criteria from the NPS-IB and SRPS. This mapping (Appendix G) has been done remotely and differentiates between areas of indigenous biodiversity (IVAs) and SNAs/SIVAs to help inform which areas are covered by ECO-R1 and the definition of SNA/SIVA.

10.2.5 The Panel considers a more accurate description would be that the BTWG reviewed indigenous vegetation mapping across the District identifying areas of significance that may meet the criteria to be considered as SNAs. At any time that the Council undertakes the collaborative process under the NPSIB to classify areas as SNA, this is a useful first step that identifies priority areas to be assessed.

10.2.6 The Panel notes the work of the BTWG was reviewed by an expert ecologist and refined, with the intention of showing areas of significance and other indigenous vegetation areas on the District Plan maps, with Rule ECO-R1 applying. Quite rightly in the Panel's view, Matt Heale concluded that was not appropriate, as no ground truthing had been undertaken and no landowner collaboration had taken place. He recommended therefore that the mapping sit outside the Plan to provide an indication of the areas where the Council considered there may be a need for a resource consent to clear indigenous vegetation.

10.2.7 Having regard to these matters, Matt Heale recommended amending Policy ECO-P1 as follows:

> Work in partnership with Local Authorities, *mana whenua*, stakeholders and landowners to:
> 1. Identify areas of indigenous vegetation;
> 2. identify all areas of significant indigenous vegetation or significant habitats of indigenous fauna as *Significant Natural Area*s (SNAs/SIVAs) to include:
> (a) Areas identified as SNA-1 (~~Waterfall Range~~ Dolamore Park/Croydon Bush) and SNA-2 (Pukerau Red Tussock Reserve) on the planning maps, and
> (b) ~~A variation to the Proposed District Plan to~~ identify areas that meet the terrestrial criteria set out in Appendix 3 of the Southland Regional Policy Statement; and
> 3. map and provide information about specified highly mobile fauna areas once they have been included in the Southland Regional Policy Statement ~~and describe each *specified highly mobile fauna* area.~~

10.2.8 The Panel foresees some difficulty with this policy in that:

(a) It equates SNAs and SIVAs (Significant Indigenous Vegetation Areas) and treats them the same, including having a common definition. Having regard to the NPSIB and the RPS, the Panel concludes that is not correct. SNAs are a formally recognised entity under the NPSIB and can only be given that status once the required procedure has been followed. In considering RMA consenting procedures (subdivision, land use consent, designations) the values of an area of indigenous vegetation may be shown to be significant, but the NPSIB procedure must be followed prior to that area being classified as an SNA.

(b) Adopting a forward thinking approach SNAs should not be listed in the policy. As with heritage items and significant trees, the Panel considers they should be included in a register (table) in the chapter or in a new schedule to the Plan. The Panel prefers the schedule option, as it can then also include information about specified highly mobile fauna areas in the future.

(c) The Panel does not consider it necessary to identify areas of indigenous vegetation outside of the Hokonui Hills on District plan maps. It is unclear for what purpose and what would be done with the information in the absence of connection to the rules, which will require landowners to verify the desktop work carried out to date. The Panel considers the focus should be on what is required to be shown on the District Plan maps and in the new schedule.

10.2.9 While the Panel is removing specific reference to the current SNAs in the policy, the Panel notes the submission of S105.020 Farm Manager - Wantwood Station and others seeking change to the Waterfall Range descriptor. The Panel corrects that in the new schedule to be included in the Plan. Accordingly, submissions S105.020 Farm Manager - Wantwood Station and others are accepted.

10.2.10 The Panel agrees with Matt Heale's recommended amendment to clause 3 as it is consistent with the NPSIB, and given submissions by Southland District Council, an addition is appropriate to reference adjoining territorial authorities and recognise that areas of indigenous vegetation straddle District boundaries.

10.2.11 Having regard to the above matters, submissions S105.020 Farm Manager - Wantwood Station and others, S139.016 Hokonui Rūnanga Inc and S85.022 Environment Southland are accepted in part by:

(a) amending notified Policy ECO-P1, re-numbered ECO-P5, as follows:

ECO-P~~1~~5 Work in partnership with ~~Local Authorities~~ Environment Southland, adjoining Councils, relevant agencies, mana whenua, stakeholders and landowners to include on the District Plan maps and in Schedule ECO-SCHED1:

(1) sites already identif~~y~~ied as Significant Natural Areas (SNAs) ~~to include:~~

~~(a) Areas identified as SNA-1 (Waterfall Range) and SNA-2 (Pukerau Red Tussock Reserve) on the planning maps, and~~

~~(b) A variation to the Proposed District Plan to identify areas that meet the criteria set out in Appendix 4; and~~

(2) ~~map and describe each specified highly mobile fauna area.~~ additional Significant Natural Areas that meet the criteria of Appendix 4, after following the process outlined;

(3) areas of significant indigenous vegetation and significant habitats of indigenous fauna within the Hokonui Hills; and

(4) areas of highly mobile fauna once they have been included in the Southland Regional Policy Statement.

(b) including a new schedule named "ECO-SCHED1 – Significant Natural Areas" at the end of the Ecosystems and Indigenous Biodiversity chapter listing Significant Natural Areas within the District, as follows:

ECO-SCHED1 – Significant Natural Areas		
Unique Identifier	**Site Name**	**Values**
SNA-1	Waterfall Range	Refer to: 6003lf HKNI55 Dolamore Park FINAL 08-05-2025.pdf
SNA-2	Pukerau Red Tussock Reserve	Refer to: 6003iu GORE22 PCL Red Tussock Reserve FINAL 20-2-24.pdf

10.3 Policy ECO-P2

10.3.1 Policy ECO-P2 as notified is as follows:

Allow activities within Significant Natural Areas that may impact indigenous biodiversity values where:

1. This is for a lawfully established activity; or
2. Their purpose is to facilitate or express Ngāi Tahu rights, interests, or cultural purpose; or
3. The activity has a functional need to be located in the area; or
4. The activity has no more than minor adverse effects on the significant indigenous vegetation or fauna habitat, and/or Ngāi Tahu cultural purpose.

Submitter (S) Further Submitter (FS)	Decision Requested
S130.057 Mercury NZ Limited	Retain ECO-P2
S3.007 Stoney Creek Station Limited S113.007 Trudy Bokser S116.007 Nathan Bokser S118.007 AW+ JA Johnston Family Trust S127.043 Peters Farm Ltd Karen Peters S18.009 Reaby Downs Farm Ltd S19.009 Karen Temple S20.009 Sarah and Peter Barclay S24.009 Helen McIntosh S68.011 John Baynes S117.007 Greg Bokser	Existing activities within or affecting SNAs are provided for in Policy 9 and Clause 3.15 of the NPSIB. Amend wording to better align with the NPSIB objectives. Amend ECO-P2 to read: ~~Allow~~ Enable activities within or affecting Significant Natural Areas that may impact the extent or ecological integrity of the SNA ~~indigenous biodiversity values~~ where:1. ~~This~~ The activity is ~~for~~ a lawfully established activity; or 2. Their purpose is to facilitate or express Ngāi Tahu rights, interests, or cultural purpose; or 3. The activity has a functional or operational need to be located in the area; or ...
S110.029 Royal Forest and Bird Society of NZ Inc	Those proposing activities within these areas should have to demonstrate that there is nowhere else on their property where this activity can take place practicably. Amend: 3. The activity has a functional need to be located in the area and there are no practicable alternative locations; or
FS5.35 Hamish Weir	Disallow in part S110.029 Royal Forest and Bird Society of NZ Inc Suggest reduction of tone to "and alternatives have been considered'.
FS17.021 Federated Farmers FS24.031 Contact Energy Ltd FS25.031 Stoney Creek Station Ltd	Disallow S110.029 Royal Forest and Bird Society of NZ Inc
FS30.070 Transpower NZ Limited	Disallow S110.029 Royal Forest and Bird Society of NZ Inc as there may be practicable alternative locations for activities, but these locations may have cultural or landscape values.
S101.052 Transpower NZ Limited S112.064 Waka Kotahi NZ Transport Agency	It is equally important to provide for activities that have an operational need for a location Amend Policy ECO-P2 (...) 3. The activity has a functional need or operational need to be located in the area; or 4. (...)
FS17.022 Federated Farmers FS25.029 Stoney Creek Station Ltd	Allow S101.052 Transpower NZ Limited
FS14.017 NZ Transport Agency Waka Kotahi	Allow S112.064 Waka Kotahi NZ Transport Agency
S128.024 Greenbriar Ltd.	ECO-P2 Allow activities within Significant Natural Areas that may impact indigenous biodiversity values where: 1. This is for a lawfully established activity; or 2. Their purpose is to facilitate or express Ngāi Tahu rights, interests, or cultural purpose; or 3. The activity is locationally constrained or has a functional and/or operational need to be located in the area; or 4. The activity has no more than minor adverse effects on the significant indigenous vegetation or fauna habitat, and/or Ngāi Tahu cultural purpose.
FS25.036 Stoney Creek Station Ltd	Allow
S144.007 Contact Energy Limited	ECO-P2 does not suitably recognise that certain activities may be appropriate to locate within SNAs provided that effects are managed.
FS21.075 Yrless Limited FS25.034 Stoney Creek Station Ltd	Allow S144.007 Contact Energy Limited
FS25.033 Stoney Creek Station Ltd	Allow
S115.085 Kevin Robertson S143.096 Rural Ratepayers Group S148.097 Alistair & Bernadette Hunt S60.087 Ronald Crispin S68.205 John Baynes S126.084 Southland Federated Farmers of NZ	The proposed policy fails to fully acknowledge the role of landowners in achieving environmental outcomes. The plan needs to provide for minor works undertaken as part of normal farming activities. Amend ECO-P2: ~~Allow~~ Enable activities within Significant Natural Areas that may impact indigenous biodiversity values where: 1. This is for the maintenance and development of a lawfully established activity;

FS5.36 Hamish Weir FS25.037 Stoney Creek Station Ltd	Allow S126.084 Southland Federated Farmers of NZ
S109.054 Department of Conservation	Remove ECO-P2 or re-write this policy to accurately reflect the exceptions and application of the effects management hierarchy and other requirements to align better with the NPS IB. ~~Allow activities within Significant Natural Areas that may impact indigenous biodiversity values where: 1. This is for a lawfully established activity; or 2. Their purpose is to facilitate or express Ngāi Tahu rights, interests, or cultural purpose; or 3. The activity has a functional need to be located in the area; or 4. The activity has no more than minor adverse effects on the significant indigenous vegetation or fauna habitat, and/or Ngāi Tahu cultural purpose.~~
FS5.34 Hamish Weir FS17.023 Federated Farmers FS14.016 NZ Transport Agency Waka Kotahi FS25.030 Stoney Creek Station Ltd	Disallow S109.054 Department of Conservation
S139.018 Hokonui Rūnanga Inc	ECO-P2, P3, P4, and P7 all direct the management of activities in SNAs and appear to contradict each other. There should also be some encouragement for landholders to have sites assessed and manage their activities in accordance with them. Delete and replace with: Allow subdivision, use or development of land or other activities in or adjoining Significant Natural Areas provided: (i) Any adverse effects of the activity on the ecological values, functioning or integrity of the site, its mauri or value as mahinga kai is minor; or (ii) The activity has a functional or operational need to occur in that area and any adverse effects on the matters listed in (i) above are avoided or offset in accordance with ECO-P11; or (iii) The activity is provided for and undertaken in accordance with an approved biodiversity management plan for the site.
FS17.024 Federated Farmers FS25.035 Stoney Creek Station Ltd	Disallow S139.018 Hokonui Rūnanga Inc
S85.023 Environment Southland	Change point 4 to: The activity is no greater in intensity, scale or character and does not result in the loss of extent or degradation of ecological integrity**.** This is required to make the policy consistent with the NPS-IB clause 3.15, 3.17 and 3,14
FS24.032 Contact Energy Ltd FS25.032 Stoney Creek Station Ltd	Disallow S85.023 Environment Southland

10.3.2 The submission in support of the policy is acknowledged. As the provision is being amended submission S130.057 Mercury NZ Limited is accepted in part.

10.3.3 The submissions to this policy are wide ranging, generally predicated on the basis that submitters seek better alignment with the NPSIB and including the following:

- Provide for existing activities (Stoney Creek Station and others, Kevin Roberstson and others)
- Require there are no practical alternative locations (Forest and Bird)
- Recognise operational need (Stoney Creek Station and others, Transpower, NZTA)
- Acknowledge some activities are locationally constrained (Greenbriar)
- Include reference to the effects management hierarchy and exceptions provided by the NPSIB (DoC)
- Allow subdivision, use and development where cultural effects are minor (Hokonui Rūnanga)
- Limit scale of adverse effects (Environment Southland)

10.3.4 At paragraphs 366 - 388 of his s42A Report, Matt Heale provides a comprehensive assessment of points raised and in many cases is able to highlight provisions in other policies that link to the submission points. The Panel is in general agreement with that assessment.

10.3.5 Matt Heale recommended changes to the policy in his report, and again later in his supplementary evidence dated 20 February 2025 as follows:

Enable ~~Allow~~ activities within or affecting ~~*Significant Natural Areas*~~ SNA's/SIVAs that may impact ~~indigenous biodiversity values~~ the extent or ecological integrity of the SNA/SIVA where:

1. This is for a lawfully established activity; or
2. Their purpose is to facilitate or express Ngāi Tahu ~~rights, interests, or cultural purpose~~ cultural values as listed in xx
3. The activity has a *functional* need *or operational need* to be located in the area and there are no practicable alternative locations; or
4. The activity has no more than minor adverse *effect*s on the significant *indigenous vegetation* or fauna habitat, and/or Ngāi Tahu cultural ~~Purpose~~ values as listed in XX;
5. Activities are consistent with a biodiversity covenant or management plan for the purpose of protecting or restoring the SNAs/SIVAs ecological values; or
6. The activity is no greater in intensity, scale or character: or
7. The activity involves the removal of exotic species and pest plants and pest animals in accordance with the Regional Pest Management Plan.

10.3.6 The Panel agrees with the intent of many of the changes recommended, but as the NPSIB includes relevant provisions that apply to the effect of activities on SNAs and indigenous biodiversity outside of SNAs, as in NPSIB clause 3.16, the Panel considers Plan policy should differentiate between SNAs and areas of significant indigenous vegetation and significant habitats of indigenous fauna, and other areas of indigenous vegetation. The Panel also considers, in order to avoid any uncertainty or confusion, the language and matters covered should be more closely linked to the NPSIB. The NPSIB is concerned with functional and operational need in relation to activities affecting Significant Natural Areas but does not otherwise reference the matter in relation to indigenous biodiversity more broadly. The Panel consider this in the context of notified ECO-P3, and otherwise relies on provisions in the Infrastructure chapter to manage the matter of functional need or operational need, consistent with direction in the RPS.

10.3.7 Having regard to the above matters, submissions S3.007 Stoney Creek Station Limited and others; S110.029 Royal Forest and Bird Society of NZ Inc; S101.052 Transpower NZ Limited; S112.064 Waka Kotahi NZ Transport Agency; S128.024 Greenbriar Ltd; S144.007 Contact Energy Limited; S115.085 Kevin Robertson and others; S109.054 Department of Conservation; S139.018 Hokonui Rūnanga Inc and S85.023 Environment Southland are accepted in part by amending replacing Policy ECO-P2 with the following:

ECO-P~~2~~6 ~~Allow activities w~~Within Significant Natural Areas ~~that may impact indigenous biodiversity values where~~ and other areas of significant indigenous vegetation and significant habitats of indigenous fauna, allow:

1. ~~this is for a~~ continuation of existing lawfully established activit~~y~~ies provided they:

   (a) are no greater in intensity, scale or character than at [notification date of the decision]; and

   (b) do not result in the loss of extent, or degradation of ecological integrity; or

2. ~~their purpose is to facilitate or express Ngāi Tahu rights, interests, or cultural purposes~~ sustainable customary use of indigenous biodiversity conducted in accordance with tikanga; or

3. ~~the activity has a functional need to be located in the area~~ the clearance of indigenous vegetation within areas subject to a biodiversity covenant for the purpose of protecting, restoring or accessing the ecological values of an SNA, area or habitat; or

4. ~~the activity has no more than minor adverse effects on the significant indigenous vegetation or fauna habitat, and/or Ngāi Tahu cultural purpose~~ clearance of indigenous vegetation

   (a) to address a high risk to public health or safety; or

   (b) where it is unavoidable while removing exotic species and plants in accordance with any National or Regional Pest Management Plan approved under the Biosecurity Act 1993

ECO-P7 Where the continuation of existing lawfully established activities gives rise to adverse effects on a Significant Natural Area, an area of significant indigenous vegetation or significant habitat of indigenous fauna that is greater in intensity, scale or character than at 4 August 2023, then the activity must be assessed as a new activity.

10.4 Policy ECO-P3

10.4.1 Policy ECO-P3 as notified is as follows:

Any new subdivision, use, or development shall avoid adverse effects on an SNA that result in:

1. loss of ecosystem representation and extent;
2. disruption to sequences, mosaics, or ecosystem function;
3. fragmentation of SNAs or the loss of buffers or connections within an SNA;
4. reduction in the function of the SNA as a buffer or connection to other important habitats or ecosystems; and
5. a reduction in the population size or occupancy of Threatened or At-risk (declining) species that use an SNA for any part of their life cycle;

Unless they relate to:

6. Construction of specified infrastructure that provides significant national or regional public benefit;
7. Mineral and aggregate extraction that provides significant national public benefit that could not otherwise be achieved using resource in New Zealand;
8. The operation or expansion of any coal mine that was lawfully established before 4 August 2023, except that after 31 December 2030 this exception applies only to coal mines that extract Coking coal; and
9. There is a functional need or operational need to be in that particular location and there are no practicable alternative locations.

Submitter (S) Further Submitter (FS)	Decision Requested
S128.025 Greenbriar Ltd. S109.055 Department of Conservation S112.065 Waka Kotahi NZ Transport Agency S85.024 Environment Southland S126.085 Southland Federated Farmers of NZ S132.050 KiwiRail Holdings Ltd S115.086 Kevin Robertson S143.097 Rural Ratepayers Group S148.098 Alistair & Bernadette Hunt S60.088 Ronald Crispin S68.206 John Baynes	Supports ECO-P3
FS25.039 Stoney Creek Station Ltd	Disallow S128.025 Greenbriar Ltd
S101.053 Transpower NZ Limited	Clause 1.3(3) of the NPSIB confirms that the NPSIB does not apply to the National Grid. Amend ECO-P3 as follows: (...) Unless they relate to: x. The operation, maintenance, upgrading and development of the National Grid; (...)
S130.058 Mercury NZ Limited	Any new subdivision, use, or development shall avoid adverse effects on an SNA that result in: 6. Construction, development, upgrade, or maintenance of specified infrastructure that provides ~~significant~~ national benefit or significant regional public benefit;
S113.008 Trudy Bokser S116.008 Nathan Bokser S118.008 AW+ JA Johnston Family Trust S127.044 Peters Farm Ltd Karen Peters S18.010 Reaby Downs Farm Ltd S19.010 Karen Temple S20.010 Sarah and Peter Barclay S24.010 Helen McIntosh S68.012 John Baynes	Amend ECO-P3 to read: Any new subdivision, use, or development shall avoid adverse effects on an SNA that result in: 1. loss of ecosystem representation and extent; Unless: 6A. The activity is required to address a high risk to public health or safety. or: The activity relates to: ~~Unless they relate to:~~
S117.008 Greg Bokser S3.008 Stoney Creek Station Limited	Align objectives and policies with the NPSIB. Amend ECO-P3 to read: Any new subdivision, use, or development shall avoid adverse effects on an SNA that result in: 1. loss of ecosystem representation and extent; Unless: 6A. The activity is required to address a high risk

	to public health or safety. or: The activity relates to: ~~Unless they relate to:~~...
FS17.025 Federated Farmers	Allow S3.008 Stoney Creek Station Limited
S139.019 Hokonui Rūnanga Inc	ECO-P2, P3, P4, and P7 all direct the management of activities in SNAs and appear to contradict each other. Delete ECO-P3 and replace with new policy as per ECO-P2.
FS17.026 Federated Farmers FS25.038 Stoney Creek Station Ltd	Disallow S139.019 Hokonui Rūnanga Inc

10.4.2 The submissions in support of the policy are acknowledged. As the provision is being amended submissions S128.025 Greenbriar Ltd and others are accepted in part.

10.4.3 Matt Heale at paragraphs 395 - 412 of his s42A Report provides a comprehensive assessment of these submissions. The Panel agrees this policy is appropriate recognising the provisions of the NPSIB and the RPS and arising from that, given no further information was presented to the Panel from Hokonui Rūnanga regarding deletion of the policy, submission S139.019 is rejected.

10.4.4 With regard to Stoney Creek Station seeking an addition allowing removal of indigenous vegetation where there was a high risk to public health or safety, Matt Heale recommended an addition to notified Policy ECO-P2 adopting similar wording.

10.4.5 The Panel has adopted the approach used with regard to Notable Trees and accepted submission S3.008 Stoney Creek Station Limited in part by including the following in the revised notified Policy ECO-P2:

ECO-P~~2~~6 Within Significant Natural Areas and other areas of significant indigenous vegetation and significant habitats of indigenous fauna, enable:

…

4. clearance of indigenous vegetation
   (a) to address a danger to public health or safety

10.4.6 With regard to the Transpower submission, the Panel accepts that the NPSIB does not apply to the National Grid, and that for existing transmission lines removal of indigenous vegetation is subject to the provisions of Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009 (NESETA). As Policy ECO-P3 allows certain existing activities, the Panel recognise that this should also apply to maintenance, operation and repair of the National Grid.

