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 46: Natural Features and Landscapes

Hearings Panel Members

Keith Hovell

Glenys Dickson

Cliff Bolger

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Date of Hearing
12 - 13 February 2025

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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 submissions lodged to the Natural Features and Landscape chapter. Arising from the submissions a new chapter is included in the Plan, "Natural Character". This is considered in section 7 of this decision.

1.1.2 The Hearings Commissioners comprising the Panel for the consideration of submissions to the Natural Features and Landscape chapter were Commissioners Keith Hovell, Maria Bartlett, Cliff Bolger and Glenys Dickson.

1.1.3 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 s42A Report prepared by Mishka Banhidi.

1.1.4 Attached is the updated provisions for the Natural Features and Landscape chapter, referencing changes authorised by this and other Decisions of the Panel. Changes made in response to submissions are shown in normal black font, with text either underlined for additions or as ~~strikethrough~~ for deletions. A reference is also provided of the decision and paragraph number giving rise to the changes in response to submissions. Amendments made to the PDP pursuant to clause 16(2) are shown in the updated District Plan chapters in a green font. Shown in a red font are consequential numbering changes arising from provisions being added or deleted.

1.1.4 Appendix A lists the submissions lists considered in this decision and their outcome, described as accepted, accepted in part or rejected. For convenience, the Panel has chosen to make decisions on original submissions only. By implication, but not explicitly, it has also made decisions in relation to further submissions.

1.1.5 Attention is also drawn to Decision 2, Whole of Plan and Repeated Submissions that responds to submissions lodged to the District Plan as a whole, together with those 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.

1.2 Abbreviations

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

Full Text	Abbreviation
Alliance Group Ltd	Alliance
Clause 16(2) of the First Schedule of the RMA	cl 16(2)
Director General of Conservation Department of Conservation	DoC
Gore District Plan	Plan
Hearings Panel	Panel
Higher Sensitivity Areas	HSAs
Hokonui Rūnanga Incorporated	Hokonui Rūnanga
Lower Sensitivity Areas	LSAs
Natural Features and Landscape	NFL
New Zealand Transport Agency Waka Kotahi	NZTA
Outstanding Natural Features and Landscapes	ONL
Proposed Gore District Plan	Proposed Plan or PDP

Report prepared under RMA section 42A	s42A Report
Resource Management Act 1991	RMA
RMA section	s
Southland Federated Farmers NZ	Federated Farmers
Southland Regional Policy Statement	RPS
Stoney Creek Station Ltd	Stoney Creek
Transpower NZ Ltd	Transpower

1.3 Statutory Considerations

1.3.1 The Panel's Decision1 Preliminary Matters and Statutory Requirements Relevant to Decisions sets out the legal framework and requirements for preparing a District Plan, as well as case law referred to in legal submissions and evidence provided to the Panel. This framework is not repeated in this Decision. Rather, this Decision should be read in conjunction with Decision1.

1.3.2 In s42A reports to the Panel, the authors are required to consider any alternative provisions put forward in the context of 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 make changes to the Plan in response to submissions which materially depart from the notified version.

1.3.3 Through Minute 5, the Panel requested submitters seeking changes to District Plan provisions to have regard to the s32 provisions and provide material to the Panel that would facilitate any additional s32AA assessment required if it was of a mind to accept the changes they sought.

1.3.4 Where the Panel has made amendments to the Proposed Plan that are consistent with the recommendations contained within the s42A Reports and associated evidence the Panel has adopted the s32AA analysis contained within those reports and evidence, 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 Proposed Plan 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 At paragraph 52 of her s42A Report 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 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) and 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, 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 includes 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 ecologist, 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 Evidence and Section 42A Report

2.1 Mike Moore

2.1.1 Mike Moore is a registered member of the New Zealand Institute of Landscape Architects with more than 30 years' experience in both landscape design and planning with particular emphasis on landscape assessment. In 2020 he was commissioned by the Council to undertake a preliminary assessment of the landscapes of the Gore District to identify potentially important natural features and landscapes. This work included review of existing landscape studies relevant to the Southland Region and Gore District, as well as field work to view the landscapes of the district. His work and reports were used to inform the PDP NFL chapter provisions. Mike Moore also attended meetings of the Working Party referred to in the Record of Consensus.

2.1.2 It was the recommendation of Mike Moore that two key additions be made to the Planning Maps

(a) Lower Sensitivity Areas (LSAs) comprising areas of lower visibility from public places or of relatively more modified character be identified and with more permissive provisions relating to building scale and height, exotic tree planting, earthworks, and farm quarries applying within these areas.

(b) Significant ridgelines are identified and that provisions relating to buildings and structures and earthworks apply within 30m of these ridgelines. He noted

ridgelines generally have high sensitivity to change particularly the strike ridge geomorphological features which also have high visibility from public places and areas surrounding the Outstanding Natural Landscape (ONL).

2.1.3 Other changes Mike Moore considered necessary in the Natural Features and Landscape chapter were:

(a) Amending Appendix 5 Hokonui / Waterfall Range ONL to more comprehensively describe its character, values and threats, and to refer to the variability in sensitivity throughout.