10.4.7 Ainsley McLeod in her statement of evidence highlighted that where an application is required under the NESETA then the policy framework of the Plan is relevant in considering that application. Rather than making an addition to this policy referring to new development of the National Grid, the Panel considers a separate policy to be appropriate, other than notified ECO-P3, because the effects management hierarchy from the NPSIB will not apply to that activity.

10.4.8 Accordingly, submission S101.053 Transpower NZ Limited is accepted in part by including the following in the Plan:

ECO-P~~2~~6 Within Significant Natural Areas and other areas of significant indigenous vegetation and significant habitats of indigenous fauna, enable:

5. the maintenance, operation and repair of the National Grid.

10.4.9 The Panel is also replacing the reference to SIVA with its preferred phrase “areas of significant indigenous vegetation and significant habitats of indigenous fauna” and added additional wording to be consistent with the NPSIB. The Panel considers it appropriate to treat areas that have been identified as significant in the same way, whether under the NPSIB criteria or the RPS criteria, to ensure consistent outcomes are achieved for them. The Panel also considers that reference to the effects management hierarchy is best incorporated in this policy, rather than separately as in notified ECO-P4.

10.4.10 Submission S130.058 Mercury NZ Limited is accepted in part by amending notified Policy ECO-P3 as follows:

ECO-P~~3~~9 ~~Any n~~New subdivision, use or development~~, shall~~ excluding development or upgrade of renewable electricity generation assets and activities or National Grid assets or activities, avoids the following adverse effects on ~~an SNA~~ a Significant Natural Area or area of significant indigenous vegetation or significant habitat of indigenous fauna that result in:

1. loss of ecosystem representation and extent;
2. disruption to sequences, mosaics, or ecosystem function;
3. fragmentation of ~~SNAs~~ Significant Natural Areas or areas of significant indigenous vegetation or significant habitats of indigenous fauna or the loss of buffers or connections within ~~an SNA~~ them;
4. reduction in the function of ~~the SNA~~ a Significant Natural Area or area of significant indigenous vegetation or significant habitat of indigenous fauna as a buffer or connection to other important habitats or ecosystems; and
5. ~~a~~ reduction in the population size or occupancy of Threatened or At-risk (declining) species that use ~~an SNA~~ a Significant Natural Area or area of significant indigenous vegetation or significant habitat of indigenous fauna for any part of their life cycle;

and applies the effects management hierarchy to other adverse effects. ~~unless they relate to~~:

ECO-P10 New subdivision, use or development impacting on a Significant Natural Area or area of significant indigenous vegetation or significant habitat of indigenous fauna that is:

~~6~~1. construction or upgrade of specified infrastructure that provides significant national or regional public benefit; or

~~7~~2. mineral and aggregate extraction that provides significant national public benefit that could not otherwise be achieved using resource in New Zealand;

and

~~8. The operation or expansion of any coal mine that was lawfully established before 4 August 2023, except that after 31 December 2030 this exception applies only to coal mines that extract coking coal; and~~

~~9~~3. There is a functional need or operational need to be in that particular location and there are no practicable alternative locations; or

4. a single residential dwelling and any essential associated on-site infrastructure on an allotment created before 4 August 2023 where there is no practicable alternative location for the dwelling or infrastructure within the allotment; or

5 an area established and managed for a purpose other than the maintenance or restoration of indigenous biodiversity where the loss of indigenous biodiversity values is necessary to meet that purpose; or

6. for the purpose of maintaining or restoring a Significant Natural Area or area of significant indigenous vegetation or significant habitat of indigenous fauna that does not involve the permanent destruction of significant habitat;

applies the effects management hierarchy, or an alternative management approach when it is for purpose of maintaining or restoring a Significant Natural Area or area of significant indigenous vegetation or significant habitat of indigenous fauna.

10.4.11 Arising from that decision, to provide consistency with the NPSIB and also provide guidance to consent processes regarding the effects management hierarchy, the Panel considers the following policy is also required, as discussed further in relation to notified ECO-P11:

ECO-P~~11~~12 ~~Provide for biodiversity offsets and compensation to manage residual adverse effects of an activity where~~ Where the effects management hierarchy is applied it is necessary to

demonstrate:

1. ~~The goal of the biodiversity offsets is no net loss and, preferably, a net gain of biodiversity of similar species and location where practicable~~ how each step of the effects management hierarchy has been applied~~;~~ and

~~2. The conservation outcomes are measurable and positive; and~~

~~3~~2. ~~The~~ the relevant principles are followed, as outlined in Appendix 6 when biodiversity offsett~~s~~ing or biodiversity compensation are ~~in accordance with best practice, including but not limited to New Zealand Government guidance on biodiversity offsetting~~ used.~~,~~; ~~and~~

~~4. Off-setting and compensation packages are consistent with Ngāi Tahu cultural purposes.~~

10.5 Policy ECO-P4

10.5.1 Policy ECO-P4 as notified is as follows:

Manage any adverse effects on an SNA from a new subdivision, use or development relating to the following matters in accordance with the effects management hierarchy:

1. Construction of specified infrastructure that provides significant national or regional public benefit:
2. Mineral and aggregate extraction that provides significant national public benefit that could not otherwise be achieved using resource in New Zealand;
3. The operation or expansion of any coal mine that was lawfully established before 4 August 2023,
4. a single residential dwelling on an allotment created before 4 August 2023 and there is no practicable location within the allotment for dwelling construction and on site infrastructure to avoid adverse effects outlined in ECO-P3(1) to ECO-P3(5),
5. maintaining or restoring an SNA and this does not involve the permanent destruction of significant habitat of indigenous biodiversity,
6. An activity associated with the harvest of indigenous tree species from a SNA carried out in accordance with a forest management plan or permit under part 3A of the Forests Act 1949, such as track clearance and timber storage, but not the harvesting of trees itself

Submitter (S)	Decision Requested
S109.056 Department of Conservation S112.066 Waka Kotahi NZ Transport Agency S128.026 Greenbriar Ltd. S132.051 KiwiRail Holdings Ltd	Retain as notified
S101.054 Transpower NZ Limited	As the NPSIB does not apply to the National Grid, amend Policy ECO-P4 as follows "With the exception of the operation, maintenance, development and upgrading of the National Grid, m ~~M~~anage any adverse effects on an SNA from a new subdivision, use or development relating to the following matters in accordance with the effects management hierarchy: ..."
S85.025 Environment Southland	The NSPIB allows for the harvesting of indigenous tree species carried out in accordance with a sustainable forest management plan or permit under Part 3A of the Forest Act 1949. Remove~~ 'but not the harvesting of trees itself'.~~
FS17.027 Federated Farmers	Allow S85.025 Environment Southland
S139.020 Hokonui Rūnanga Inc	ECO-P2, P3, P4, and P7 all direct the management of activities in SNAs and appear to contradict each other. Delete ECO-P4 and replace with new policy as per ECO-P2.

10.5.2 The submissions in support of the policy are acknowledged. As elements of the provision are being relocated to notified ECO-P3, submissions S109.056 Department of Conservation and others are accepted in part.

10.5.3 The Panel agrees that this policy (and Policies ECO-P3 and ECO-P4) is appropriate, recognising the provisions of the NPSIB and the RPS, but prefers that the content is reflected

in amendment to notified ECO-P3, re-numbered ECO-P6. Accordingly, submission S139.019 Hokonui Rūnanga is accepted in part.

10.5.4 The Panel agrees with Environment Southland that the wording of clause (6) appears clumsy. The Panel considers that this aspect of the policy is better addressed in an amendment to notified policy ECO-P5, so that all forestry matters are in one policy. Accordingly, submission S85.025 Environment Southland is accepted in part.

10.5.5 With regard to the Transpower submission, the matters raised are addressed in the decision on notified ECO-P3 in section 10.4 above, and in an additional policy specific to the National Grid, such that submission S101.054 Transpower NZ Limited is accepted in part.

10.5.6 As a consequence of reallocating the content of notified ECO-P4 to other policies, this provision is deleted from the Plan.

10.6 Policy ECO-P5

10.6.1 Policy ECO-P5 as notified is as follows:

Plantation Forest activities in any existing plantation forest within a SNA must be managed in a manner that:

1. Maintains indigenous biodiversity in the SNA as far as practicable while providing for plantation forest activities to continue, and
2. Maintains the long-term populations of any Threatened or At-risk (declining) species present in the area.

Submitter (S) Further Submitter (FS)	Decision Requested
S85.026 Environment Southland	Support ECO-P5
S109.057 Department of Conservation	Retain ECO-P5 with the following amendments (or words to similar effect): Plantation Forest activities in any existing plantation forest within a SNA must be managed in a manner that: 1. Maintains indigenous biodiversity in the SNA as far as practicable while providing for plantation forest activities to continue, and 2. Maintains and enhances the long-term populations (including population size, age structure and distribution) of any Threatened or At Risk (declining) species present in the area.
S139.023 Hokonui Rūnanga Inc	There are indigenous plant species that are important taonga species found in SNAs, but which are not included in subclause 2. Add a new subclause 3 which reads: "maintains the long-term population and health of all taonga species listed in schedule XX."
S110.030 Royal Forest and Bird Society of NZ Inc	This needs to be updated. Wilding seedling spread is a constant challenge. Change: ~~Plantation~~ Commercial Forest activities in any existing ~~plantation~~ commercial forest within a SNA must be managed in a manner that: 1. Maintains indigenous biodiversity in the SNA as far as practicable while providing for ~~plantation~~ commercial forest activities to continue, and Maintains the long-term populations of any Threatened or At Risk (declining) species present in the area; and 3. Does not produce any wilding seedlings or ongoing control must be implemented within a 10km distance of the planting.
FS10.001 Port Blakely Limited	Disallow S110.030 Royal Forest and Bird Society of NZ Inc. Wilding pines from commercial forestry is already regulated by the NES-CF and the Southland Regional Pest Management Plan.

10.6.2 The submission in support of the policy is acknowledged. As the provision is being amended submission S85.026 Environment Southland is accepted in part.

10.6.3 Having reviewed NPSIB clause 3.14, the Panel agrees with Matt Heale's recommendation to accept in part the Department of Conservation submission, noting the NPSIB clause does not provide for "enhancement", only the maintenance of long-term populations of any Threatened or At-risk (declining) species

10.6.4 The Panel agrees with Forest and Bird that the term "Plantation Forest" requires updating and accepts the advice of Matt Heale that management of wilding trees is best dealt with under the Pest Management Plan. The Panel also notes the National Environmental Standard for Commercial Forestry requires assessment of wilding tree risk and control, and it is therefore unnecessary for the District Plan to include provisions on wilding trees.

10.6.5 No evidence has been received from Hokonui Rūnanga with regard to taonga species and in the absence of this the Panel relies on the wording in the NPSIB. Accordingly, submission S139.023 Hokonui Rūnanga Inc is rejected.

10.6.6 Submissions S109.057 Department of Conservation and S110.030 Royal Forest and Bird Society of NZ Inc are accepted in part by amending Policy ECO-P5, incorporating additions from deleted ECO-P4, as follows:

ECO-P~~5~~8 Forestry activities within a Significant Natural Area or area of significant indigenous vegetation or significant habitat of indigenous fauna are managed as follows:

1. harvest of indigenous trees is carried out in accordance with a forest management plan or permit under Part 3A of the Forests Act 1949, and the effects management hierarchy is used to manage adverse effects of associated activities other than the harvest of trees;

2. ~~Plantation~~ Commercial Forest activities in any existing ~~plantation~~ commercial forest ~~within a SNA must be managed in a manner that~~:

   a. Maintain~~s~~ indigenous biodiversity ~~in the SNA~~ as far as practicable while providing for ~~plantation~~ commercial forest activities to continue, and

   b. Maintain~~s~~ the long-term populations (including population size, age structure and distribution) of any Threatened or At-risk (declining) species present in the area.

10.7 Policy ECO-P6

10.7.1 Policy ECO-P6 as notified is as follows:

Promote the restoration of indigenous biodiversity by prioritising:
1. SNAs whose ecological integrity is degraded:
2. threatened and rare ecosystems representative of naturally occurring and formerly present ecosystems:
3. areas that provide important connectivity or buffering functions:
4. natural inland wetlands whose ecological integrity is degraded or that no longer retain their indigenous vegetation or habitat for indigenous fauna:
5. areas of indigenous biodiversity on specified Māori land where restoration is advanced by the Māori landowners:
6. any other priorities specified in regional biodiversity strategies or any national priorities for indigenous biodiversity restoration

Submitter (S) Further Submitter (FS)	Decision Requested
S109.058 Department of Conservation S128.027 Greenbriar Ltd. S85.027 Environment Southland	Retain as notified ECO-P6
S115.087 Kevin Robertson S143.098 Rural Ratepayers Group S148.099 Alistair & Bernadette Hunt S60.089 Ronald Crispin S68.207 John Baynes S126.086 Southland Federated Farmers of NZ	Amend ECO-P6: Promote the restoration of indigenous biodiversity by prioritising: (...) 7. initiatives by landowners, community groups and others to protect, restore and maintain areas of significant indigenous biodiversity.
FS5.37 Hamish Weir FS25.040 Stoney Creek Station Ltd	Allow S126.086 Southland Federated Farmers of NZ
S110.031 Royal Forest and Bird Society of NZ Inc	Add: 7. Land owned and/or managed by Council.
FS17.028 Federated Farmers	Allow S110.031 Royal Forest and Bird Society of NZ Inc

S139.024 Hokonui Rūnanga Inc	Restoration and enhancement of indigenous biodiversity is important, but Hokonui Rūnanga Inc does not agree that areas should be prioritised based solely on their current state of ecological degradation as measured using western ecological criteria. Subclause 5 should not be limited to Māori land; areas advanced by mana whenua anywhere in their takiwā for restoration should be a priority. Amend the policy: Promote the restoration of indigenous biodiversity by prioritising: 1. ~~SNAs whose ecological integrity is degraded:~~ sites and areas with degraded ecological integrity or mauri: 2. threatened and rare ecosystems representative of naturally occurring and formerly present ecosystems: 3. areas that provide important connectivity, seed sources or buffering functions: 4. ~~natural inland wetlands whose ecological integrity is degraded or that no longer retain their indigenous vegetation or habitat for indigenous fauna~~ areas advanced by mana whenua anywhere in the district: 5. ~~areas of indigenous biodiversity on specified Māori land where restoration is advanced by the Māori landowners~~ areas identified by landholders in farm or site management plans: any other priorities specified in regional biodiversity strategies, iwi planning documents or any national priorities for indigenous biodiversity restoration.
FS17.029 Federated Farmers	Disallow S139.024 Hokonui Rūnanga Inc

10.7.1 Policy ECO-P6 as notified is as follows:

Promote the restoration of indigenous biodiversity by prioritising:

1. SNAs whose ecological integrity is degraded:
2. threatened and rare ecosystems representative of naturally occurring and formerly present ecosystems:
3. areas that provide important connectivity or buffering functions:
4. natural inland wetlands whose ecological integrity is degraded or that no longer retain their indigenous vegetation or habitat for indigenous fauna:
5. areas of indigenous biodiversity on specified Māori land where restoration is advanced by the Māori landowners:
6. any other priorities specified in regional biodiversity strategies or any national priorities for indigenous biodiversity restoration

10.7.2 The submissions in support of the policy are acknowledged. As the provision is being amended submissions S109.058 Department of Conservation and others are accepted in part.

10.7.3 The Panel agrees with Kevin Robertson and others that as a priority regard should be given to landowners, community groups and others to protect, restore and maintain areas of significant indigenous biodiversity, and picking up on the submissions of Forest and Bird and Hokonui Rūnanga, that should also include the Council, government agencies and mana whenua.

10.7.4 Recognising the RPS assigns Environment Southland with the responsibility of managing water quality in wetlands, the Panel agrees with Hokonui Rūnanga that clause (4) should be deleted. The Panel also agrees with other changes sought by Hokonui Rūnanga and recommended in the s42A Report and supplementary evidence by Matt Heale, subject to rewording, for the reasons he gives.

10.7.5 Submissions S115.087 Kevin Robertson and others, S110.031 Royal Forest and Bird Society of NZ Inc and S139.024 Hokonui Rūnanga Inc are accepted in part by amending Policy ECO-6 as follows:

ECO-P~~6~~2 Promote the restoration and enhancement of indigenous biodiversity by prioritising:

1. Significant Natural Areas and areas of significant indigenous vegetation and significant habitats of indigenous fauna where ~~whose~~ ecological integrity or mauri is degraded~~:~~;

2. threatened and rare ecosystems representative of naturally occurring and formerly present ecosystems and taonga species~~:~~;

3. areas that provide important seed sources, connectivity or buffering functions~~:~~;

4. ~~natural inland wetlands whose ecological integrity is degraded or that no longer retain their indigenous vegetation or habitat for indigenous fauna:~~ planting of indigenous vegetation that supports wetland communities.

~~5. areas of indigenous biodiversity on specified Māori land where restoration is advanced by the Māori landowners:~~

~~6~~5. any other priorities specified in regional biodiversity strategies, iwi planning documents or any national priorities for indigenous biodiversity restoration~~.~~; and

6. initiatives by mana whenua, landowners, land managers (including the Council and government agencies), community groups and others to protect, restore and maintain areas of indigenous biodiversity.

10.8 Policy ECO-P7

10.8.1 Policy ECO-P7 as notified is as follows:

Protect, enhance and restore Significant Natural Areas by:
1. Minimising the loss, fragmentation and reduction of:
   (a) Significant Natural Areas
   (b) connections between Significant Natural Areas, and
   (c) threatened or at-risk and indigenous species populations;
2. Promoting the creation of connections and ecological corridors between Significant Natural Areas;
3. Promoting the use of eco-sourced species from the relevant ecological district;
4. Enabling opportunities for mana whenua to exercise their customary rights and responsibilities and mana whenua responsibilities as kaitiaki in restoring, protecting and enhancing areas of significant indigenous biodiversity; and
5. Supporting initiatives by landowners, community groups and others to protect, restore and maintain areas of significant indigenous biodiversity

Submitter (S) Further Submitter (FS)	Decision Requested
S85.028 Environment Southland	This policy should be re-numbered to policy 2 as protection of SNAs should sit higher than the enabling policies (2-6). Also include incentives and the inclusion of conditions in resource consents.
S109.059 Department of Conservation	Retain ECO-P7 with the following amendments (or words to the policies in the ECO chapter should be reordered so that this policy becomes ECO-P2. It is necessary to make mention of vegetation clearance within SNAs similar effect): 6. Avoid the clearance of indigenous vegetation and earthworks within SNAs unless it is for ...(permitted activities listed in ECO R1(1)).
FS17.030 Federated Farmers FS24.034 Contact Energy Ltd FS25.041 Stoney Creek	Disallow S109.059 Department of Conservation
S115.088 Kevin Robertson S143.099 Rural Ratepayers Group S148.100 Alistair & Bernadette Hunt S60.090 Ronald Crispin S68.208 John Baynes S126.087 Southland Federated Farmers of NZ	Amend ECO-P7: Protect, enhance and restore Significant Natural Areas by: (...)5. Supporting initiatives and enabling ~~by~~ landowners, community groups and others to protect, restore and maintain areas of significant indigenous biodiversity.
FS25.043 Stoney Creek Station Ltd	Allow S126.087 Southland Federated Farmers of NZ
S139.021 Hokonui Rūnanga Inc	ECO-P2, P3, P4, and P7 all direct the management of activities in SNAs and appear to contradict each other. Delete ECO-P4 and replace with new policy as per ECO-P2.
S139.025 Hokonui Rūnanga Inc	Amend this policy to apply to all indigenous ecosystems not just significant sites and combine with ECO-P10 to read: Maintain, ~~protect,~~ enhance and restore ~~Significant Natural Areas~~ indigenous biodiversity

	by: 1. Minimising the loss, fragmentation and reduction of: (a) Significant Natural Areas (b) connections between Significant Natural Areas, ~~and~~ (c) threatened or at risk and indigenous species populations; and (d) the mauri of indigenous ecosystems 2. Enhancing mahinga kai,~~2~~ 3. Promoting the creation of connections and ecological corridors between ~~Significant Natural Areas~~ areas of indigenous vegetation and habitats of indigenous fauna; 4. Maintaining viable populations of specified highly mobile fauna across their natural range; ~~3~~.**5.** Promoting the use of eco-sourced species from the relevant ecological district; 4**6.** Enabling opportunities for mana whenua to exercise their customary rights and responsibilities and mana whenua responsibilities as kaitiaki in encouraging the restoration, protection ~~and~~ or enhancement of areas of ~~significant~~ indigenous biodiversity and habitats; and ~~5~~. **7.** Supporting initiatives by landowners, community groups and others to protect, restore and maintain areas of ~~significant~~ indigenous biodiversity and habitats; 8. Applying the effects management hierarchy to address any adverse effects of subdivision, use or development; 9. Recognising the benefits of farm management practices and active management of indigenous biodiversity, including voluntary animal and plant pest control, livestock grazing management and legal protection; and 10. Developing a Biodiversity Strategy to encourage non- regulatory assistance and landowner engagement."
FS17.031 Federated Farmers	Disallow S139.025 Hokonui Rūnanga Inc
FS25.042 Stoney Creek Station Ltd	Disallow in part S139.025 Hokonui Rūnanga Inc. The inclusion of "indigenous biodiversity" in place of "Significant Natural Areas" fundamentally changes the directive provided in this policy, making it unnecessarily restrictive. However, the recognition of the benefits of farm management in terms of pest control and other biodiversity benefits, is supported.

10.8.2 The Panel agrees with Environment Southland and Department of Conservation that this policy should be relocated to earlier in the policy structure. Arising from these submissions, the Panel recognises that a better transition can be provided in the order of the policies and has changed the order of policies as a result.

10.8.3 The Panel does not agree with Environment Southland that reference should be made to incentives in the policy. The Panel does not have the delegation to commit the Council to financial expenditure, nor is it appropriate to single out one particular issue in the Plan. The Council has a number of tools available to it to incentivise desirable outcomes, including waiving consent fees, rates relief and grants. That is a matter to have regard to as part of its long term plan and annual plan considerations. In addition, the Panel does not consider it necessary to refer to conditions on resource consents in the Policy. Clause (1) refers to minimising the loss, fragmentation and reduction of SNAs and areas of significant indigenous vegetation and a number of methods are available to achieve that, including conditions on resource consents. The Panel does not consider it appropriate to select one method.

10.8.4 DoC seeks an addition linking of the policy to Rule ECO-R1. Matt Heale at paragraph 452 of his s42A Report recommended rejecting this submission because it would take the form of a rule. Elizabeth Williams in her statement of evidence agreed with that recommendation. Accordingly, submission S109.059 Department of Conservation is rejected.

10.8.5 Matt Heale at paragraph 452 of his s42A Report recommended accepting the submissions of Kevin Robertson and others as efforts to protect, restore, and maintain areas of indigenous biodiversity should not only be supported, but also enabled as this is consistent with SRPS policies. The Panel agrees.

10.8.6 The Panel agrees with Matt Heale at paragraph 452 of his s42A Report where in response to the Hokonui Rūnanga submissions he recommended rejecting the request to delete the policy as it deals with different issues to other policies referred to in the submission. Accordingly, submission S139.021 Hokonui Rūnanga Inc is rejected. However, with regard to submission S139.025 Hokonui Rūnanga Inc, Matt Heale accepted that changes are appropriate to the policy to better identify the issues of concern to mana whenua and the Panel adopts that advice. This was reinforced by evidence provided by Courtney Bennett and Amy Beran.

10.8.7 Submissions 115.088 Kevin Robertson and others are accepted; while submissions S85.028 Environment Southland, S109.059 Department of Conservation and S139.025 Hokonui Rūnanga Inc are accepted in part by revising Policy ECO-P7 as follows:

ECO-P~~7~~3 Protect, enhance and restore indigenous biodiversity by:

1. minimising the loss, fragmentation and reduction of:

   ~~(a) Significant Natural Areas~~

   (~~b~~a) connections between ~~*Significant Natural Areas*~~ areas of indigenous vegetation and habitats of indigenous fauna; ~~and~~

   (~~c~~b) threatened or at-risk and indigenous species populations, including taxa in the Department of Conservation Threat Categories 1 – 3a - nationally critical, nationally endangered and nationally vulnerable; and

   (c) the mauri of indigenous ecosystems.

2. promoting the creation of connections and ecological corridors between ~~Significant Natural Areas~~ areas of indigenous vegetation and habitats of indigenous fauna;

3. promoting the use of eco-sourced species from the relevant ecological district;

4. maintaining populations of highly mobile fauna across their natural range;

5. enabling mahinga kai;

4~~6~~. enabling opportunities for mana whenua to ~~exercise their customary rights and responsibilities and mana whenua responsibilities as kaitiaki in restoring, protecting and enhancing areas of~~ promote and participate in the restoration, protection and or enhancement of areas of ~~significant~~ indigenous biodiversity;

~~5~~7. supporting initiatives and enabling ~~by~~ landowners, community groups and others to protect, restore and maintain areas of ~~significant~~ indigenous biodiversity;

8. recognising the benefits of farm management practices and active management of indigenous biodiversity, including voluntary animal and plant pest control, livestock grazing management and legal protection;

9. providing for ecological enhancement works that will restore or enhance areas of indigenous biodiversity; and

10. enhancing community knowledge and education.

10.9 Policy ECO-P8

10.9.1 Policy ECO-P8 as notified is as follows:

When assessing consents for subdivision, land use and development, avoid effects which will:

1. Prevent an indigenous species or community being able to persist in their habitats in the ecological district;
2. Result in a degradation of the threat status, further measurable loss of indigenous cover or disruption to ecological processes, functions or connections in land environments in category one or two of the Threatened Environment Classification at the ecological district level;

3. Result in a reduction in the local population of threatened taxa in the Department of Conservation Threat Categories 1 – 3a - nationally critical, nationally endangered and nationally vulnerable; and
4. discourage mana whenua access to indigenous biodiversity for a mana whenua cultural purpose

Submitter (S) Further Submitter (FS)	Decision Requested
S139.026 Hokonui Rūnanga Inc	Policies should be explicit about the cultural values activities may affect. Amend subclause 4 to read:"~~discourage~~ Prevent or restrict mana whenua access to ~~indigenous~~ ~~biodiversity for a mana whenua cultural purpose~~ or use of mahinga kai"
S113.009 Trudy Bokser S116.009 Nathan Bokser S118.009 AW+ JA Johnston Family Trust S127.045 Peters Farm Ltd Karen Peters S18.011 Reaby Downs Farm Ltd S19.011 Karen Temple S20.011 Sarah and Peter Barclay S24.011 Helen McIntosh S68.013 John Baynes S117.009 Greg Bokser S3.009 Stoney Creek Station Limited	ECO-P8 has a different set of criteria to the NPSIB. Managing effects on indigenous biodiversity outside of SNAs by applying the effects management hierarchy would be in line with the NPSIB. Preferred relief: Withdraw ECO-P8 and redraft in consultation with key stakeholders, including Stony Creek Station. Include in the revised policy balanced provisions recognising that some vegetation removal is necessary and providing for this where effects are managed using the effects management hierarchy. Alternative relief**:** Amend Policy ECO-P8 to read: When assessing consents for subdivision, land use and development outside of SNAs, require applicants to demonstrate that effects on indigenous biodiversity will be managed by applying the effects management hierarchy., ~~avoid effects which will: 1. Prevent an indigenous species or community being able to persist in their habitats in the ecological district; 2. Result in a degradation of the threat status, further measurable loss of indigenous cover or disruption to ecological processes, functions or connections in land environments in category one or two of the Threatened Environment Classification at the ecological district level; 3. Result in a reduction in the local population of threatened taxa in the Department of Conservation Threat Categories 1 - 3a - nationally critical, nationally endangered and nationally vulnerable; and 4. discourage mana whenua access to indigenous biodiversity for a mana whenua cultural purpose~~
FS17.032 Federated Farmers	Allow S3.009 Stoney Creek Station Limited
S115.089 Kevin Robertson S143.100 Rural Ratepayers Group S148.101 Alistair & Bernadette Hunt S60.091 Ronald Crispin S68.209 John Baynes S126.088 Southland Federated Farmers of NZ	Amend ECO-P8: When assessing consents for subdivision, use and development within SNAs**,** avoid effects which will: (...)
FS25.045 Stoney Creek Station Ltd	Allow S126.088 Southland Federated Farmers of NZ
S109.060 Department of Conservation	Retain ECO-P8 with the following amendments (or words to similar effect): When assessing resource consents for subdivision, land use and development, avoid effects which will ... In relation to ECO-P8, point 3. add the following wording: 3 Categories 1 - nationally critical, nationally endangered, and nationally vulnerable, and At- Risk (Declining); Include a policy that addresses the management of indigenous vegetation clearance as set out in ECOR1.
FS25.044 Stoney Creek Station Ltd	Disallow S109.060 Department of Conservation

10.9.2 Matt Heale at paragraphs 462 - 476 of his s42A Report recommended accepting the submissions of Trudy Bokser and others to delete the policy as the matters contained in it are covered by other policies in this chapter. This recommendation was supported by DoC and Federated Farmers. The Panel prefers to grant the alternative relief to make it clear that significant adverse effects on areas of indigenous biodiversity that do not cross the threshold to be considered significant should be managed in accordance with the effects management hierarchy, as outlined in Clause 3.16 of the NPSIB.

10.9.3 Submissions S113.009 Trudy Bokser and others are accepted in part, and submissions S139.026 Hokonui Rūnanga Inc, S109.060 Department of Conservation and S115.089 Kevin Robertson are accepted in part by amending Policy ECO-P8 as follows:

ECO-P8~~1~~11 When ~~assessing consents for~~ managing new subdivision, land use and development~~, avoid effects which will~~:

1. ~~Prevent an indigenous species or community being able to persist in their habitats in the ecological district~~ apply the effects management hierarchy to significant adverse effects on indigenous biodiversity; and
2. otherwise avoid, remedy or mitigate adverse effects on indigenous biodiversity. ~~Result in a degradation of the threat status, further measurable loss of indigenous cover or disruption to ecological processes, functions or connections in land environments in category one or two of the Threatened Environment Classification at the ecological district level;~~
3. ~~Result in a reduction in the local population of threatened taxa in the Department of Conservation Threat Categories 1 – 3a - nationally critical, nationally endangered and nationally vulnerable; and~~
4. ~~discourage mana whenua access to indigenous biodiversity for a mana whenua cultural purpose.~~

10.10 Policy ECO-P9

10.10.1 Policy ECO-P9 as notified is as follows:

When assessing resource consents in Significant Natural Areas, consider the following matters:

1. The necessity for the activity to provide for critical infrastructure or renewable electricity generation;
2. formal protection and active management of all or part of any Significant Natural Area will occur as part of the subdivision, land use or development;
3. The extent to which the proposed activity recognises and provides for Ngāi Tahu cultural purposes, rights and interests;
4. The cumulative effects of activities within or adjacent to any area of indigenous vegetation or habitat;
5. The effects the activity may have on the introduction or spread of exotic weed species and pest animals both terrestrial and aquatic;
6. The impacts on mahinga kai activities and species;
7. The impact of the activity on the values of any Significant Natural Area, rare or threatened indigenous species or taonga species and how any potential impact could be avoided, remedied or mitigated; and
8. The appropriateness and effectiveness of any biodiversity offsetting or compensation in accordance with ECO – P7 to offset any residual adverse effects that remain after avoiding, remedying and mitigating measures have been applied.

Submitter (S) Further Submitter (FS)	Decision Requested
S112.067 Waka Kotahi NZ Transport Agency S132.052 KiwiRail Holdings Ltd S146.038 Southland District Council	Retain as notified ECO-P9
S85.029 Environment Southland	Change wording 9. 5 - remove word ~~'pest'~~ and replace with 'invasive'.
S130.059 Mercury NZ Limited	When assessing resource consents in Significant Natural Areas, consider the following matters: The necessity ~~for the activity~~ to provide for critical infrastructure or renewable electricity generation activities;
S109.061 Department of Conservation	It is unclear how this policy interacts with the other proposed policies in the ECO Chapter and may undermine the clear direction that they set; It is not a comprehensive list of criteria that a decision-maker would consider (that will be contextual) and so serves to skew the decision-making process under s

	104; It appears to replicate other policies and rules. Remove ECO-P9
S139.027 Hokonui Rūnanga Inc	Policies should be explicit about the cultural values. Amend ECO-P9 subclause 3 to read: "The extent to which the proposed activity ~~recognises and provides for Ngāi Tahu cultural purposes, rights and interests~~ will effect the mauri of the area or its values as mahinga kai" Delete subclause 6.
S113.010 Trudy Bokser S116.010 Nathan Bokser S118.010 AW+ JA Johnston Family Trust S127.046 Peters Farm Ltd Karen Peters S18.012 Reaby Downs Farm Ltd S19.012 Karen Temple S20.012 Sarah and Peter Barclay S24.012 Helen McIntosh S68.014 John Baynes S117.010 Greg Bokser S3.010 Stoney Creek Station Limited	Amend ECO-P9 to read: When assessing resource consents in Significant Natural Areas, consider the following matters: ... 5. The effects the activity may have on the introduction ~~or~~ spread or control of exotic pest plant and animal ~~weed~~ species and pest animals both terrestrial and aquatic; 8. The appropriateness and effectiveness of any biodiversity offsetting or compensation ~~in accordance with ECO - P7~~ to offset any residual adverse effects that remain after avoiding, remedying and mitigating measures have been applied. 9. Whether the activity is a lawfully established existing activity that is no grater in intensity, scale or character and will not result in a loss of extent or degradation of ecological integrity of a SNA.
FS17.033 Federated Farmers	Allow S3.010 Stoney Creek Station Limited
S115.090 Kevin Robertson S143.101 Rural Ratepayers Group S148.102 Alistair & Bernadette Hunt S60.092 Ronald Crispin S68.210 John Baynes S126.089 Southland Federated Farmers of NZ	Include in ECO-P9: When assessing resource consents in Significant Natural Areas, consider the following matters: 9. The necessity for the activity to provide for the maintenance and development of existing working pastoral farms to be innovative, to respond to changing climates, markets or global conditions, or to respond to technological advancements or changes in understandings around good management practice. 10. If the resource consent application is for a lawfully established activity.
FS25.048 Stoney Creek Station Ltd	Allow S126.089 Southland Federated Farmers of NZ

10.10.2 Matt Heale at paragraphs 484 - 496 of his s42A Report recommended accepting the submission of DoC to delete this policy. His key comment is made at paragraph 487 where he states:

> While ECO-P9 and ECO-P8 were modelled on the notified Te Tai o Poutini Plan, that Plan does not have the same context as Gore or the specific policies to implement the NPSIB. Retaining ECO-P9 may result in confusion as it is focussed on consideration of resource consents when really all policies and objectives should be considered when assessing a resource consent. I recommend deleting ECO-P8 for similar reasons. DoC also notes that ECO-P9 does not contain a comprehensive list of criteria that a decision maker would consider and would serve to skew decision making under RMA s104.

10.10.3 The Panel accepts with the recommendation, and notes Federated Farmers also agrees.

10.10.4 Submission S109.061 Department of Conservation is accepted by deleting Policy ECO-P9.

10.10.5 Consequential to deletion of the policy:

(a) Submissions S112.067 Waka Kotahi NZ Transport Agency, S132.052 KiwiRail Holdings Ltd and S146.038 Southland District Council supporting the policy are rejected.

(b) Submissions S85.029 Environment Southland, S130.059 Mercury NZ Limited, S139.027 Hokonui Rūnanga Inc, S113.010 Trudy Bokser and others, and S115.090 Kevin Robertson and others are accepted in part.

10.11 Policy ECO-P10

10.11.1 Policy ECO-P10 as notified is as follows:

> Maintain indigenous biodiversity across the district by:
> 1. Managing any significant adverse effects of new subdivision, use or development by applying the effects management hierarchy;

2. Managing the adverse effects of new subdivision, use or development on highly mobile fauna areas in order to maintain viable populations of specified highly mobile fauna across their natural range
3. Maintaining, and where appropriate enhancing or restoring, the functioning of ecological corridors and linkages;
4. Minimising adverse effects on, and encouraging mana whenua access to, areas of indigenous biodiversity which are significant to mana whenua;
5. Establishing a Biodiversity Stakeholder Group to review District Plan provisions, encourage non-regulatory assistance, and enhance landowner engagement;
6. Developing a biodiversity strategy that would consider free ecological surveys, financial support to Significant Natural Area landowners, rates remissions for Significant Natural Areas, and advice and support for local conservation groups and programmes;
7. Preserving protected wildlife; and
8. Recognising the benefits of farm management practices and active management of indigenous biodiversity, including voluntary animal and plant pest and stock control and/or formal legal protection.

Submitter (S) Further Submitter (FS)	Decision Requested
S112.068 Waka Kotahi NZ Transport Agency	Retain as notified ECO-P10
S139.028 Hokonui Rūnanga Inc	Combine with ECO-P7 (as amended in accordance with submission) and delete ECO- P10.
FS25.051 Stoney Creek Station Ltd	Disallow S139.028 Hokonui Rūnanga Inc. Retain ECO-P10 as a separate policy
S113.011 Trudy Bokser S116.011 Nathan Bokser S118.011 AW+ JA Johnston Family Trust S127.047 Peters Farm Ltd Karen Peters S18.013 Reaby Downs Farm Ltd S19.013 Karen Temple S20.013 Sarah and Peter Barclay S24.013 Helen McIntosh S68.015 John Baynes S3.011 Stoney Creek Station Limited	Amend ECO-P10 to read: Maintain indigenous biodiversity across the district by: ... 8. Recognising the benefits of farm management practices and active management of indigenous biodiversity, <u>including but not limited to</u> voluntary animal and plant pest and stock control, <u>fencing</u>, and/or formal legal protection. ...
FS17.034 Federated Farmers	Allow in part S3.011 Stoney Creek Station Limited
S115.091 Kevin Robertson S143.102 Rural Ratepayers Group S148.103 Alistair & Bernadette Hunt S60.093 Ronald Crispin S68.211 John Baynes S126.090 Southland Federated Farmers of NZ	Amend ECO-P10: Maintain indigenous biodiversity across the district by: (...) 5. Establishing a Biodiversity Stakeholder Group to review District Plan provisions, encourage <u>ongoing</u> non-regulatory assistance, and ~~enhance~~ <u>support</u> landowners <u>in their engagement with Council</u>**;** (...) 8. Recognising the benefits of farm management practices and active management of indigenous biodiversity, including <u>but not limited to</u> voluntary animal and plant pest and stock control, <u>farm fencing</u> and/or formal legal protection. The Council should look to provide financial assistance or rates rebates/remission for ratepayers with identified SNAs
FS25.052 Stoney Creek Station Ltd	Allow S126.090 Southland Federated Farmers of NZ
S85.030 Environment Southland	Do not support the need for a separate Gore specific group/strategy. Remove sub clause 5, amend sub clause 6 to be a <u>'biodiversity incentives strategy'.</u> Sub clause 8: change wording to ...<u>including the voluntary control of invasive plant and animal species and stock...</u>
FS17.035 Federated Farmers	Disallow S85.030 Environment Southland
S109.062 Department of Conservation	Retain ECO-P10 with the following amendments 9. <u>Protect indigenous biodiversity by managing the vegetation clearance and land disturbance.</u>
FS25.049 Stoney Creek Station Ltd	Disallow S109.062 Department of Conservation
S110.032 Royal Forest and Bird Society of NZ Inc	The effects should not have to be significant to justify a review of effects. Change: Maintain indigenous biodiversity across the district by: 1. Managing any ~~significant~~ adverse effects of new subdivision, use or development by applying the effects management hierarchy; Managing the adverse effects of new subdivision, use or development on highly mobile fauna areas in order to maintain ~~viable~~ populations of specified highly mobile fauna across their

	natural range.
FS25.050 Stoney Creek Station Ltd	Disallow S110.032 Royal Forest and Bird Society of NZ Inc

10.11.2 Matt Heale at paragraphs 503 - 517 of his s42A Report recommended amending this policy in response to changes sought by submitters.

10.11.3 The Panel has been mindful of the content of this policy in redrafting other provisions and arising from that agrees with Hokonui Rūnanga that the policy should be deleted. While the precise wording of clauses (1) - (4), (7) and (8) has not been carried over in all cases to other policies the Panel considers the intent has. With regard to other provisions:

(a) The current submission process removes the need for a group to be established to review the District Plan provisions. A Biodiversity Technical Working Group (BTWG) was established with the intent of assisting the process of identifying SNAs, but with a legislative hold being put on that process the work was not progressed. The NPSIB identifies that collaborative approach that must be followed when adopting the SNA identification process. That is slightly different to the purpose of the BTWG and in the view of the Panel does not require identifying in a policy. Nor does the Panel consider the BTWG should encourage non-regulatory assistance. That encouragement would be to the Council and other avenues are available through the Long Term and Annual Plan processes to achieve that.

(b) It is the role of Environment Southland to develop a biodiversity strategy and that is acknowledged by Matt Heale. The Panel agrees with his comment that clause (6) may be redundant and considers it should be deleted rather than amended. The clause sets out the outcome to be achieved by the strategy, which in some respects removes the need for the strategy. The Panel does not consider it appropriate to list the outcome sought in the strategy.

10.11.4 Submission S139.028 Hokonui Rūnanga Inc is accepted by deleting Policy ECO-P10.

10.11.5 Consequential to deletion of the policy:

(a) Submission S112.068 Waka Kotahi NZ Transport Agency supporting the policy is rejected.

(b) Submissions S85.030 Environment Southland, S113.011 Trudy Bokser and others, S115.091 Kevin Robertson and others, S109.062 Department of Conservation and S110.032 Royal Forest and Bird Society of NZ Inc are accepted in part.

10.12 Policy ECO-P11

10.12.1 Policy ECO-11 as notified is as follows:

Provide for biodiversity offsets and compensation to manage residual adverse effects of an activity where:

1. The goal of the biodiversity offsets is no net loss and, preferably, a net gain of biodiversity of similar species and location where practicable;
2. The conservation outcomes are measurable and positive; and
3. The biodiversity offsets or compensation are in accordance with best practice, including but not limited to New Zealand Government guidance on biodiversity offsetting; and
4. Off-setting and compensation packages are consistent with Ngāi Tahu cultural purposes.

Submitter (S) Further Submitter (FS)	Decision Requested
S128.028 Greenbriar Ltd. S130.060 Mercury NZ Limited S85.066 Environment Southland	Support ECO-P11
S113.012 Trudy Bokser S116.012 Nathan Bokser S118.012 AW+ JA Johnston Family Trust	There may be situations where offsetting is appropriate but is not for cultural purposes or is consistent with other values or drivers. Preferred relief: Withdraw ECO-P11 and redraft in consultation with key stakeholders, including Stony Creek Station. Alternative relief:

S127.048 Peters Farm Ltd Karen Peters S18.014 Reaby Downs Farm Ltd S19.014 Karen Temple S20.014 Sarah and Peter Barclay S24.014 Helen McIntosh S68.016 John Baynes S117.012 Greg Bokser S3.012 Stoney Creek Station Limited	Amend Policy-P11 as follows: Provide for biodiversity offsets and compensation to manage residual adverse effects of an activity where: 1. The goal of the biodiversity offsets is no net loss and, preferably, a net gain of biodiversity of similar species and location where practicable; **or** 2. The conservation outcomes are measurable and positive; and 3. The biodiversity offsets or compensation are in accordance with best practice, including but not limited to NZ Government guidance on biodiversity offsetting.; ~~and 4. Off-setting and compensation packages are consistent with Ngāi Tahu cultural purposes~~
FS17.036 Federated Farmers	Allow S3.012 Stoney Creek Station Limited
S115.092 Kevin Robertson S143.103 Rural Ratepayers Group S148.104 Alistair & Bernadette Hunt S60.094 Ronald Crispin S68.212 John Baynes S126.091 Southland Federated Farmers of NZ	Provide a definition of residual adverse effects. Amend ECO-P11: Provide for biodiversity offsets and compensation to manage residual adverse effects of an activity <u>on indigenous biodiversity within an SNA where:</u> **(...)**
FS25.055 Stoney Creek Station Ltd	Allow S126.091 Southland Federated Farmers of NZ
S109.063 Department of Conservation	Retain ECO-P11 with the following amendments (or words to similar effect): <u>Where more than minor residual effects of an activity cannot be avoided, minimised, or remedied, provide</u> for biodiversity offsets and compensation ~~to manage residual adverse effects of an activity w~~here <u>it can meet the following:</u> 1. The goal of the biodiversity offsets is no net loss and, preferably, a net gain of biodiversity of similar species and location where practicable; 2. The conservation outcomes are measurable and positive; and 3. The biodiversity offsets or compensation are in accordance with best practice, ~~including but not limited to NZ Government guidance on biodiversity offsetting~~ <u>including in accordance with the principles set out in Appendix 3 and 4 of the NPS-IB and Appendix 6 and 7 of the NPS-FM;</u> and 4. Off-setting and compensation packages are consistent with Ngāi Tahu cultural purposes.
FS24.035 Contact Energy Ltd	Disallow S109.063 Department of Conservation as the NPS-IB does not apply to renewable electricity generation activities
S101.055 Transpower NZ Limited	Amend ECO-P11 as followings: ECO-P11 Provide for biodiversity offsets and compensation to manage residual adverse effects of an activity where<u>: x. the offsetting measures are proposed or agreed to by an applicant or requiring authority;</u> (...) Transpower does not oppose the offsetting of residual effects, but considers that (for the National Grid where the NPSIB does not apply) offsetting measures should be offered, as required by the RMA (for instance, as required by section 104). Similarly, the NPSET does not requiring offsetting.
FS25.053 Stoney Creek Station Ltd	Allow S101.055 Transpower NZ Limited
S139.029 Hokonui Rūnanga Inc	Policies should be explicit about the cultural values activities may affect. Amend ECO-P11 subclause 4 to read: "<u>Any</u> off-setting and compensation packages are ~~consistent with Ngāi Tahu cultural purposes~~ <u>appropriate considering the whakapapa, mauri and any mahinga kai values of both sites and areas"</u>
FS17.037 Federated Farmers	Disallow S139.029 Hokonui Rūnanga Inc
FS25.054 Stoney Creek Station Ltd	Allow in part S139.029 Hokonui Rūnanga Inc. Stoney Creek supports more specificity in terms of "Cultural Values" but seeks that this only apply in circumstances where offsetting is being undertaken to achieve a cultural purpose,

10.12.2 The Panel acknowledges the support for the policy. As the provision is being amended submissions S128.028 Greenbriar Ltd. and others are accepted in part.

10.12.3 Having regard to the submissions lodged, the Panel concludes that the content of the Policy is misleading and is not consistent with the direction given by the NPSIB. Offsetting is linked to the effects management hierarchy as set out in the NPSIB and in the Panel's view the range of factors to be considered in the context of offsetting and environmental compensation go wider than what is stated in the policy. The Panel also considers that it is unclear what is being

referred to by "Government guidance". For example, the Government issued a document *Guidance on Good Practice Biodiversity Offsetting in New Zealand* in August 2014, but since then the Department of Conservation has released a series of what is described as "additional resources". It is unclear what the status of these documents are in terms of the policy. It is the view of the Panel that redrafting the policy is required and this suitably encapsulates all of the issues raised by submitters.

10.12.4 Submissions S128.028 Greenbriar Ltd, S130.060 Mercury NZ Limited, S85.066 Environment Southland, S113.012 Trudy Bokser and others, S115.092 Kevin Robertson and others, S109.063 Department of Conservation, S101.055 Transpower NZ Limited and S139.029 Hokonui Rūnanga Inc are accepted in part by replacing Policy ECO-P11 with the following:

ECO-P1~~1~~2 ~~Provide for biodiversity offsets and compensation to manage residual adverse effects of an activity where~~ Where the effects management hierarchy is applied, it is necessary to demonstrate:

1. ~~The goal of the biodiversity offsets is no net loss and, preferably, a net gain of biodiversity of similar species and location where practicable~~ how each step of the effects management hierarchy has been applied~~;~~ and

~~2. The conservation outcomes are measurable and positive; and~~

~~3~~2. ~~The~~ the relevant principles are followed, as outlined in Appendix 6, when biodiversity offset~~s~~ing or biodiversity compensation are ~~in accordance with best practice, including but not limited to New Zealand Government guidance on biodiversity offsetting~~ used, ~~; and~~

~~4. Off-setting and compensation packages are consistent with Ngāi Tahu cultural purposes.~~

10.13 Policy ECO-P12

10.13.1 Policy ECO-P12 as notified is as follows:

Avoid the planting of exotic weed species and the intentional release or farming of animal pests within SNA's.

Submitter (S) Further Submitter (FS)	Decision Requested
S85.031 Environment Southland	Change to 'prohibit the planting of exotic plant species and the release of domesticated or invasive animals within an SNA unless allowed by ECO -P2.
S115.094 Kevin Robertson S143.105 Rural Ratepayers Group S148.106 Alistair & Bernadette Hunt S60.096 Ronald Crispin S68.214 John Baynes S126.093 Southland Federated Farmers of NZ	Include a definition of exotic weed.
FS25.056 Stoney Creek Station Ltd	Allow S126.093 Southland Federated Farmers of NZ
S110.033 Royal Forest and Bird Society of NZ Inc	Change: Avoid the planting of exotic weed species and the intentional release or farming of animal pests identified in the Regional Pest Management Plan within SNA's.
FS17.038 Federated Farmers	Allow S110.033 Royal Forest and Bird Society of NZ Inc
S109.064 Department of Conservation	Retain ECO-P12 with the following amendments (or words to similar effect): Avoid the planting of exotic weed species and the intentional release or farming of animal pests ~~within SNA's~~ that are likely to adversely affect indigenous biodiversity values.
FS17.039 Federated Farmers	Disallow S109.064 Department of Conservation
S139.030 Hokonui Rūnanga Inc	Delete this policy as the planting of plant pests or the farming of animal pests is managed under the Biosecurity Act 1993.
FS17.040 Federated Farmers	Disallow S139.030 Hokonui Rūnanga Inc

10.13.2 At paragraph 556 of his s42A Report, Matt Heale concludes that the most efficient way to control weed and animal pest species is through the Biosecurity Act, and he recommends that

the submission by Hokonui Rūnanga be accepted and the policy deleted. That recommendation was supported in evidence by DoC and Federated Farmers. The Panel agrees, as the regime provided for in the Notified Plan could have theoretically resulted in an activity being consented that is prohibited in the Regional Pest Management Plan.

10.13.3 As noted by Matt Heale, the corollary to deleting the policy is also deleting Rules ECO-R2 and ECO-R3.

10.13.4 Accordingly:

(a) submission S139.030 Hokonui Rūnanga Inc is accepted by deleting Policy ECO-P12 and Rules ECO-R2 and ECO-R3; and

(b) submissions S85.031 Environment Southland, S115.094 Kevin Robertson, S110.033 Royal Forest and Bird Society of NZ Inc and S109.064 Department of Conservation are rejected.

10.14 Additional Policies Sought

Submitter (S) Further Submitter (FS)	Decision Requested
S128.029 Greenbriar Ltd.	ECO P11A - provide for ecological enhancement works that will enhance indigenous ecological biodiversity to occur on highly productive land.

10.14.1 At paragraphs 571 - 573 of his s42A Report Matt Heale recommended accepting this submission in part by making an addition to notified Policy ECO-P10. The Panel accepts the desirability of an addition to the policies for the reasons given but considers a better outcome is achieved with an addition to Policy ECO-P6, now ECO-P2.

10.14.2 Submission S128.029 Greenbriar Ltd is accepted in part by amending the chapeau of Policy ECO-P6 as follows:

ECO-P~~6~~2 Promote the restoration and enhancement of indigenous biodiversity by prioritising:

Submitter (S) Further Submitter (FS)	Decision Requested
S139.017 Hokonui Rūnanga Inc	The plan needs some policy guidance around the ability to remove small areas of indigenous vegetation as part of day to day farming and other land use activities in rural Areas. Add a new policy that reads: "To prevent the clearance or destruction of established indigenous vegetation or habitats or changes in surrounding land conditions which will affect the destruction of established indigenous vegetation or habitats; and Provide for the removal of individual plants or modification of small areas of indigenous vegetation which is ancillary to undertaking other land uses on the site, provide these activities do not adversely affect the ability of the indigenous vegetation to regenerate or compromise the ecological integrity of the site."
FS5.46 Hamish Weir	Allow S139.017 Hokonui Rūnanga Inc
FS25.071 Stoney Creek Station Ltd	Allow in part S139.017 Hokonui Rūnanga Inc and the intention of this submission to enable vegetation removal for farming activities

10.14.3 The Panel agrees with Matt Heale at paragraphs 574 - 577 of his s42A Report where he expresses the view that the matters raised by Hokonui Rūnanga are included appropriately in the policy framework already. No additional information was provided by the submitter for the Panel to consider, accordingly submission S139.017 Hokonui Rūnanga Inc is rejected.

10.14.4 As outlined at paragraph 7.2.7 of this decision, the Panel considers that additional policies are required in order to give effect to the NPSIB and respond to submissions, including S109.047 Department of Conservation. The Panel particularly notes that there is no mention of the precautionary approach in the notified Plan, which is required to give effect to Policy 3 of the NPSIB. FS31.014 Department of Conservation also raises this matter in relation to submissions on notified ECO-R1.

10.14.5 The Panel's decision is to incorporate this policy as new ECO-P1, in response to S109.047 Department of Conservation, utilising the language of Clause 3.7 of the NPSIB, as follows:

ECO-P1 Adopt a precautionary approach where the effects on indigenous biodiversity are uncertain, unknown or little understood; but those effects could cause significant or irreversible damage to indigenous biodiversity.

10.14.6 The Panel also notes that the rule framework relies on reference to mana whenua values listed in MW-1.2 and considers it helpful to have policy support for those rules. While the Māori Cultural Values chapter provisions provide general support, as outlined in Decision 43, the Panel prefers policy specific to the chapter in order to give effect to Clause 3.3 of the NPSIB, alongside other policies in the chapter.

10.14.7 The Panel's decision is to incorporate this policy as new ECO-P4, in response to S109.047 Department of Conservation and FS20.004 Hokonui Runanga Inc, consistent with Decision 14 and Decision 43, as follows:

ECO-P4 Assess effects on Ngāi Tahu cultural values listed in MW-1.2 when considering subdivision, use and development proposals that affect indigenous biodiversity.

10.14.8 The Panel recognises that the NPSIB does not apply to the development, operation, maintenance or upgrade of renewable electricity generation assets and activities and electricity transmission network assets and activities, as discussed in relation to notified ECO-P3. In response to S109.047 Department of Conservation and S101.053 Transpower NZ Limited, the Panel propose a policy specific to the development and major upgrade of these activities, which will apply in circumstances where a notice of requirement for a designation is required, and otherwise these activities can rely on the permitted activity policy and rule framework for existing lawfully established activities. The definition of "specified infrastructure" is discussed in Decision 39 on the Infrastructure chapter.

10.14.9 The Panel decision is to include new policy ECO-P12, in response to S109.047 Department of Conservation and S101.053 Transpower NZ Limited, as follows:

ECO-P13 Development of renewable electricity generation and the electricity transmission network, and upgrades of these activities that increase adverse effects on indigenous biodiversity, will avoid, remedy or mitigate adverse effects on indigenous biodiversity where practicable.

10.14.10 The Panel also recognises that the NPSIB provides for subdivision, use and development of specified Māori land. The suite of policies in the notified Plan made limited reference to specified Māori land and the decisions of the Panel have removed what was present. The NPSIB includes fulsome direction on this matter, but the Panel does not consider it necessary to replicate all the content, rather to reflect the intent, which is that activities on specified Māori land will be provided for where they impact on indigenous biodiversity.

10.14.11 The Panel decision is to include new policy ECO-P13, in response to S109.047 Department of Conservation, and as a consequence of other decisions on policies in this chapter, as follows:

ECO-P14 In relation to specified Māori land, recognise and be responsive to use and development that affects indigenous biodiversity where there are limited alternatives.

11. Ecosystems and Indigenous Biodiversity: Rules

11.1 Introduction

11.1.1 The notified Plan contained three rules in the Ecosystems and Indigenous Biodiversity chapter as follows:

ECO-R1 Indigenous vegetation clearance and land disturbance

ECO-R2 Planting of exotic weed species identified in a Southland Regional Pest Management Plan

ECO-R3 The intentional release or farming of animal pests identified in a Southland Regional Pest Management Plan.

11.1.2 As notified Rule ECO-R1 applied to the entire Gore District. Following the assessment of submissions lodged, as described in section 5.2 of this Decision, Matt Heale recommended that:

(a) a new rule apply to the Hokonui Hills Area with an amended rule applying to the remainder of the District.

(b) the rules differentiate SNAs, Significant Indigenous Vegetation Areas (SIVAs) and Indigenous Vegetation Areas (IVAs), both within the Hokonui Hills Area and elsewhere in the District.

11.1.3 The submissions to the rules cover an extensive range of issues, and while individual responses are made to the submissions, collectively they have the effect of requiring a more comprehensive rule structure.

11.2 Rule ECO-R1

Submitter (S) Further Submitter (FS)	Decision Requested
S130.061 Mercury NZ Limited	Retain ECO-R1
S124.024 Fire and Emergency NZ	Retain as notified Fire and Emergency support ECO-R1 to the extent that is enables indigenous vegetation clearance and land disturbance of 1.5m for firebreaks as permitted

11.2.1 The Panel acknowledges the support for the rule. As the provision has been amended, but intent retained, submission S130.061 Mercury NZ Limited is accepted in part.

11.2.2 FENZ supports the rule, which as notified provided for the maintenance, repair or replacement of existing lawfully established firebreaks, with clearance of indigenous vegetation enabled up to 1.5 metres each side of the firebreak. That provision has been retained with amended wording in the revised rules, as follows:

The maintenance, repair, or replacement of an existing lawfully established road, vehicle track or firebreak where removal of vegetation does not extend more than 1.5 metres beyond the formed width of the road, track or firebreak;

11.2.3 Accordingly, submission S124.024 Fire and Emergency NZ is accepted.

Submitter (S) Further Submitter (FS)	Decision Requested
S155.001 MacKenzie Aviation Ltd	Allow for track building and maintenance to be improved for agriculture aviation safety. Refer to complete submission for full details.
FS25.068 Stoney Creek Station Ltd	Allow in part S155.001 MacKenzie Aviation Ltd

11.2.4 Matt Heale at paragraph 594 of his s42A Report stated:

> The MacKenzie Aviation Ltd's submission point s155.001 to allow for track building and maintenance to be improved for agriculture aviation safety is accepted in part as this is already provided for. ECO-R1(1)(a) already allows for 1.0m clearance beyond established vehicle tracks for the repair and replacement. It is anticipated that this would include tracks associated with aviation vehicles. The establishment of new tracks would require a resource consent unless they are in areas that are maintained as improved pasture which would likely include regularly used landing and take-off areas. For example, based on the detailed mapping undertaken in the Hokonui Hills (refer recommended PDP Appendix 7 shown in Appendix A) there are extensive flat areas not identified as IVAs which indicates that this will not be an issue. Councils' consultant ecologist, Mr Wells, has confirmed that the airstrip is in an area of improved pasture.

11.2.5 The Panel agrees with that assessment, and notes under the amended rules, for consistency, clearance of 1.5m each side of a lawfully established track is provided for, and that includes

any such track providing access to agricultural land strips. The Panel anticipates the emphasis given to "agriculture aviation" in the submission relates to other submissions lodged seeking permitted activity status for agriculture aviation, that have been accepted. Given that outcome, submission S155.001 MacKenzie Aviation Ltd is accepted.

Submitter (S) Further Submitter (FS)	Decision Requested
S69.005 Ian Davidson-Watts	More flexibility depending on the habitat in respect of the maintenance of established activities: Open scrub, and grassland: 3m of disturbance Closed forest: 1.5m of disturbance with a structure over 4m in height.
FS25.069 Stoney Creek Station Ltd	Disallow S69.005 Ian Davidson- Watts

11.2.6 The Panel is adopting a more refined approach to the clearance of indigenous vegetation that provides consistency with the NPSIB and recognises lawfully established activities and other exemptions enabled by the NPSIB. While the extent of clearance enabled differs from that requested, the Panel considers it has adopted the intent of the submission.

Accordingly, submission S69.005 Ian Davidson-Watts is accepted in part by adopting the revised rule framework in the updated Ecosystems and Indigenous Biodiversity chapter.

Submitter (S) Further Submitter (FS)	Decision Requested
S109.066 Department of Conservation	Retain the activity status of discretionary with the following amendments (or words to similar effect): ECO-R1(1) and ~~ECO-R1(2):~~ Discretionary (Outside an SNA) Retain the activity status of non complying with the following amendments (or words to similar effect): ECO-R1(1) and ~~ECO-R1(2)~~: Non-complying (Inside SNA). Where: 4. The indigenous vegetation clearance and land disturbance takes place inside a Significant Natural Area or unmapped SNA that has been assessed as significant against the criteria in Appendix 4 or any area identified as a highly mobile fauna area or any area containing threatened or at-risk (declining) species as listed in Appendix X.
FS10.002 Port Blakely Limited	Disallow in part S109.066 Department of Conservation. The submission is contrary to how territorial authorities should assess and identify SNAs under the NPS-IB.
FS17.042 Federated Farmers	Disallow S109.066 Department of Conservation
FS30.023 Transpower NZ Limited FS14.011 NZ Transport Agency Waka Kotahi FS24.036 Contact Energy Ltd FS25.059 Stoney Creek Station Ltd	Disallow S109.066 Department of Conservation

11.2.7 The Panel understands that DoC is effectively seeking two separate rules, one applying to areas outside of SNAs where removal of indigenous vegetation is a discretionary activity and a second rule with non-complying status for areas within SNAs:

- Unmapped areas that meet the criteria in notified Appendix 4, which is Appendix 1 from the NPSIB;
- Areas identified as a highly mobile fauna area; and
- Areas containing threatened or at-risk (declining) species

11.2.8 The Panel agrees that the rule structure in the notified Ecosystems and Indigenous Biodiversity chapter, and as recommended by Matt Heale in his s42A Report, does not comply with the mandated requirements of RMA s6(c), nor the provisions of the NPSIB. Having regard to the NPSIB, the Panel considers that a more refined approach than that sought by DoC in submission S109.066 is required, arising from the NPSIB enabling certain specified activities that affect SNAs, for example:

- Plantation forestry activities (Clause 3.14)
- Established activities (Clause 3.15)
- Maintaining improved pasture (Clause 3.17)

11.2.9 The Panel concludes from the reports and evidence presented that the NPSIB requires a series of rules managing a range of activities, some with permitted activity status. In determining the structure of the rules, the Panel has accepted as a starting point the submissions of Ceri Warnock on behalf of DoC that the RMA requires areas of significant biodiversity to be protected and other biodiversity to be maintained. The Panel has also considered the level of information provided to the Panel. In that regard:

(a) Two areas were included in the notified District Plan as SNAs. Post notification these areas have been assessed by Andrew Wells, being a suitably qualified ecologist as referred to in the NPSIB definition of SNA, who has verified that these areas would qualify as SNA using the NPSIB criteria, which is included in Appendix 4 to the Plan.

(b) An area of 127 ha on Stoney Creek Station according to DoC surveys contains 140 different species of indigenous vegetation, including “At-risk-Declining” Olearia hectorii together with the nationally ‘threatened-nationally critical’ green skink. This area is the subject of a formal management agreement between DoC and the landowners. Glenn Davis stressed that in his view the setting aside of this land is important in its contribution to the protection of the ecological values of Stoney Creek Station. Both Matt Heale and Andrew Wells supported specific identification of this area and acknowledged that no clearance was intended within this area. Juzah Zammit-Ross in her statement of evidence in response to Minute 41 stated that within the 127 ha land management agreement area no level of permitted vegetation clearance is appropriate. It is the view of the Panel that the 127 ha Agreement Area is of outstanding ecological value that should be afforded the highest level of protection, at the same level as SNAs.

(c) Vegetation Mapping of the Hokonui Hills undertaken by Glenn Davis and Andrew Wells identified biodiversity sensitivity areas that were then evaluated by the Stoney Creek Station Working Group. The Panel places a high degree of confidence on the base information provided to the Panel showing SIVAs and IVAs, together with rocky ridge crests, taking into account the supplementary evidence of Andrew Wells, and concludes that the level of information is sufficient to justify these areas being shown on the District Plans and subject to bespoke rules. There was no opposition in this regard from the planners and ecologists presenting evidence on behalf of the Council, Stoney Creek Station and DoC.

(d) Mapped information held by the Council, dating back to 2011, showing areas of indigenous vegetation across the whole District was provided to the Biodiversity Technical Working Group (BTWG) for review. The feedback from the BTWG was incorporated into indicative mapping included in Appendix G of the s42A Report following assessment by Andrew Wells. No ground truthing of this mapping has been undertaken. Matt Heale recommended these “indicative areas” be included as an information layer on the Council’s District Plan web page showing where the Council considers the SIVAs and IVAs are located in areas outside of the Hokonui Hills and therefore where a resource consent would likely be required for areas outside an SNA under Rule ECO-R1. Although no ground truthing has been undertaken, Andrew Wells has undertaken a desktop analysis, and as a consequence the Panel assigns a medium level of reliability to the data. While providing some guidance to the Council and landowners, the Panel does not consider it is appropriate to link this data to rules.

(e) With the exclusion of potential rocky habitat for lizard species, evidence provided to the Panel on Threatened and at-risk Species was not site specific. Glenn Davis and Andrew Wells both referred to at-risk indigenous vegetation in parts of the Hokonui Hills but specific sites were not identified. Bruce McKinlay gave evidence regarding black billed gulls in the Mataura River margins, but in reply to questions from the Panel he acknowledged that the nesting area of the black billed gulls does change depending on

river bed location and available habitat, and if disturbed they will move. The Panel does not consider the information provided reached the threshold of assigning significant habitat status to defined areas on the District Plan maps but did accept provision was appropriate in general terms in policies and rules.

11.2.10 The Panel was advised by Matt Heale that on the recommendation of the BTWG funding was obtained from Environment Southland to enable assessment of the ecological values by an expert ecologist at the request of landowners. The Panel understands eleven properties were assessed; however, no information was provided to the Panel on the outcome of those assessments.

11.2.11 Matt Heale in his statement of evidence proffered the notion that the inclusion of criteria in the notified Plan (Appendix 4 - Criteria for identifying areas that qualify as Significant Natural Areas - ECO-APP) was sufficient to give SNA status to areas of Significant Indigenous Vegetation (SIVA) shown on Appendix G of his s42A Report. Legal submissions from Shelley Chadwick, Counsel for the Council in response to questions from the Panel advised that in her view the two SNA areas included in the District Plan at notification meet the NPSIB definition of SNA, but other areas shown indicatively in an appendix to the s42A Report do not. That confirmed the view of the Panel.

11.2.12 Arising from the submissions and evidence and having regard to the NPSIB, submission S109.066 Department of Conservation is accepted in part by adopting the following rule structure:

ECO-R1 Indigenous vegetation clearance in all areas

ECO-R2 Indigenous vegetation clearance for new agricultural, horticultural and pastoral activities

ECO-R3 Indigenous vegetation clearance for upgrade and development of critical infrastructure or specified infrastructure

ECO-R4 Indigenous vegetation clearance for mineral or aggregate extraction

ECO-R5 Indigenous vegetation clearance for purposes not otherwise specified

ECO-R6 Indigenous vegetation clearance in a Significant Natural Area or HH Area A SIV that is not permitted or discretionary

11.2.13 For reasons set out below Notified Rules ECO-R2 Weeds and ECO-R3 Pests have been deleted.

11.2.14 Consequential to changes made the following definition is also included:

Areas of significant indigenous vegetation and significant habitats of indigenous fauna
means areas that meet the criteria for significance in Appendix 4

11.2.15 The full revised text of the rules is attached. The revised rules adopt the wording and intent of the NPSIB recognising the NPSIB represents current best practice and with one exception reflect the view of all Panel members. Commissioner Bartlett had sought an addition to Rule ECO-R1(1)(a) to include as (ix) in the rule "any other lawfully established activity". That was not agreed to by the majority of the Panel. In addition to comprehensive change to the Plan provisions arising from submission S109.066 Department of Conservation individual changes also arise from other submissions.

Submitter (S) Further Submitter (FS)	Decision Requested
S139.036 Hokonui Rūnanga Inc	A general indigenous vegetation clearance rule is needed to achieve the purpose of the Act and to give effect to the NPS for Indigenous Biodiversity and the Regional Policy Statement for Southland. However, the rule as written seems unduly restrictive for day to day farming. Amend ECO-R1 by: • Include a provision under clause 1(a) for clearing vegetation and land disturbance associated with erection of new fences, firebreaks for water crossings; • Amending the maximum width of clearance allowed under clause (1)(a) to

	2.5m either side of the structure; • Removing subclauses (i) to (iii) from clause 3 and replacing with a subclause that reads: " (i) Provided the clearance does not involve the burning, spraying, intensive grazing or other actions intended to permanently remove tussock lands or regenerating scrubland;" • Delete clause (f); • Increase the distance from buildings in clause (g) to 5m and apply to new buildings as well; • Add to clause (k) a new subclause (iii) & (iv) which reads: "or for landscaping or amenity purposes; or as part of indigenous plant propagation or nursery activities." • Add a new clause (l) which reads: "The indigenous vegetation clearance or land disturbance is provided in and carried out in accordance with the conditions of an approved biodiversity management plan for the site." • Make non-compliance with any of the minimum setback distances for any activity in subclause (i)(a) a restricted discretionary activity. Amend the Matters of Discretion by deleting matter (2); and adding a new matter of discretion which reads "The whakapapa of the site and effects on its mauri, mahinga kai values and taonga species;"
FS25.062 Stoney Creek Station Ltd	Disallow in part S139.036 Hokonui Rūnanga Inc
S85.032 Environment Southland	1(a) (i) leave fences in the permitted status but require a maximum width (eg 3m) and only allow fencing along property boundaries. Paddock fencing or vineyard fencing should be excluded from permitted status. 1 (e) add NPS-IB clauses 3.17 2 a and b. 1 (f): replace with wording 'work or activity of the crown within the boundaries of any area of land held or managed under the Conservation Act 1987 or any other act specified in schedule 1 of that act providing the activity does not have a significant adverse effect beyond the boundary of the crown land'. (g) remove 'structures' these are covered by 1 (a). remove section (i). add a new clause - the vegetation is not indigenous to the Southland Region
FS17.043 Federated Farmers FS25.060 Stoney Creek Station Ltd	Disallow S85.032 Environment Southland
S104.021 McLeod-Wantwood Trust/Wantwood Station S105.021 Farm Manager - Wantwood Station S127.021 Peters Farm Ltd Karen Peters	Amend ECO-R1 to accurately reflect the practicalities of these activities (based on the type of equipment required to complete them). For example, remove the width restriction associated with fencing, fire breaks and tracks. Clarification is required on whether this rule refers to the occasional bit of indigenous vegetation clearance that may have happen in the path of land disturbance or does this refer to solid areas of indigenous vegetation i.e. native bush.
FS25.061 Stoney Creek Station Ltd	Allow S104.021 McLeod- Wantwood Trust/Wantwood Station
S113.013 Trudy Bokser S116.013 Nathan Bokser S118.013 AW+ JA Johnston Family Trust S127.049 Peters Farm Ltd Karen Peters S18.015 Reaby Downs Farm Ltd S19.015 Karen Temple S20.015 Sarah and Peter Barclay S24.015 Helen McIntosh S68.017 John Baynes S117.013 Greg Bokser S3.013 Stoney Creek Station Limited	Preferred Relief: Withdraw ECO-R1 and redraft in consultation with key stakeholders, including Stony Creek Station. Include in the revised rule an exemption for indigenous vegetation removal and land disturbance associated with farming activities within the new Hokonui Hills Special Precinct. Alternative relief: Amend ECO-R1 as follows: Indigenous Vegetation Clearance and Land Disturbance associated with Indigenous Vegetation Clearance Activity status: Permitted 1. It is necessary for the following purposes:(aa) The installation, maintenance, repair, replacement or upgrade of: (i) Fences(ii) Farm tracks (iii) Farm infrastructure [Refer to proposed definition] (a) The maintenance, repair, or replacement or upgrade of existing lawfully established: ~~(i) fences,~~ (ii) vehicle tracks, (iii) roads, (iv) infrastructure, (v) walkways, (vi) firebreaks, (vii) dams, (viii) waterway crossings, or (ix) network utilities, ~~andthe clearance or land disturbance is no more than 1.0m in width from those works in (ii), (iii), (iv), (v), (vii), (viii) and (ix), and 1.5m for (i), and (vi)~~ ... (e) Maintenance of improved pasture outside of a SNA,~~where: (i) the improved pasture has not become a SNA, and (ii) the land is not an uncultivated depositional landform, and (iii) it will not adversely affect a Threatened or At Risk (declining) species. (f) In accordance with an approved Reserve Act or~~

	~~Conservation Act reserve management plan.~~ (g) For the maintenance, repair or replacement of existing buildings and structures, or to remove a potential fire risk, including an area no further than ~~2.0m~~ 7.5m from the exterior wall of an existing building. (h) The removal indigenous vegetation that is incidental to the removal of exotic species generally and pest plants and pest animals in accordance with any Regional Pest Management Plan or the Biosecurity Act 1993... k) The works relate to indigenous vegetation that was deliberately planted:~~(i) Within a domestic garden; or~~ (ii) For the use of screening/shelter belt purposes (such as farm hedgerows). Activity status where compliance is not achieved with: ECO-R1(1) and ECO-R1(2)~~(a)(i) or ECO-R1(1)(a)(vi)~~ Restricted discretionary Where:1. The indigenous vegetation clearance and associated land disturbance takes place outside a Significant Natural Area. ~~2. The indigenous vegetation clearance and land disturbance does not comply with ECO-R1(1)(a)(i) or ECO-R1(1)(a)(vi).~~ Matters of Discretion: 1. Effects on indigenous biodiversity values. 2. the matters outlined in ~~ECO-P3, ECO-P7,~~ ECO-P8, ~~ECO-P9~~ and ECO-P10. 7. The benefits to indigenous biodiversity provided by the proposed activity.ECO-R1(3): Restricted Discretionary Matters of Discretion: **1.** Effects on indigenous biodiversity values. the matters outlined in ECO-P3, ECO-P7, ECO-P8, ECO-P9 and ECO-P10. **3.** The quantity and quality of indigenous vegetation impacted and the reasons for the works. **4.** The benefits of the proposed activity.5. The mitigation proposed. ECO-R1(1) and ECO-R1(2): Discretionary ~~Non- complying~~Where: 1. The indigenous vegetation clearance and land disturbance takes place inside a Significant Natural Area.
FS17.041 Federated Farmers	Allow S3.013 Stoney Creek Station Limited

11.2.16 The Panel agrees with Hokonui Rūnanga that amendments are required to the rules to achieve the purpose of the Act and to give effect to the NPSIB and the RPS. Given the mandated provisions of these higher-level documents the Panel is firm in its view that, other than where directed in relation to existing authorised activities, limits should be placed on the extent of clearance of indigenous vegetation. In that regard:

(a) Various requests are made that clearance of indigenous vegetation associated with repairs and maintenance of fences should be allowed. The rule as notified allowed for 1.5 metres each side of the fence, resulting in 3 metres in total. The submission of Environment Southland advocated a permitted width of 3 metres, which allowed for a situation where all work is undertaken on one side of the fence only.

(b) The Panel recognises the necessity of providing for the clearance of indigenous vegetation for the maintenance, repair or replacement of existing buildings and structures, or to remove a potential fire risk. The notified Plan provided for a clearance area of 2.0m from the exterior wall of an existing building. The Panel agrees this is not sufficient and is adopting the 5 metres suggested by Hokonui Rūnanga.

11.2.17 The Panel accepts the expert advice of Andrew Wells that in addition to the permitted rules applying to identified activities and purposes, it should be permitted to remove small areas of non-forest indigenous vegetation for incidental reasons. The Panel accepts the recommended 50m^2 over a five year period, as endorsed by Matt Heale. The Panel notes this limit was opposed by Federated Farmers requesting that clearance of vegetation is allowed for "any other activity essential for existing farming operations", while the Department of Conservation opposed any permitted allowance. In the Panel's view, provision is required from a practical view point for small areas of clearance of indigenous vegetation because on the basis of the evidence received, the impacts on land use and financial cost of consenting outweigh the ecological benefit. The Panel considers the suggestion of Federated Farmers creates unfettered impractical uncertainty for administering and monitoring the Plan provisions. In

effect, Federated Farmers wants landowners to determine the extent of clearance of indigenous vegetation. The Panel considers that inappropriate and contrary to RMA s5(2)(c), s6(c), s7(d), s31(b)(iii), and the objective and policies of the NPSIB.

11.2.18 Clause (f) as notified provided for a permitted activity for indigenous vegetation clearance "In accordance with an approved Reserve Act or Conservation Act reserve management plan". Hokonui Rūnanga sought deletion of the clause, while Environment Southland requested it be amended to be consistent with s4(3) of the RMA, that states:

> (3) Section 9(3) does not apply to any work or activity of the Crown within the boundaries of any area of land held or managed under the Conservation Act 1987 or any other Act specified in Schedule 1 of that Act (other than land held for administrative purposes) that—
> (a) is consistent with a conservation management strategy, conservation management plan, or management plan established under the Conservation Act 1987 or any other Act specified in Schedule 1 of that Act; and
> (b) does not have a significant adverse effect beyond the boundary of the area of land.

11.2.19 And s9(3) states:

> (3) No person may use land in a manner that contravenes a district rule unless the use—
> (a) is expressly allowed by a resource consent; or
> (b) is allowed by section 10; or
> (c) is an activity allowed by section 10A.

11.2.20 In the Panel's view this exemption overrides any District Plan rule in relation to works or activities of the Crown on Reserve land within the Gore District where the two sub-paragraphs of s4(3) are met. As a consequence, it is unnecessary to have an exemption rule in the Plan applying in these circumstances. Rather, for the avoidance of doubt, the following is included in the section entitled How the Plan Works:

> Section 4(3) of the RMA exempts certain works and activities of the Crown to comply with District Plan rules, as follows:
>
> Section 9(3) does not apply to any work or activity of the Crown within the boundaries of any area of land held or managed under the Conservation Act 1987 or any other Act specified in Schedule 1 of that Act (other than land held for administrative purposes) that—
> (a) is consistent with a conservation management strategy, conservation management plan, or management plan established under the Conservation Act 1987 or any other Act specified in Schedule 1 of that Act; and
> (b) does not have a significant adverse effect beyond the boundary of the area of land.

11.2.21 This exemption however does not apply to works and activities of the Council undertaken in conformity with a Reserve Management Plan, and for that reason clause (f) refers to Reserve Act management plans. In the Panel's view, where development proposals within a Reserve being administered by the Council have been subject to public consultation under the Management Plan process and been approved by the Minister it is unnecessary for a further consenting process to be adopted. As a consequence, the rule in the notified Plan is being retained, but being reworded as follows:

> (f) <u>The work or activity is undertaken by the Gore District Council within the boundaries of any area of land held or managed under the Reserves Act 1977; and</u>
>
> <u>(i)</u> ~~in accordance~~ <u>is undertaken in a way that is consistent</u> with ~~an~~ <u>any applicable</u> approved ~~Reserve Act or Conservation Act~~ reserve management plan <u>under that Act</u>; <u>and</u>
>
> <u>(ii) does not have a significant adverse effect beyond the boundary of the land.</u>

11.2.22 S113.013 Trudy Bokser and others sought deletion of Rule ECO-R1 and redrafting in consultation with key stakeholders. The Panel considers to an appropriate extent that has occurred through the working party and submission hearing processes. The Panel is also widening the list of permitted activities and circumstances under which indigenous vegetation

can be removed, noting the consequential change from Decision 37 Earthworks that reference to land disturbance has been removed from this chapter. The changes clarify that the rules do not apply to the removal of indigenous vegetation incidental to the removal of pest plants.

11.2.23 Hokonui Rūnanga sought controls over the burning, spraying, intensive grazing or other actions intended to permanently remove tussock lands or regenerating scrubland. In that regard, the rules apply to all indigenous vegetation, including tussock and regenerating scrubland, and the method of removal (such as fire or grazing by stock) other than within areas of improved pasture is immaterial.

11.2.24 Submissions S139.036 Hokonui Rūnanga Inc, S85.032 Environment Southland, S104.021 McLeod- Wantwood Trust /Wantwood Station and others, and S113.013 Trudy Bokser and others are accepted in part by revising the rules of the Ecosystems and Indigenous Biodiversity chapter as attached.

Submitter (S) Further Submitter (FS)	Decision Requested
S101.056 Transpower NZ Limited	Transpower does not support Rule ECO-R1 to the extent that the Rule applies a non- complying activity status to indigenous vegetation clearance and land disturbance for new or upgraded National Grid assets in an SNA. Amend Rule ECO-R1 as follows: "Activity status where compliance is not achieved with ECO-R1(1)(a)(i), ~~or~~ ECO-R1(1)(a)(vi) or ECO-R1(d): Restricted discretionary (...)Matters of Discretion: (...) x. The benefits of the National Grid."
S109.143 Department of Conservation	Amend the provision for the National Grid to clarify that it only applies to the maintenance and operation of the exiting National Grid and not for an extension. Retain ECO-R1 with the following: d) For the safe operation or maintenance (but not extension) of the National Grid … Matters of Discretion ... X. management of potential adverse effects through a Council Authorised Biodiversity Management Plan.
S109.065 Department of Conservation	Retain ECO-R1 with the following amendments d) For the safe operation or maintenance (but not extension) of the National Grid Matters of Discretion: X. management of potential adverse effects through a Council Authorised Biodiversity Management Plan.
FS5.38 Hamish Weir FS30.022 Transpower NZ Limited FS25.058 Stoney Creek Station Ltd	Disallow S109.065 Department of Conservation
S144.008 Contact Energy Limited	Contact seeks that clearance of indigenous vegetation within SNAs that may be ancillary to a large scale renewable electricity generation activity is a discretionary activity, with access to the effects management.
S112.069 Waka Kotahi NZ Transport Agency	Amend the rule to provide for indigenous vegetation clearance and land disturbance associated with new critical infrastructure, as well as the repair, replacement and maintenance of existing critical infrastructure, as a discretionary activity. And amend the rule to correct the reference to R1(2) in the discretionary and non- complying activity status section

11.2.25 The Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009 (NESETA) provides for the trimming, felling, or removing any tree or vegetation in relation to an existing transmission line within a natural area as either a controlled activity (if done to reduce the risk to a transmission line) otherwise as a restricted discretionary activity, where “natural area” is defined as an area that is protected by a rule because it has outstanding natural features or landscapes, significant indigenous vegetation, or significant habitats of indigenous fauna. It is the understanding of the Panel, confirmed by Ainsley McLeod in responding to questions at the Natural Features and Landscapes hearing, that it is not necessary therefore for the District Plan to include rules applying to the removal of indigenous vegetation in relation to existing transmission lines, which includes those lines and pylons being part of the National Grid.

11.2.26 Critical infrastructure is defined in the Plan as follows:

> **Critical infrastructure** means those necessary facilities, services, and installations which are critical or of significance to either New Zealand, Southland, or Gore. This may include but is not limited to:
> • strategic land transport network and arterial roads;
> • rail corridor;
> • telecommunication facilities;
> • national, regional and local renewable electricity generation activities of any scale;
> • the electricity transmission network (the National Grid);
> • sewage collection, treatment and disposal networks;
> • community land drainage infrastructure;
> • community potable water systems;
> • established community-scale irrigation and stock water infrastructure;
> • transport hubs and bulk fuel supply infrastructure including terminals and pipelines

11.2.27 Critical infrastructure therefore includes a large scale renewable electricity generation activity and roads. Having regard to the NPSIB, only some infrastructure included in the "critical infrastructure" definition of the Plan is included in the definition of "specified infrastructure", which is used in the NPSIB in relation to Significant Natural Areas. "Critical infrastructure" in the district includes large scale renewable electricity generation and the National Grid, but these are excluded from the definition of "specified infrastructure" in the NPSIB. The Panel deliberately use these terms differently depending on whether the rules apply to areas of significant indigenous vegetation or significant habitats of indigenous fauna, or more broadly to areas of indigenous vegetation. The Panel has provided for clearance of indigenous vegetation associated with existing critical infrastructure and a restricted discretionary rule for new critical infrastructure for areas outside of an SNA or area of significant indigenous vegetation or significant habitat of indigenous fauna, with various assessment matters, including regard being given to the effects management hierarchy as sought by DoC. Where "specified infrastructure" or renewable electricity generation activities or National Grid activities are proposed within an SNA or area of significant indigenous vegetation or significant habitat of indigenous fauna, the status is discretionary, which is consistent with the outcome sought by Contact and NZTA.

11.2.28 Submissions S101.056 Transpower NZ Limited, S109.143 and S109.065 Department of Conservation, S144.008 Contact Energy Limited and S112.069 Waka Kotahi NZ Transport Agency are accepted in part by adopting the decision in paragraph 11.2.12 above.

Submitter (S) Further Submitter (FS)	Decision Requested
S115.095 Kevin Robertson S143.106 Rural Ratepayers Group S148.107 Alistair & Bernadette Hunt S68.215 John Baynes S126.094 Southland Federated Farmers of NZ	Include a definition for 'lawfully established' (if that is the intention) or remove italics. Amend ECO-R1: Where: 1. It is necessary for the following purposes: (a) The maintenance, repair or replacement <u>or upgrade</u> of existing lawfully established: (i) fences and <u>farm fences</u> (ii) vehicle <u>and farm</u> tracks; ... (ix) network utilities and ~~the clearance or land disturbance is no~~ ~~more than 1.0m in width from those works in (ii), (iii),~~ ~~(iv), (v), (vii), (viii) and (ix), and 1.5m for (i) and (vi).~~ (...)(e) Maintenance of improved pasture where: (i) the improved pasture has not become a <u>mapped</u> SNA, and ...
FS5.39 Hamish Weir FS5.41 Hamish Weir FS25.067 Stoney Creek Station Ltd	Allow S126.094 Southland Federated Farmers of NZ
S148.004 Alistair & Bernadette Hunt	Maintenance, repair, replacement, upgrading of existing infrastructure should be permitted.
FS25.057 Stoney Creek Station Ltd	Allow S148.004 Alistair & Bernadette Hunt

11.2.29 The Panel notes Rule ECO-R1 contains the following:

> the maintenance, repair or replacement of existing *lawfully established*:

11.2.30 The Panel considers the term “lawfully established” is used in standard definitions in the National Planning Standards and its meaning is commonly understood. There is therefore no need for a definition. The Panel anticipates however that the submission has been lodged because the term is shown in an italic font, meaning elsewhere in the Plan there is an associated definition. Matt Heale has advised this is an error and the font should be changed.

11.2.31 The Panel agrees for clarity the rules should include reference to “upgrade” and “farm tracks” in the rules where relevant but considers that a fence is a fence regardless of its location. Having regard to the submissions lodged and evidence presented, the Panel has retained, with some changes, limits on the clearance able to take place as of right adjacent to fences, tracks and various structures. Having regard to the NPSIB provisions, for consistency the Panel has retained reference to “the improved pasture has not become a SNA” and incorporated other qualifications that are included in the national direction.

11.2.32 Amongst the changes being made by the Panel, it has enabled the maintenance, repair, replacement, upgrading of existing infrastructure subject to what it considers appropriate limits, taking into account the NPSIB.

11.2.33 Submissions S115.095 Kevin Robertson and others, and S148.004 Alistair & Bernadette Hunt are accepted in part by adopting the decision in paragraph 11.2.12 above

Submitter (S) Further Submitter (FS)	Decision Requested
S122.006 Fulton Hogan	The rules and policy framework need to be pragmatic and provide for works where they are small scale and necessary, 1. Add the following wording to ECO-R1 to make it clear that the clauses are not conjunctive "It is necessary for one of the following purposes:" 2. Delete all references to ECO-R1(2) 3. Delete the discretionary non-complying status for activities in SNAs, and default to restricted discretionary activities.
FS5.40 Hamish Weir	Allow S122.006 Fulton Hogan

11.2.34 This submission was considered by Matt Heale at paragraphs 617 - 620 of his s42A Report where he recommended an addition to the chapeau of Rule ECO-R1, deleting reference to ECO-R1(2) and clarifying the rule structure. The Panel has made substantial changes to the rules arising from the submissions lodged but included the recommended change. Accordingly, submission S122.006 Fulton Hogan is accepted in part by adopting the decision in paragraph 11.2.12 above.

Submitter (S) Further Submitter (FS)	Decision Requested
S138.001 Port Blakely Limited	Amend ECO-R1 to include the permitted activities set out in Reg 93(2), (3), (4) &(5) of the NES-CF; or Amend the rule to have two classes of activities, one related to land uses excluding commercial forestry and one related to land uses associated with commercial forestry; or Amend the chapter to make it explicit that clearance of indigenous vegetation associated with a commercial forestry activity is regulated by the NES-CF.
FS25.064 Stoney Creek Station Ltd	Allow in part S138.001 Port Blakely Limited
S138.002 Port Blakely Limited	Amend ECO-R1(1) and ECO-R1(2) to align with the standards contained in the NES-CF
FS25.065 Stoney Creek Station Ltd	Allow in part S138.002 Port Blakely Limited
S138.003 Port Blakely Limited	Amend to allow for the maintenance of forestry tracks within SNAs, as set out in Reg 93 NES-CF.
FS25.066 Stoney Creek Station Ltd	Allow in part S138.003 Port Blakely Limited. Stoney Creek supports alignment of rules to higher order documents such as the NES-CF, provided that this does not unduly restrict other activities such as pastoral farming.

11.2.35 The Panel notes the notified Plan rules referred to the harvest of indigenous trees species but made no reference in the rules to commercial forestry.

11.2.36 The submissions from Port Blakely refer to the National Environmental Standard for Commercial Forestry, and the relevant parts of state:

> **93 Permitted activity: territorial authority**
>
> (1) Vegetation clearance of indigenous vegetation associated with a commercial forestry activity is a permitted activity if subclause (2) or (3) is complied with and the clearance does not occur within a significant natural area, except that a clearance of a forestry track described in subclause (2)(d) may occur in a significant natural area.
>
> (2) Vegetation clearance of indigenous vegetation may occur within an area of a plantation forest if the indigenous vegetation—
> (a) has grown up under (or may have overtopped) plantation forestry; or
> (b) is within an area of a failed plantation forest that failed in the last rotation period (afforestation to replanting) of the plantation forestry; or
> (c) is within an area of plantation forest that has been harvested within the previous 5 years; or
> (d) is overgrowing a forestry track, if the track has been used within the last 50 years.
>
> (3) Vegetation clearance of an area of indigenous vegetation located within or adjacent to a plantation forest may be carried out if—
> (a) the area of indigenous vegetation and the plantation forest are held in the same ownership; and
> (b) the cumulative clearance does not exceed 1 ha or 1.5% (whichever is the greater) of the total area of indigenous vegetation within or adjacent to the plantation forest in which the clearance is proposed, but excluding any vegetation clearance under subclause (2).
>
> **94 Restricted discretionary activity: territorial authority**
>
> (1) The vegetation clearance of indigenous vegetation is a restricted discretionary activity if regulation 93(2), (3), or (4) is not complied with.
>
> Matters to which discretion is restricted
>
> (2) Discretion is restricted to—
> (a) the location of the activity:
> (b) the ecological effects due to—
> (i) the ecological significance of the indigenous vegetation; or
> (ii) the location and extent of indigenous vegetation removal; or
> (iii) the functioning of remaining indigenous vegetation, including edge effects and retention of corridors:
> (c) the mitigation measures proposed:
> (d) alternatives to clearance and disturbance of indigenous vegetation:
> (e) the information and monitoring requirements.

11.2.37 Matt Heale discussed these submissions at paragraphs 595 - 599 of his s42A Report, recommending the inclusion of rules in the Plan that mirrored regulations 93 and 94. The Panel considers the recommended additions unnecessary. The Panel propose to respond to these submissions in the same way promoted by Transpower with regard to the removal of indigenous vegetation in relation to an existing transmission line by including a note as part of the rules referring to the NES-CF.

11.2.38 Submissions S138.001, S138.002 and S138.003 Port Blakely Limited are accepted in part by including the following note under the permitted activity rule:

2. Vegetation clearance of indigenous vegetation associated with a commercial forestry activity is subject to the provisions of the Resource Management (National Environmental Standards for Commercial Forestry) Regulations 2017.

Submitter (S) Further Submitter (FS)	Decision Requested
S74.005 Hamish Weir	The Croydon Bush reserve has an extensive network of mountain bike tracks

	that require maintenance and repairs. It would be beyond the means of the groups/individuals responsible for the tracks to gain resource consent for works. Works required to maintain the permitted features will normally extend further than 1 metre 1. An additional point needs to be added to ECO- R1 1. (a) as follows; (x) mountain bike tracks 2. The wording of the note at the bottom of ECO-R1 1. (a) needs to be rewritten as follows: the clearance or land disturbance is no more~~than1.0m~~ practically required in width from those works in (i) (ii),(iii), (iv), (v), (vi), (vii), (viii) and (ix), 3. An additional point needs to be added to ECO-R1 1. (k) as follows;(iii) planting for waterbody setbacks 4. An additional permitted rule for construction of mountain bike and hiking trails (l) works associated with construction of mountain bike and hiking trails that utilise natural features and ground profile
FS25.063 Stoney Creek Station Ltd	Allow in part S74.005 Hamish Weir. Stoney Creek supports the inclusion of "practically required" in terms of 1(a).
FS11.044 Heritage NZ Pouhere Taonga	Disallow S74.005 Hamish Weir. Activities will involve earthworks and land disturbance during establishment, maintenance, and use, which may affect identified and unknown archaeological sites

11.2.39 The Panel is aware the mountain bike trails on the Hokonui Hills are subject to resource consent approvals that impose conditions relating to the clearance of indigenous vegetation and maintenance. Under the revised rules contained in this decision clearance of indigenous vegetation is also enabled as follows:

> The maintenance, repair, replacement or upgrade of an existing lawfully established road, track, farm track or firebreak where removal of vegetation does not extend more than 1.5 metres beyond the formed width of the road, track, farm track or firebreak;

11.2.40 The Panel does not agree that unlimited clearance of indigenous vegetation should be enabled as a permitted activity given the significant adverse effects that could arise, and as noted by Heritage NZ could result in disturbance of archaeological sites.

11.2.41 Having regard to the above matters, submission S74.005 Hamish Weir is rejected.

11.3 Rule ECO-R2

Submitter (S) Further Submitter (FS)	Decision Requested
S109.068 Department of Conservation	Retain as notified.
S139.037 Hokonui Rūnanga Inc	Propagation/planting of pest plants and animals is managed through regional strategies under the Biosecurity Act 1993. Delete the rule.
S85.033 Environment Southland	The RPMP already prevents the planting of pest plants. Change to 'planting of exotic plant species unless allowed for by ECO -P2'.
S115.096 Kevin Robertson S143.107 Rural Ratepayers Group S148.108 Alistair & Bernadette Hunt S60.098 Ronald Crispin S68.216 John Baynes S126.095 Southland Federated Farmers of NZ	Amend ECO-R2: Planting of exotic weed species identified in ~~a~~ the Southland Regional Pest Management Plan.
FS11.050 Heritage NZ Pouhere Taonga	Disallow S126.095 Southland Federated Farmers of NZ
S128.071 Greenbriar Ltd.	Requiring a discretionary consent for all indigenous vegetation clearance and land disturbance outside SNA's is considered overly onerous. Amend activity status to restricted discretionary A new rule be created for activities addressed in ECO-P4 - Discretionary
S109.067 Department of Conservation	Retain ECO-R2 with the following amendments (or words to similar effect): ~~Significant Natural Areas~~ All areas
FS10.003 Port Blakely Limited	Disallow S109.067 Department of Conservation. Unnecessary duplication, wilding pine are already regulated by the NES-CF and the Southland Regional Pest Management Plan
FS5.42 Hamish Weir	Disallow S109.067 Department of Conservation

11.3.1 At paragraph 10.13.2 above the Panel concludes, on the advice of Matt Heale at paragraph 556 of his s42A Report, that Policy ECO-P12 and Rules ECO-R2 and ECO-R3 should be deleted for the reason that the most efficient way to control weed and animal pest species is through the Biosecurity Act. That is consistent with the submissions of Hokonui Rūnanga Inc, Environment Southland and the further submission of Port Blakely.

11.3.2 Submission S139.037 Hokonui Rūnanga Inc is accepted by deleting notified Rule ECO-R2.

11.3.3 Consequentially, submissions S109.068 Department of Conservation, S85.033 Environment Southland, S115.096 Kevin Robertson and others, S128.071 Greenbriar Ltd and S109.067 Department of Conservation seeking retention or changes to the rule are rejected.

11.4 Rule ECO-R3

Submitter (S) Further Submitter (FS)	Decision Requested
S139.038 Hokonui Rūnanga Inc	Delete the rule. Propagation/planting of pest plants and animals is managed through regional strategies under the Biosecurity Act 1993.
S85.034 Environment Southland	Change to domesticated/invasive animals unless allowed by ECO - P2.
S115.097 Kevin Robertson S126.096 Southland Federated Farmers of NZ S143.108 Rural Ratepayers Group S148.109 Alistair & Bernadette Hunt S60.099 Ronald Crispin S68.217 John Baynes	Include a definition for animal pests and 'exotic weed species'. Amend ECO- R3: The intentional release or farming of animal pests identified in a the Southland Regional Pest Management Plan.
S109.069 Department of Conservation	~~Significant Natural Areas:~~ All Areas Retain ECO-R3 Activity status: non-complying
FS5.43 Hamish Weir	Disallow

11.4.1 At paragraph 10.13.2 above the Panel concludes on the advice of Matt Heale at paragraph 556 of his s42A Report that Policy ECO-P12 and Rules ECO-R2 and ECO-R3 should be deleted for the reason that the most efficient way to control weed and animal pest species is through the Biosecurity Act.

11.4.2 Submission S139.038 Hokonui Rūnanga Inc is accepted by deleting notified Rule ECO-R3.

11.4.3 Consequentially, submissions S109.068 Department of Conservation, S85.034 Environment Southland, S115.097 Kevin Robertson and others and S109.069 Department of Conservation seeking changes to the rule are rejected.

11.5 Additional Rules Sought

Submitter (S) Further Submitter (FS)	Decision Requested
S113.015 Trudy Bokser S116.015 Nathan Bokser S118.015 AW+ JA Johnston Family Trust S127.051 Peters Farm Ltd Karen Peters S18.017 Reaby Downs Farm Ltd S19.017 Karen Temple S20.017 Sarah and Peter Barclay S24.017 Helen McIntosh S68.019 John Baynes S117.015 Greg Bokser S3.015 Stoney Creek Station Limited	Add a new Rule ECO-R1(3):Indigenous vegetation clearance and any associated land disturbance required for the maintenance of improved pasture within or affecting a SNA where: (i) the maintenance of improved pasture is part of a regular cycle of periodic maintenance, and (ii) the intensity, scale or character of the effects are not increased, and (iii) the improved pasture has not itself become a SNA, and (iv) the land is not an uncultivated depositional landform, and (v) the maintenance will not adversely affect a Threatened or At Risk (declining) species.
FS31.020 Department of Conservation	Disallow S3.015 Stoney Creek Station Limited

11.5.1 Matt Heale at paragraph 670 of his s42A Report drew attention to notified Rule ECO-R1(1)(e) that states:

> Maintenance of improved pasture where:
> (i) the improved pasture has not become a SNA, and
> (ii) the land is not an uncultivated depositional landform, and

(iii) it will not adversely affect a Threatened or At Risk (declining) species.

11.5.2 Matt Heale did not consider there was a need to amend the notified provision. The Panel disagrees. The submission seeks the wording of clause 3.17 of the NPSIB and this is wider in its application, and clearer than the notified rule.

11.5.3 Submission S113.015 Trudy Bokser and others is accepted by amending Rule ECO-R1(1)(e) as follows:

(e) *Maintenance of improved pasture* where:

(i) the clearance of indigenous vegetation is part of a regular cycle of periodic maintenance of that pasture; and

~~(i)~~ (ii) the improved pasture has not itself become ~~an SNA~~ a Significant Natural Area;~~,~~ and

~~(ii)~~ (iii) the land is not an uncultivated *depositional landform*; and

~~(iii)~~ (iv) it will not adversely affect a *Threatened or At Risk (declining)* species.

Submitter (S) Further Submitter (FS)	Decision Requested
S3.014 Stoney Creek Station Limited S113.014 Trudy Bokser S116.014 Nathan Bokser S127.050 Peters Farm Ltd Karen Peters S18.016 Reaby Downs Farm Ltd S19.016 Karen Temple S20.016 Sarah and Peter Barclay S24.016 Helen McIntosh S68.018 John Baynes S117.014 Greg Bokser	Add a new Rule ECO-R1(2):2. Indigenous Vegetation Clearance and any associated land disturbance outside a SNA for any purpose other than listed in ECO-R1(1) or ECO-R1(3), provided: (a) The vegetation to be cleared is regenerating indigenous vegetation less than 15 years old, where the land was previously lawfully cleared of indigenous vegetation; or (b) The area of indigenous vegetation clearance does not exceed 500 m^2 in any 12 month period.
FS20.034 Hokonui Runanga Inc	Disallow in part S3.014 Stoney Creek Station Limited as the current rules need refinement
FS31.014 Department of Conservation	Disallow in part S3.014 Stoney Creek Station Limited as A precautionary approach is required given that there is limited knowledge of the ecological values of the areas of indigenous vegetation and habitats of indigenous fauna in the Southland Region
FS17.044 Federated Farmers	Allow S3.014 Stoney Creek Station Limited
S126.097 Southland Federated Farmers of NZ	Include new rule providing for indigenous vegetation clearance for any purpose other than contained in ECOR1(1) or (3) as a permitted activity. This would capture the ability to carry out minor indigenous vegetation clearance (i.e. the clearance of a single plant) for various purposes including beautification and normal farming activities.
FS5.47 Hamish Weir FS25.072 Stoney Creek Station Ltd	Allow S126.097 Southland Federated Farmers of NZ
FS20.027 Hokonui Runanga Inc	Allow in part S126.097 Southland Federated Farmers of NZ as the current rules need refinement
FS31.015 Department of Conservation	Disallow in part S126.097 Southland Federated Farmers of NZ as not support a rule with no parameters that permitted indigenous vegetation clearance for any other activities
FS11.051 Heritage NZ Pouhere Taonga	Disallow S126.097 Southland Federated Farmers of NZ as earthworks or ground disturbance to areas that have been previously undisturbed, or go below the topsoil have the potential to uncover archaeology
S115.098 Kevin Robertson S143.109 Rural Ratepayers Group S148.110 Alistair & Bernadette Hunt S60.100 Ronald Crispin S68.218 John Baynes	It is unreasonable to expect landowners to apply for a resource consent when carrying out minor clearance. Include new rule providing for indigenous vegetation clearance for any purpose other than contained in ECOR1(1) or (3) as a permitted activity.

11.5.4 On the advice of Andrew Wells, Matt Heale in his s42A Report recommended including a provision allowing for the clearance of vegetation less than 15 years old. However, at the

hearing and in response to questions from the Panel highlighting the variability that can occur in growth rates, Matt Heale agreed such an addition was not appropriate.

11.5.5 Kevin Robertson and others seek clearance of indigenous vegetation without limit. The Panel considers that is inappropriate having regard to the provisions of RMA s(6)(c), the NPSIB and RPS. Stoney Creek Station and others have requested an additional rule that would allow removal of 500 m^2 of indigenous vegetation each year. The Panel considers this level of clearance excessive at a property level and views with concern the potential cumulative effect across the whole District given the loss of indigenous vegetation associated with pastoral farming development over the past 100 years. The Panel does recognise it is appropriate for a small area to be cleared and adopts the advice of Matt Heale to allow 50m^2 of clearance of non-forest indigenous vegetation over a five year period.

11.5.6 The Panel agrees with DoC that a precautionary approach is required. That is consistent with NPSIB Policy 3 and as a consequence of this submission, is recognised in the new Policy ECO-P1 in this Decision.

11.5.7 Accordingly, submissions S115.098 Kevin Robertson and others and S3.014 Stoney Creek Station Limited and others are rejected.

11.5.8 Federated Farmers also seeks an additional rule allowing an unspecified amount of indigenous vegetation removal for various purposes including beautification and normal farming activities. The Panel is providing additional rules consistent with the NPSIB widening the circumstances under which clearance of indigenous vegetation is allowed with emphasis on continuation of existing activities. The Panel considers the revised provisions provide an appropriate and balanced approach having regard to the legislative requirements. Accordingly, submission S126.097 Southland Federated Farmers of NZ is accepted in part by adoption of the revised rules format.

Submitter (S) Further Submitter (FS)	Decision Requested
S69.006 Ian Davidson- Watts	We seek clarification on what rules apply to the protection of highly mobile fauna (of rare or threatened species etc). The rules to protect them when they are identified should be similar to those of SNAs
FS31.018 Department of Conservation	Allow S69.006 Ian Davidson- Watts
FS25.073 Stoney Creek Station Ltd	Disallow S69.006 Ian Davidson- Watts
S128.072 Greenbriar Ltd.	A new rule be created to implement ECO-P4 for indigenous vegetation clearance and land disturbance within a Highly Mobile Fauna Specified Area - Discretionary
FS25.113 Stoney Creek Station Ltd	Disallow S128.072 Greenbriar Ltd.
S128.030 Greenbriar Ltd.	1. ECO-R(1) - restricted discretionary. A new rule be created for indigenous vegetation clearance and land disturbance within a Highly Mobile Fauna Specified Area - Discretionary. A new rule be created for activities addressed in ECO-P4 - Discretionary

11.5.9 Highly mobile fauna was not referred to in any rules in the notified Plan. It was however referred to in the following notified policies:

ECO-P1 Work in partnership with Local Authorities, mana whenua, stakeholders and landowners to:
2. map and describe each specified highly mobile fauna area

ECO-P10 Maintain indigenous biodiversity across the district by:
2. Managing the adverse effects of new subdivision, use or development on highly mobile fauna areas in order to maintain viable populations of specified highly mobile fauna across their natural range

11.5.10 Threatened or At Risk (declining) species are referred both in the policies and rules of the notified Plan.

ECO-P3 Any new subdivision, use, or development shall avoid adverse effects on an SNA that result in:

5. a reduction in the population size or occupancy of Threatened or At Risk (declining) species that use an SNA for any part of their life cycle

ECO-P5 Plantation Forest activities in any existing plantation forest within a SNA must be managed in a manner that:
2. Maintains the long-term populations of any Threatened or At Risk (declining) species present in the area.

ECO-P7 Protect, enhance and restore Significant Natural Areas by: 1. Minimising the loss, fragmentation and reduction of:
(c) threatened or at-risk and indigenous species populations;

ECO-P8 When assessing consents for subdivision, land use and development, avoid effects which will:
2. Result in a degradation of the threat status, further measurable loss of indigenous cover or disruption to ecological processes, functions or connections in land environments in category one or two of the Threatened Environment Classification at the ecological district level;

3. Result in a reduction in the local population of threatened taxa in the Department of Conservation Threat Categories 1 – 3a - nationally critical, nationally endangered and nationally vulnerable; and

ECO-P9 When assessing resource consents in Significant Natural Areas, consider the following matters:
7. The impact of the activity on the values of any Significant Natural Area, rare or threatened indigenous species or taonga species and how any potential impact could be avoided, remedied or mitigated; and

ECO-R1 Indigenous vegetation clearance and land disturbance
Activity status: Permitted
Where:
1. It is necessary for the following purposes:
(e) Maintenance of improved pasture where: (iii) it will not adversely affect a Threatened or At Risk (declining) species

11.5.11 In considering these submissions the Panel is mindful of the following provisions of the NPSIB:

specified highly mobile fauna means the Threatened or At Risk species of highly mobile fauna that are identified in Appendix 2

Policy 15: Areas outside SNAs that support specified highly mobile fauna are identified and managed to maintain their populations across their natural range, and information and awareness of highly mobile fauna is improved.

3.20 Specified highly mobile fauna

(1) Where information about areas used by specified highly mobile fauna is available, every regional council must record areas outside SNAs that are highly mobile fauna areas, by working together with tangata whenua (in the manner required by clause 3.3), any potentially affected landowners, territorial authorities in its region, and the Department of Conservation.

(2) If it will help manage adverse effects on specified highly mobile fauna, regional councils must include in their regional policy statements (where practicable) a map and description of each highly mobile fauna area in the region.

(3) Local authorities must include objectives, policies, or methods in their policy statements and plans for managing the adverse effects of new subdivision, use, and development on highly mobile fauna areas, in order to maintain viable populations of specified highly mobile fauna across their natural range.

(4) Local authorities must provide information to their communities about:

(a) highly mobile fauna and their habitats; and

(b) best practice techniques for managing adverse effects on any specified highly mobile fauna and their habitats in their regions and districts.

11.5.12 Matt Heale at paragraphs 211 of his s42A Report referred to clause 3.20 of the NPSIB stating the provision anticipates specified highly mobile fauna areas will be identified by Environment Southland ahead of the Council including them in the District Plan. The Panel notes the RPS does not refer to highly mobile fauna and considers it is due to the RPS being adopted in 2017, while the NPSIB did not come into force until 2023. The Panel would expect the issue to be dealt with in the review of the RPS. The only guidance available to the Panel therefore is the NPSIB.

11.5.13 With the exclusion of potential rocky habitat for lizard species, evidence provided to the Panel on Highly mobile fauna and "Threatened and at Risk Species" was not site specific. Bruce McKinlay gave evidence regarding black billed gulls in the Mataura River margins, but in reply to questions from the Panel he acknowledged that the nesting area of the black billed gulls does change depending on river bed location and available habitat, and if disturbed they will move. The Panel does not consider the information provided reached the threshold of assigning significant habitat status to defined areas on the District Plan maps but did accept provision was appropriate in general terms in both policies and rules. In that regard the notified provisions have been amended to better reflect the provisions of the NPSIB as revised in:

- Notified policy ECO-P6, now ECO-P2
- Notified policy ECO-P7, now ECO-P3
- Notified policy ECO-P1, now ECO-P5

11.5.14 The Panel considers this an interim step until work is completed by the regional council the notified Policy ECO-P10 and the amended Policy ECO-P3 enable consideration of issues associated with highly mobile fauna when considering land use consents.

11.5.15 The Panel agrees with Ian Davidson-Watts that rules are required to protect highly mobile fauna once they are identified in a manner similar to SNAs, although the Panel understands if highly mobile fauna habitat is identified it would meet the threshold for a SNA. Overall, the Panel considers it has given effect to the NPSIB provisions as far as it can.

11.5.16 Submissions S69.006 Ian Davidson-Watts, S128.030 Greenbriar Ltd and S128.072 Greenbriar Ltd are accepted in part by adopting decision 11.2.12 above.

11.5.17 As outlined in paragraph 11.2.12, the Panel has identified the need for additional rules to respond to submissions and give effect to the NPSIB.

11.5.18 New ECO-R2 differentiates between indigenous vegetation clearance for agricultural, horticultural and pastoral activities in the various mapped areas described in paragraph 5.2.9, allowing for 50m^2 of clearance in all areas, except SNAs and HH Area A SIV, before consenting requirements apply. A threshold is identified for additional clearance limits as a controlled activity, subject to the effects management hierarchy where relevant, within the Hokonui Hills, except HH Area A SIV. A restricted discretionary activity applies, subject to the effects management hierarchy where relevant, in all areas that have not yet been confirmed as meeting the significance threshold, requiring a suitably qualified ecologist to assess the indigenous vegetation that is subject of any application for clearance.

11.5.19 New ECO-R3 is specific to indigenous vegetation clearance for the upgrade and development of critical infrastructure or specified infrastructure, or renewable electricity generation or electricity transmission activities, which differentiates between areas that have been identified as meeting the threshold of significance and areas that have yet to be confirmed. Where an assessment is required to determine whether the vegetation to be cleared meets the threshold of significance, upgrade or development of critical infrastructure is a restricted discretionary activity, subject to the effects management hierarchy, where relevant. Where an activity is

proposed within an area already identified as meeting the threshold of significance, upgrade or development of specified infrastructure or renewable electricity generation or electricity transmission activities is a discretionary activity, which will be subject to effects management hierarchy policies for specified infrastructure and otherwise new ECO-P12.

11.5.20 New ECO-R4 is specific to indigenous vegetation clearance for mineral or aggregate extraction, which is a restricted discretionary activity in areas where an assessment is required to determine whether the vegetation to be cleared meets the threshold of significance, and a discretionary activity in areas already identified as meeting the threshold of significance. The effects management hierarchy will apply, where relevant, in accordance with the policy framework and requirements of the NPSIB.

11.5.21 New ECO-R5 introduces a discretionary activity "catch-all" rule for activities that have not been otherwise specified in the rule framework. This is considered by the Panel to be more appropriate than a non-complying activity status because it may capture a variety of activities of varying scale and significance of effects.

11.5.22 New ECO-R6 recognises that, other than the activities covered in ECO-R3 and ECO-R4 which are subject to exceptions under the NPSIB, all other activities involving indigenous vegetation clearance in an SNA or HH Area A SIV are non-complying. This reflects evidence received regarding the particular protection required for HH Area A SIV, and the limited areas identified as SNA within the district.

Submitter (S) Further Submitter (FS)	Decision Requested
S110.034 Royal Forest and Bird Society of NZ Inc	Add: ECO-R4 Livestock grazing within a Significant Natural Area Activity status: Restricted Discretionary Matters of discretion:1. Effects on Significant Natural Area values and indigenous biodiversity values. 2. The impact of the activity on any, rare or threatened indigenous species or taonga species and how any potential impact could be avoided, remedied or mitigated. 3. The quantity and quality of indigenous vegetation impacted and the reasons for the activity. 4. The activity has a functional need to be located in the area. 5. An ongoing grazing plan to ensure the stock type, stock numbers and duration of grazing is combatable with the biodiversity values present. 6. the matters outlined in ECO-P2, ECO-P6, ECO-P7, ECO-P10, ECO-P11 and ECO-P12.
FS5.44 Hamish Weir	*Disallow S110.034 Royal Forest and Bird Society of NZ Inc*
FS20.019 Hokonui Runanga Inc	*Allow in part S110.034 Royal Forest and Bird Society of NZ Inc. any provisions must also be workable and encourage landowners to retain and enhance indigenous biodiversity.*
FS17.045 Federated Farmers *FS25.070 Stoney Creek Station Ltd*	*Disallow S110.034 Royal Forest and Bird Society of NZ Inc*

11.5.23 The Panel notes that NPSIB clause 3.17 provides enables grazing of stock on land that is improved pasture within an SNA subject to conditions. The Panel is of the view, having regard to RMA s6(c) and the RPS, that beyond the mandatory requirements of the NPSIB grazing should not be provided for with SNAs and for that reason retains the clearance of indigenous vegetation within an SNA as a non-complying activity as notified. The Panel does not support the more liberal approach promoted by Forest and Bird, nor does it accept that there may be a functional need for grazing to take place within an SNA. Forest and Bird did not present any additional information for the Panel to consider. Accordingly, submission S110.034 Royal Forest and Bird Society of NZ Inc is rejected.

12. Ecosystems and Indigenous Biodiversity: Appendix 4 and Maps

12.1 Appendix 4

Submitter (S) Further Submitter (FS)	Decision Requested
S109.070 Department of Conservation	Retain Appendix 4 as notified
S152.015 Nigel Cowburn	Requests amended wording of "requires an ecologist with geothermal expertise)" to widen expertise input as in NZ this is probably one person.
S85.008 Environment Southland	The criteria is consistent with the NPS-IB

12.1.1 At paragraph 690 of his s42A Report, on the advice of Andrew Wells, Matt Heale recommended deleting clause 3(2) as there are no geothermal ecosystems in the Gore District. The Panel notes however Appendix 4 reflects Appendix 1 of the NPSIB and other than using full text rather than abbreviations, considers it inappropriate to amend the text. Rather, the introductory text is being amended to clarify the source.

12.1.2 Submission S152.015 Nigel Cowburn is accepted in part by amending the introductory text of Appendix 4 as follows:

> This appendix sets out the criteria for identifying significant *indigenous vegetation* or significant habitats of indigenous fauna in a specific area, as part of a resource consent process or to establish ~~so~~ that the area qualifies as an *SNA* as part of the process outlined in the National Policy Statement for Indigenous Biodiversity 2023.

12.1.3 Submission S85.008 Environment Southland highlighting the appendix is consistent with the NPSIB and submission S109.070 Department of Conservation seeking retention of the Appendix are both accepted, recognising that the approach and content of the NPSIB represents current best practice.

Submitter (S) Further Submitter (FS)	Decision Requested
S148.009 Alistair & Bernadette Hunt	If an SNA is not mapped, it cannot and should not have any restrictions on it.
FS30.003 Transpower NZ Limited FS22.069 Clark Fortune McDonald & Associates	Allow S148.009 Alistair & Bernadette Hunt

12.1.4 The Panel notes that technically an SNA is not classed as an SNA until the procedure required of the NPSIB is completed and the area is included in the District Plan. The Panel anticipates the submitter's real concern relates to having rules applying to indigenous vegetation that is not shown in the Plan. The Panel notes however that RMA s6(c) requires the Council to protect areas of significant indigenous vegetation and significant habitats of indigenous fauna, while the clause 3.16 of the NPSIB requires:

> All other adverse effects of any activities that may adversely affect indigenous biodiversity that is outside an SNA … must be managed to give effect to the objective and policies of this National Policy Statement.

12.1.5 Adopting a precautionary approach requires rules in the Plan applying to all areas of indigenous vegetation, while also enabling existing activities to the extent provided for by the NPSIB. The Panel is confident that it has followed the statutory framework to the extent required. As a consequence, submission S148.009 Alistair & Bernadette Hunt is rejected.

12.2 MAPS

Submitter (S) Further Submitter (FS)	Decision Requested
S146.101 Southland District Council	Review cross-boundary issues with SDC.

12.2.1 The Panel has been advised that discussions have taken place with Southland District Council (SDC) with advice being given that there are no issues to pursue at this time. The Panel recognises that when work is undertaken to assess the values of indigenous vegetation that

straddles the joint Southland / Gore District boundary that it is appropriate for SDC to be consulted. An addition is made to notified policy ECO- P1 (now ECO-P5) to recognise this. Submission S146.101 Southland District Council is accepted in part by adopting revised Policy ECO-P5 as set out in paragraph 10.2.11 above.

Submitter (S) Further Submitter (FS)	Decision Requested
S115.177 Kevin Robertson S143.188 Rural Ratepayers Group S148.189 Alistair & Bernadette Hunt S60.179 Ronald Crispin S68.297 John Baynes S126.176 Southland Federated Farmers of NZ	SFF does not agree with including areas that have not been mapped as SNAs. It is our view that until areas are mapped and included in the plan, they should not be considered SNAs.
FS25.138 Stoney Creek Station Ltd	Allow S126.176 Southland Federated Farmers of NZ
FS31.021 Department of Conservation	Disallow S126.176 Southland Federated Farmers of NZ

12.2.2 The Panel agrees with the submitters in that an SNA is not classed as an SNA until the procedure required of the NPSIB is completed and the area is included in the District Plan. The Panel anticipates the submitters real concern relates to having rules applying to indigenous vegetation areas that are treated the same as SNAs. The Panel has differentiated between SNAs, areas of significant indigenous vegetation and significant habitats of indigenous fauna, and indigenous vegetation that does not meet the significance threshold or indigenous biodiversity more broadly. To that extent submissions S115.177 Kevin Robertson and others are accepted.

13. Provisions in Other Plan Chapters

13.1 Subdivision

Submitter (S) Further Submitter (FS)	Decision Requested
S85.109 Environment Southland	The current objectives do not adequate cover clause 3.16 and 3.20 of the NPS-IB. The inclusion of objectives to 'manage the effects of Indigenous biodiversity outside of SNAs' to' acknowledge and identify Taonga' and to 'manage adverse effects on Highly Mobile Species).
FS5.115 Hamish Weir	Disallow S85.109 Environment Southland
FS20.011 Hokonui Runanga Inc	Allow in part S85.109 Environment Southland

13.1.1 The Panel notes clause 3.16 of the NPSIB states:

> **3.16 Indigenous biodiversity outside SNAs**
>
> (1) If a new subdivision, use, or development is outside an SNA and not on specified Māori land, any significant adverse effects of the new subdivision, use, or development on indigenous biodiversity outside the SNA must be managed by applying the effects management hierarchy.

13.1.2 NPSIB clause 3.20 applies to highly mobile fauna and is discussed in paragraphs 11.5.11 - 11.5.16 above, noting clause 3.20 anticipates specified highly mobile fauna areas will be identified by Environment Southland ahead of the Council including them in the District Plan. The Panel does not consider the information provided during the hearings reached the threshold of assigning significant habitat status to defined areas on the District Plan maps but that does not remove responsibility to consider impacts on highly mobile species in the Subdivision chapter.

13.1.3 Environment Southland seeks additional objectives in the Subdivision chapter. The Panel notes the following objective in the Subdivision chapter as notified:

> SUB-O4 Subdivisions are designed and developed in a way that:
> 1. protects significant natural, ecological, historical and cultural features, values and resources,

13.1.4 The Panel considers the general form of SUB-O4 is sufficient to consider highly mobile fauna, noting the policy framework of the Ecosystems and Indigenous Biodiversity chapter also applies. Accordingly, submission S85.109 Environment Southland is rejected.

13.1.5 It should be noted issues associated with highly mobile fauna in the Subdivision chapter are considered further in response to submissions in the following paragraphs.

Submitter (S) Further Submitter (FS)	Decision Requested
S113.030 Trudy Bokser S116.030 Nathan Bokser S118.030 AW+ JA Johnston Family Trust S127.066 Peters Farm Ltd Karen Peters S18.032 Reaby Downs Farm Ltd S19.032 Karen Temple S20.032 Sarah and Peter Barclay S24.032 Helen McIntosh S68.034 John Baynes S117.030 Greg Bokser	SUB-R1: Why are sites containing SNAs or ONLs not afforded controlled activity status when the environmental effects of these activities are negligible. Delete Condition 6 ('The site does not contain a Significant Natural Area or Outstanding Natural Landscape or Feature') from SUB-R1.
S109.095 Department of Conservation	Retain SUB-R1 with the following amendments: 6. The site does not contain a Significant Natural Area or unmapped SNA that has been assessed as significant against the criteria in Appendix 4 or any area identified as a highly mobile fauna area or any area containing threatened or at risk (declining) species as listed in Appendix X or Outstanding Natural Landscape or Feature;
FS5.88 Hamish Weir	Disallow in part S109.095 Department of Conservation
FS14.012 NZ Transport Agency Waka Kotahi	Disallow S109.095 Department of Conservation
S74.014 Hamish Weir	Amend SUB-R1 as follows: The ~~site does not contain a~~ proposed new boundary do not bisect a Significant Natural Area or Outstanding Natural Landscape or Feature;
FS22.013 Clark Fortune McDonald & Associates	Allow S74.014 Hamish Weir
S113.031 Trudy Bokser S116.031 Nathan Bokser S118.031 AW+ JA Johnston Family Trust S127.067 Peters Farm Ltd Karen Peters S18.033 Reaby Downs Farm Ltd S19.033 Karen Temple S20.033 Sarah and Peter Barclay S24.033 Helen McIntosh S68.035 John Baynes S117.031 Greg Bokser S3.031 Stoney Creek Station Limited	SUB-R4: Why are sites containing SNAs or ONLs not afforded controlled activity status when the environmental effects of these activities are negligible. Delete Condition 6 ('The site does not contain a Significant Natural Area or Outstanding Natural Landscape or Feature') from SUB-R4.
FS5.96 Hamish Weir FS17.056 Federated Farmers	Allow S3.031 Stoney Creek Station Limited
S109.096 Department of Conservation	Retain SUB-R4 with the following amendments: 6. The site does not contain a Significant Natural Area or unmapped SNA that has been assessed as significant against the criteria in Appendix 4 or any area identified as a highly mobile fauna area or any area containing threatened or at risk (declining) species as listed in Appendix X or Outstanding Natural Landscape or Feature; ... been assessed as such during the resource consent process.
FS5.93 Hamish Weir	Disallow S109.096 Department of Conservation

13.1.6 Matt Heale at paragraphs 680 - 684 commented on these submissions as follows:

> As outlined in Appendix H, a number of similar matters have already been considered in Hearing Stream 6 relating to Subdivision. In her s42A assessment Ms Skuse rejected submissions to delete condition 6 from SUB-R1 relating to boundary adjustments affecting SNAs and ONLs due to the potential for significant implications for land use and the relationship between different land uses and noted that discretionary activity status is proportionate to the significance of RMA section 6 matters. Ms Skuse also noted that subdivision (including boundary adjustments) of land including ONLs, ONFs and SNAs, require assessment to ensure they do not result in adverse effects on the ecological values, visual integrity, or biodiversity of these areas. Ms Skuse notes

that the Council should consider whether the subdivision could compromise or undermine the conservation or protective measures, result in the loss of values, or degrade the quality of the area. Furthermore, the matters of control listed in SUB-R1 do not extend to cover these considerations.

I concur with Ms Skuse' assessment but also note that the submission point by Trudy Bokser et al to delete SUB-R1 condition 6 relating to SNAs and ONL's should be rejected on additional grounds as the NPSIB 3.10 requires that adverse effects of new subdivision must be avoided, anticipating a higher consent threshold than controlled activity generally provided for in SUB- R1. This is also reinforced by RMA S6c and SRPS policies requiring the protection of SIVAs/SNAs.

Ms Skuse also rejected submission points seeking changes to SUB-R4 clause 6 relating to ONLs and SNAs for the reasons outlined above in relation to SUB-R1. I concur with this assessment as well.

DoC's support for SUB-R11 is acknowledged, while the inclusion of unmapped SNAs and highly mobile fauna areas in SUB-R1 is rejected as the definition of SNAs already includes unmapped areas and highly mobile fauna areas have not yet been mapped and identified in the SRPS by Environment Southland. Likewise, the submission point seeking inclusion of highly mobile fauna areas in SUB-R4 is rejected while threatened and at-risk (declining) species reference is accepted as outlined below.

I recommend amending SUB-R4(6) as follows:

6. The site does not contain a SNA/SIVA, threatened or at-risk (declining) species or outstanding natural landscape or feature.

13.1.7 Rule SUB-R4 applies to "*Subdivision* resulting in no additional lots created" and the effect of not complying with the clause is to change the status of a subdivision consent from controlled to restricted discretionary. The Panel considers any changes that are appropriate should apply to several rules in the Subdivision chapter and given other matters dealt with in this decision concludes a more refined approach is required, particularly given the responses to questions from the Panel to Matt Heale and Andrew Wells who agreed additional reference to ecological values may be appropriate in the subdivision chapter.

13.1.8 The Panel accepts there is merit in the issue raised by Hamish Weir where he asserts that if a boundary line does not pass through a SNA or Outstanding Natural Feature (as referred to in the notified Plan) then there should be no adverse effect for the Council to consider. However, in response to submissions lodged, reports and evidence received, and recommendations made, the Panel acknowledges consideration is required as part of the subdivision consent process of impacts on all indigenous vegetation, highly mobile fauna, ecological corridors and threatened or at-risk (declining) species and in that regard the key issues for the Panel are:

(a) what, if any, additional provisions are required in the Overview, objectives and policies of the Subdivision chapter; and

(b) whether the presence of these values should trigger a change in the status of a subdivision consent.

13.1.9 The 4th paragraph of the Overview of the Subdivision chapter states:

> It is important that the design and layout of a *subdivision* responds to any constraints on the ability for the *allotments* to be developed. Constraints may include natural, cultural, historical or **ecological features**, contamination or *natural hazard* risk within or adjoining the *site*, and the ability to service the *allotments*, without compromising or adversely impacting other *infrastructure*. (emphasis added)

13.1.10 Objective SUB-O4 as recommended to the Panel in the s42A Report on submissions to the Subdivision chapter is as follows:

SUB-O4 Subdivisions are designed and developed in a way that:

1. protects significant, physical, natural, ecological, historical and cultural features, values and resources,

13.1.11 The Panel prefers the more open wording of the objective that refers to features, values and resources and has amended the Overview accordingly in paragraph 8.1.7 above. The Panel considers the general wording of the objective is appropriate.

13.1.12 Policy SUB-P18 as recommended to the Panel in the s42A Report on submissions to the Subdivision chapter is as follows:

SUB-P18 Adopt appropriate subdivision design to protect and enhance ~~landscapes, vegetation and indigenous *biodiversity* that are of a sufficient value that they should be retained~~ outstanding natural landscapes, outstanding natural features, significant natural areas and areas of significant indigenous vegetation.

13.1.13 While the policies (and objectives) of the Ecosystems and Indigenous Biodiversity chapter will be relevant in considering subdivision consents, having regard to the submissions lodged and resultant changes made to this chapter, the Panel considers a more explicit and consistent linkage is provided between the Ecosystems and Indigenous Biodiversity chapter and the Subdivision chapter.

13.1.14 The Panel notes the emphasis in the policy relates to "outstanding" features but given the following NPSIB provisions an amendment is required:

Policy 8 The importance of maintaining indigenous biodiversity outside SNAs is recognised and provided for.

Cl 3.16 Indigenous biodiversity outside SNAs

(1) If a new subdivision, use, or development is outside an SNA and not on specified Māori land, any significant adverse effects of the new subdivision, use, or development on indigenous biodiversity outside the SNA must be managed by applying the effects management hierarchy.

(2) All other adverse effects of any activities that may adversely affect indigenous biodiversity that is outside an SNA (other than indigenous biodiversity on specified Māori land (see clause 3.18)), must be managed to give effect to the objective and policies of this National Policy Statement.

(3) Every local authority must make or change its policy statements and plans to be consistent with the requirements of this clause

13.1.15 To ensure consistency with clause 3.16, the Panel concludes Policy SUB-P18 requires amending. However, having regard to the NPSIB the Panel doubts it is appropriate to the policy to refer to "enhance".

13.1.16 The following rule changes have been recommended to the Panel, updated in Hearing Stream 12:

SUB-R1 Boundary Adjustments
Activity status: Controlled
Where:
6. The site does not contain a *Significant Natural Area* / *significant indigenous vegetation area* or Outstanding Natural Landscape or Feature;

SUB-R4 Subdivision resulting in no additional ~~lots~~ records of title created
Activity status: Controlled
Where:
6. The site does not contain a *Significant Natural Area, significant indigenous vegetation area,* threatened or at-risk (declining) species

SUB-R5 Certification of existing allotments under s226 of the RMA 1991

Activity status: Controlled
Where:
5. The site does not contain a Significant Natural Area, significant indigenous vegetation area or Outstanding Natural Landscape or Feature;

SUB-R6 Subdivision of land solely to create an allotment that is for the purpose network utilities
Activity status: Controlled
Matters of Control
5. measures to avoid, remedy or mitigate adverse effects: of any natural hazards or other risks; any *historic heritage* or *notable tree*; a *Significant Natural Area*, *significant indigenous vegetation area* [HS12] Outstanding Natural Landscape or Feature; waterbodies, ecosystems; existing infrastructure; and on existing or permitted adjoining or adjacent land uses.

SUB-R7 All other subdivision
Activity status: Restricted Discretionary
Matters of Discretion
11. Impacts on and *access* to cultural, natural and ecological value areas.

SUB-R9 Subdivision in Gore West Development Area
Activity status: Restricted Discretionary
Matters of Discretion
11. Impacts on and *access* to cultural, natural and ecological value areas, including the impacts on any wetland.

SUB-R14 Subdivision including any area of an Outstanding Natural Landscape, Outstanding Natural Feature or Significant Natural Area or Significant Indigenous Vegetation area.
Activity status: Discretionary

13.1.17 Non-compliance with Rules SUB-R1, SUB-R4, SUB-R5 as above triggered a restricted discretionary or discretionary consent status.

13.1.18 The Panel notes that the inclusion of "significant indigenous vegetation area" in these provisions was on the recommendation of Matt Heale and he equated the term with a SNA. The Panel has not accepted that approach. Rather the Panel considers where a proposed property boundary passes through an area of indigenous vegetation, then assessment is required as to the significance of that indigenous vegetation and the manner in which the provisions of the NPSIB should then apply. That necessitates amending the rules above, excluding SUB-R9. In addition, the Panel considers the bespoke rules applying to the Hokonui Hills with regard to ecological values necessitates recognition in the subdivision rules.

13.1.19 Having regard to cost considerations, and the availability of experienced ecologists, the Panel wishes to avoid the need for a detailed ecological assessment as part of every subdivision consent. Nor does the Panel consider it appropriate to determine the status of an application following assessment of the value of indigenous vegetation or other ecological values. Rather, the Panel favours an approach based on areas shown on the District Plan maps (for example, SNA) and/or explicit criteria within the rules that do not require a value judgment as to significance.

13.1.20 Trudy Bokser and others seek a change to SUB-R1 and SUB-R4 to delete the condition that "The site does not contain a Significant Natural Area or Outstanding Natural Landscape or Feature". Given the statutory requirements to protect significant and outstanding areas that is not appropriate. However, the Panel recognises that refinement of the rules is required.

13.1.21 DoC on the other hand sought widening of the rules SUB-R1 and SUB-R4 that in effect would require an assessment of whether an area met the criteria in Appendix 4 or contained highly mobile fauna or threatened or at-risk (declining) species prior to the status being determined. As set out above, the Panel does not favour that approach, but considers changes are required to be consistent with the NPSIB with the extent of changes being made recognising that the provisions of the Ecosystems and Indigenous Biodiversity chapter also apply.

13.1.22 Submission S74.014 Hamish Weir is accepted and submissions S113.030 and S113.031 Trudy Bokser and others and S109.095 and 109.096 Department of Conservation are accepted in part by amending the Subdivision chapter as follows:

(a) Fourth paragraph of the Overview:

It is important that the design and layout of a *subdivision* responds to any constraints on the ability for the *allotments* to be developed. Constraints may include physical, natural, cultural, historical or ecological features, values and resources, contamination or *natural hazard* risk within or adjoining the *site*, and the ability to service the *allotments*, without compromising or adversely impacting other *infrastructure*.

(b) Policy SUB-P18

SUB-P18 Adopt appropriate subdivision design to:

1. protect ~~and enhance landscapes, vegetation and indigenous *biodiversity* that are of a sufficient value that they should be retained~~ outstanding natural landscapes, outstanding natural features, significant natural areas and areas of significant indigenous vegetation;

2. manage any significant adverse effects on other indigenous biodiversity by applying the effects management hierarchy; and

3. mange other adverse effects that may adversely affect indigenous biodiversity in a manner that gives effect to the objective and policies of the National Policy Statement for Indigenous Biodiversity.

(c) Rules

SUB-R1 Boundary Adjustments
Activity status: Controlled
Where
6. ~~The site does not contain~~ No new boundary line is within
(a) a Significant Natural Area; or
(b) an Outstanding Natural Landscape or Feature; or
(c) an area of indigenous vegetation;
~~(d) the Hokonui Hills Area~~

Activity status where compliance is not achieved:

SUB-R1 (6): Restricted Discretionary

Where:

1. No new boundaries created pass through the boundary of:

(a) A Significant Natural Area;

(b) An *area of indigenous vegetation*; or

(c) An Outstanding Natural Landscape or Feature

Matters of Discretion

1. The matters of control listed in SUB-R1; and

2. Adverse effects on the characteristics and values of the feature, including considerations of visual impact, natural character, and ecological integrity

Activity status where compliance not achieved with SUB-R1(6)(1): SUB-R7 and SUB-R14 applies

SUB-R4 Any *subdivision,* that does not create any additional Record of Title and is not a *boundary adjustment*:
Activity status: Controlled
Where
6. No new boundary line is within

(a) a Significant Natural Area; or
(b) an Outstanding Natural Landscape or Feature; or
(c) an *area of indigenous vegetation*;
~~(d) the Hokonui Hills Area~~

Activity status where compliance is not achieved:

SUB-R4 (6): Restricted Discretionary

As above

SUB-R5 Certification of existing allotments under s226 of the RMA 1991
Activity status: Controlled
Where:
6. ~~The site does not contain~~ No new boundary line is within
(a) a Significant Natural Area; or
(b) an Outstanding Natural Landscape or Feature; or
(c) an *area of indigenous vegetation*;
~~(d) the Hokonui Hills Area~~

SUB-R6 Subdivision of land solely to create an allotment that is for the purpose network utilities
Activity status: Controlled
Matters of Control
5. measures to avoid, remedy or mitigate adverse effects: of any natural hazards or other risks; any historic heritage or notable tree; a Significant Natural Area, or area of significant indigenous vegetation, Outstanding Natural Landscape or Feature; waterbodies, ecosystems; existing infrastructure; and on existing or permitted adjoining or adjacent land uses.

SUB-R7 All other subdivision
Activity status: Restricted Discretionary
Matters of Discretion
11. Impacts on and access to cultural, natural and ecological value ~~areas including the impacts on any wetland~~.

SUB-R14 Refer to paragraph 13.1.24 below

Note: In the updated Plan provisions SUB-R7 above is moved to the end of the rules, with subsequent renumbering.

Submitter (S) Further Submitter (FS)	Decision Requested
S109.097 Department of Conservation	Retain as notified SUB-R11
S113.032 Trudy Bokser S116.032 Nathan Bokser S118.032 AW+ JA Johnston Family Trust S127.068 Peters Farm Ltd Karen Peters S18.034 Reaby Downs Farm Ltd S19.034 Karen Temple S20.034 Sarah and Peter Barclay S24.034 Helen McIntosh S68.036 John Baynes S117.032 Greg Bokser S3.032 Stoney Creek Station Limited	Amend SUB-R11 as follows: Subdivision in any area of an Outstanding Natural Landscape, Outstanding Natural Feature or Significant Natural Area excluding activities captured by SUB-R1 and SUB-R4.
FS5.110 Hamish Weir FS17.057 Federated Farmers	Allow S3.032 Stoney Creek Station Limited

13.1.23 The Panel notes the s42A Report did not specifically consider the issue raised in these submissions but the recommendation in Appendix B of the Report was to reject the submissions seeking change. The Panel however, agrees with the submitters, being of the view that unless the rule is amended there is duplication in the rules applying to Outstanding Natural Landscapes, Outstanding Natural Features or Significant Natural Areas.

13.1.24 Submissions S113.032 Trudy Bokser and others are accepted by amening rule SUB-R11 (now SUB-R15) as follows (incorporating response to submissions in paragraph 13.1.22 above):

SUB-R15 *Subdivision* including any area of an Outstanding Natural Landscape, Outstanding Natural Feature or *Significant Natural Area,* Hokonui Hills Area A Significant Indigenous Vegetation, Hokonui Hills Area B Significant Indigenous Vegetation or Hokonui Hills Area C Indigenous Vegetation:

Any subdivision, unless provided for in Rules SUB-R1, SUB-R4, SUB-R5 or SUB-6 is:
Activity status: Discretionary
Where:
1. Standard SUB-S1 is met.

Activity status where compliance is not achieved: Non-Complying

13.1.25 The Panel acknowledges the submission seeking retention of the rule as notified. As changes have been made to the provision submission S109.097 Department of Conservation is accepted in part.

13.2 Natural Features and Landscapes

Submitter (S) Further Submitter (FS)	Decision Requested
S152.009 Nigel Cowburn	Requests provision for removal of trees with a large DBH of 200mm non-complying, unless covered by NFL R6.2
FS25.107 Stoney Creek Station Ltd	Disallow S152.009 Nigel Cowburn

13.2.1 By way of Decision 46 Natural Features and Landscapes, the Panel has deleted Rule NFL-R6 Indigenous Vegetation Clearance within an identified ONF/L as it unnecessarily duplicates provisions in the Ecosystems and Indigenous Biodiversity chapter, and having regard to the National Planning Standards it is the role of the Ecosystems and Indigenous Biodiversity chapter to deal with vegetation clearance matters. The focus of the Panel in considering submissions is on the area of indigenous vegetation clearance. It is unclear whether the submission relates solely to indigenous vegetation or all trees. However, the Panel has not received any reports from advisers assessing the pros and cons of the requested change other than a generic assessment recommending rejection of the submission. Neither has the Panel received any material from the submitter that enables it to consider this matter further. Accordingly, submission S152.009 Nigel Cowburn is rejected.

14. Other Matters

14.1 Hokonui Rūnanga Submissions

14.1.1 The Panel has considered the evidence of Courtney Bennett and Amy Beran presented in HS8 and HS9A in relation to Ngāi Tahu cultural values. Their response to Minute 15 indicated that there was some improved clarity needed in the wording of policies in the chapter, which the Panel has responded to with the addition of new ECO-P4, in order to provide consistency between chapters of the Plan. The decision on the rule framework also provides for consideration of Ngāi Tahu relationship with indigenous biodiversity. The Panel has also considered the reply of Rachel Thomas and Bernadette Hunt on behalf of Federated Farmers to the 12 February 2025 evidence of Amy Beran and are satisfied that the rule framework as amended appropriately provides for farming activities in the district that may impact on areas of indigenous vegetation.

14.2 Section 32AA

14.2.1 Matt Heale attached as Appendix F to his s42A Report an assessment having regard to the provisions of s32AA as they applied to the recommendations in his Report. Where the Panel has adopted his recommendations then the s32AA assessment is also adopted.

Objectives

14.2.2 The s42A Report recommended revisions to each of the four notified objectives. The Panel has retained the concepts embodied in the recommended revisions and as such the assessment undertaken by Matt Heale is still considered appropriate by the Panel.

14.2.2 The assessment of ECO-O1 (Maintain indigenous biodiversity) referred to the NPSIB requirement to ensure no overall loss of indigenous biodiversity. The considered this of prime importance, recognised by its inclusion in ECO-O1. The words deleted by the Panel from the recommended and notified version of ECO-O1 have been added to a new objective ECO-O2, thereby removing the need for recommended objective BIO-O3. Objective ECO-O2 also incorporates reference to enhancement previously included in objective ECO-O4.

14.2.3 Notified and recommended objective BIO-O2 has been deleted. It reads as a policy and duplicates policy ECO-P1.

14.2.4 Recommended objective ECO-O4 has been simplified as sought by Hokonui Rūnanga. The Panel considers enabling the exercise of kaitiakitanga and enabling mahinga kai are means of implementing the objective to recognise the values indigenous biodiversity to the mana whenua, are more appropriate at a policy level.

14.2.5 Overall, the Panel agrees with the summary of Matt Heale where he stated in his Summary to the assessment of the Objectives:

> Overall, the proposed objectives provide greater clarity and certainty for plan users and decision makers whilst also achieving the purpose of the Act in a reasonable, useful, relevant and achievable manner. The Objectives will allow Council to fulfil their obligations under s31 of the Act, are consistent with identified mana whenua outcomes and align with relevant regional and national direction. The proposed objectives are the preferred option to address the key resource management issues identified in sections 2 and 4 of the notified s32 Assessment.

Policies

14.2.6 The Panel has made a number of changes and additions to the recommended policies in order to give effect to the provisions of the NPSIB and RPS. In that regard:

(a) Policy ECO-P1 (Precautionary approach) is consistent with Policy 3 of NPSIB and the explanation to RPS Policy BIO.1. The policy provides a principled framework for giving effect to the objectives of the chapter.

(b) Policy ECO-P2, notified as ECO-P6 has been generally adopted as recommended with the addition of reference to “enhancement” and “wetlands” and wider recognition of “areas of significant indigenous vegetation and significant habitats of indigenous fauna”. This implements all of the objectives in accordance with the NPS-IB and RPS requirements.

(c) Policy ECO-P3, notified as ECO-P7, has been expanded to refer to highly mobile fauna and ecological enhancement works, while also recognising benefits of farm management practices and active management of indigenous biodiversity. The policy gives effect to ECO-O1 and ECO-O2 in accordance with RMA part 2, NPSIB and RPS.

(d) Policy ECO-P4 gives effect to the objectives of the Mana Whenua and Ngai Tahu Cultural Values chapter, RMA s8, Policy 2 NPSIB and RPS Objective TW.1.

(e) Policy ECO-P5, notified as ECO-P1, with minor wording changes follows the recommendation of Matt Heale.

(f) ECO-P6, notified as ECO-P2, has been reordered for clarity with reference made to areas of significant indigenous vegetation and significant habitats of indigenous fauna rather than SIVA and also recognising activities associated with the National Grid and

where there is danger to public health and safety, overall recognising the provisions of the NPSIB and NESETA.

(g) ECO-P7 (greater intensity, scale and character of existing activities) reflects NPSIB clause 3.15(3) and is included having regard to uncertainty expressed through the hearings process related to existing uses.

(h) ECO-P8, notified as ECO-P5, (forestry activities) incorporates recommended changes and additional provisions to give effect to and be consistent with the NPSIB and NESCF.

(i) ECO-P9, notified as ECO-P3, (adverse effects) incorporates recommended changes and additional provisions to give effect to and be consistent with the NPSIB, NESETA and NPSREG, including reference to the effects management hierarchy, Natioanl Grid and renewable electricity generation.

(j) ECO-P10 redrafts notified ECO-P3 incorporating provisions from the NPSIB.

(k) ECO-P11, notified as ECO-P8, was subject to a recommendation to delete by Matt Heale because it duplicated the content of other policies. The Panel has retained those portions not now duplicated elsewhere.

(l) ECO-P12, notified as ECO-P11, incorporates some of the recommended changes but includes matters that better reflect the requirements of NPSIB clause 3.10.

(m) ECO-P13 (renewable electricity generation and the electricity transmission network) reflects the provisions of the NPSREG and NESETA and is consistent with RPS Objectives ENG.3 and ENG.4 and Policies ENG.2, ENG.3 and ENG.4.

(n) ECO-P14 (specified Māori land) recognises NPSIB clause 3.12 and is consistent with RMA s6(e) and s8.

(o) Notified policy ECO-P12 (exotic weeds) was recommended by Matt Heale to be deleted.

Rules

14.2.7 The Panel has made a number of changes and additions to the recommended rules in order to give effect to the objectives and policies.

(a) Rule ECO-R1 provides a range of permitted activities and retains the intent and structure of recommended rule ECO-R1 with minor changes in wording for clarity and to ensure consistency with NPSIB. The rule has however been expanded to all areas included the Hokonui Hills and simplified where there is non-compliance with recommended discretionary and non-complying activities being moved to separate rules. The condition precedent for restricted discretionary status applying to a Council Authorised Biodiversity Management Plan has been deleted and now as a matter of discretion refers to any Biodiversity Management Plan submitted with an application.

(b) Rule ECO-R2 provides a permitted activity threshold for indigenous vegetation clearance within areas identified as significant within the Hokonui Hills, above which controlled activity status applies where the vegetation does not reach the threshold of significant and meets a second area criteria, otherwise discretionary status applies. The limits specified are reduced from those recommended but are in addition to those permitted under rule ECO-R1. In addition, the recommended rule progressed from permitted to restricted discretionary and non-complying. The revised rule progresses from permitted to controlled and then to discretionary. As the area subject to the rule has been confirmed by appropriate experts as containing significant indigenous vegetation and significant habitats of indigenous fauna, the rule gives effect to RMA s6(c), the NPSIB and RPS.

(b) Rule ECO-R2 also provides a permitted activity threshold for indigenous vegetation clearance within identified parts of the Hokonui Hills as containing indigenous vegetation

habitats containing indigenous fauna that has been assessed by experts and not reaching the significant threshold. Above the permitted activity threshold controlled activity status applies where it is less than a second area threshold, otherwise discretionary status applies. The threshold limits specified are reduced from those recommended but are in addition to those permitted under rule ECO-R1.

(c) Rule ECO-R2 also applies a permitted activity status as recommended to the clearance of indigenous vegetation to areas outside of the Hokonui Hills (excluding SNAs and HHA Area A SIV) above which restricted discretionary status applies.

(d) Rule ECO-R3 (critical infrastructure or specified infrastructure) and rule ECO-R4 (mineral or aggregate extraction) give effect to ECO-P10 and the NPSIB.

(e) Rule ECO-R5 refers to indigenous vegetation removal not otherwise referred to as a discretionary activity to ensure complete coverage of circumstances within the rules.

(f) Rule ECO-R6 applies non-complying status to vegetation removal within SNAs and the 127ha area subject to agreement between the landowners and DoC (recognising the uncontested outstanding values within that area).

14.2.8 The policies and rules are considered the most appropriate way to achieve the objectives and are within scope of the functions of the Council. They give effect to higher order documents (including the RPS, NESETA and NESCF) and as mandated by the NPSIB provide a framework to avoid, remedy or mitigate as appropriate effects on ecological values of the District, Significant Natural Areas, areas of significant indigenous vegetation and significant habitats of indigenous fauna and other areas of indigenous vegetation and indigenous fauna while providing for Nagi Tahu cultural purposes and ensuring consideration of effects on Ngai Tahu cultural values. The amended policies provide clear direction for the consideration of future consenting processes.

14.2.9 The policies and rules are considered reasonable providing for the continuation of identified existing lawfully established activities while requiring consideration of the effects of other activities, not otherwise provided for within higher order documents (for example, NESETA, NESCF, NPSET and NPSREG) that impact on indigenous vegetation and indigenous fauna. The policies and rules are consistent with and will assist in achieving the objectives and outcomes sought in, higher order documents, particularly the NPSIB.

14.2.10 The policies and rules provide for the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna consistent with RMA s6(c). Within areas where appropriately experienced experts have verified areas where these values are significant, as on the Hokonui Hills, costs will arise should additional consents be sought. However, the work already undertaken provides a factual framework to facilitate consideration of any such consents. Elsewhere in the District the number of properties containing areas of indigenous vegetation is small given the extent to which pastoral farming has been undertaken. The policy and rule framework encourages retention of such areas with short education costs and potential compliance costs being incurred by the Council. Should landowners seek to remove areas of indigenous vegetation consents will be required at their cost but that is appropriate given the provisions of the NPSIB.

14.2.11 The majority of areas of indigenous vegetation and habitats of indigenous fauna within the Gore District has already been removed. There is a risk of not acting now will see further removal of such areas and policies will not give effect to the RMA and other higher documents.

14.2.12 Overall, the Panel considers that the rule framework as a whole is better aligned with the statutory framework and relevant national direction, particularly the NPSIB and its direction for managing indigenous vegetation, which improves the efficiency and effectiveness of the Plan. Decisions on the rules have made them clearer in their purpose and established a logical

cascade of activity status between permitted and non-complying, commensurate with the scale and significance of adverse effects on indigenous biodiversity from various activities, based on the evidence received. Amendments to the permitted activity rules provide greater scope for activities before they require consent, reducing potential costs to resource users, and controlled activity rules allow for additional vegetation clearance before a discretionary consent is required.