(b) Amending Rule NFL-R1 Buildings and Structures (excluding fences) within an identified ONF/L to make a distinction between farming and non-farming buildings and to provide for moderate scaled farming structures such as farm sheds as a permitted activity

(c) Including planting of exotic species in LSAs as shelter belts within 100m of a farm building or stockyards as a permitted activity in Rule NFL-R2 Tree planting, other than plantation forestry or woodlots within an identified ONF/L

(d) Amending the standards in Rule NFL-R3 Land disturbance and earthworks within an identified ONF/L as a standalone provision separate from the Earthwork chapter.

(e) Clarifying in Rule NFL-R5 Fences within an identified ONF/L, that post and wire fences (including deer fencing, waratahs and mesh fencing) are permitted, as are stockyards.

(f) Deleting Rule NFL-R6 Indigenous vegetation clearance within an identified ONF/L as it is dealt with in the Ecosystems and Biodiversity chapter.

(g) Deleting Rule NFL-R6 New Roads, farm tracks, walking and cycling tracks within an identified ONF/L as it is dealt with in the Earthworks chapter.

(h) Amending Rule NFL-R7 Mining and Quarrying within an identified ONF/L to provide for farm quarries.

(i) Woodlots are provided for as a Restricted Discretionary Activity within LSAs.

2.1.4 Mike Moore also included in his evidence an assessment of the submissions lodged to the provisions of the NFL chapter. Where appropriate these have been referred to in consideration of those submissions later in this decision.

2.1.5 In reply to questions from the Panel at the hearing regarding the omission of the Mataura River as an outstanding landscape, Mike Moore stated that in terms of the landscape assessment criteria it would have associative values because of its cultural significance, but physical and perceptual values would be low as the river is highly modified. In his view it is better to consider it under RMA s6(a) than 6(b). He added that he sees outstanding as a high bar, and while the Mataura Falls is clearly in that category, and while the river itself is on the cusp, in his view it does not qualify as outstanding.

2.1.6 When asked about the strike ridges to the east, as raised by Robina Johnson, Mike Moore stated while they have high perceptual values they weren't particularly notable in terms of geopreservation values. They are in his view of local value and if the Plan included second tier landscapes they would be worthy of recognition in some way. Mishka Banhidi also provided background indicating when the geopreservation sites were assessed during the preparation of the Plan it was felt that they weren't under threat and did not require inclusion.

2.1.7 With regard to geopreservation sites discussed at paragraph 69 of his report, Mike Moore doubted there was adequate protection of these sites in the Plan, noting some have more than scientific value, such as Landslip Hill, but don't meet the outstanding landscape threshold. He added they are all mapped and inclusion into the Plan would not be difficult.

2.2 Mishka Banhidi (s42AReport)

2.2.1 The introduction to the s42A Report noted the Natural Features and Landscapes Chapter contains provisions in response to RMA s6(b), which requires that outstanding natural features and landscapes be protected from inappropriate subdivision, use and development. Two prominent natural landscapes and features are characterised in the Gore District that are managed by the provisions in this chapter, being the Hokonui Hills and the Te Au Nui Pihapiha Kanakana Mataura Falls. Submissions seeking changes only refer to the Hokonui Hills.

2.2.2 A key issue considered in the Report was the request in submissions to establish a Hokonui Hills Special Precinct and in that regard the Report incorporated the Consensus Agreement outlined in Section 1.4 of this Decision. Mishka Banhidi noted at paragraph 56 of her s42A Report that as a consequence of the Consensus Agreement, rather than establishing a Precinct over the Hokonui Hills within which a uniform approach is adopted, a more flexible approach can be provided by adopting two landscape management areas. In her Report Mishka Banhidi stated:

> This approach was considered more appropriate than a precinct given the National Planning Standard direction as an overlay already existed on the properties and changes could be easily incorporated within the existing overlay provisions. The general boundaries of the ONL were confirmed as appropriate (with the exception of a small area along the western extent), however it was considered that within the boundaries of the ONL bespoke provisions could be provided for based on special areas with differing landscape sensitivities. As a result, a "Lower Sensitivity Area" was defined spatially …. This area is considered to meet the criteria of the wider ONL, albeit with less landscape sensitivity than other areas.

2.2.3 Mishka Banhidi also noted the focus of the Working Party was the rules and standards, rather than the objective and policies and further consideration of the objectives and policies is required to ensure appropriate policy support where consents are needed. This is considered further in this decision when assessing submissions to the individual provisions. However, it was the view of Mishka Banhidi that if the recommended landscape management areas were adopted, a new policy was required to ensure vertical integration within the Plan as follows:

> NFL-P5 Enable existing land use patterns within the Hokonui Hills, whilst protecting the landscape values and reflecting the landscape characteristics described within Appendix 5, through location specific management of the nature and scale of works, land use and development.

2.2.4 Mishka Banhidi also included in the s42A Report an assessment of the submissions lodged to the individual provisions of the NFL chapter and these are had regard to when considering those submissions.

2.2.5 Arising from questions to Mike Moore on potential archaeological sites in the Hokonui Hills, Mishka Banhidi noted there is an information layer on the District Plan Maps showing known and potential archaeological sites and if anything was unearthed then the Accidental Discovery Protocol would apply.

2.2.6 The Panel queried whether it was appropriate for Rule NFL-R6(3) to refer to and require compliance with rules in the Ecosystems and Biodiversity chapter. Mishka

Banhidi advised that the provision could be deleted provided that non-compliance with the ECO rules enabled consideration of landscape effects as an assessment matter

3. Submitter Evidence and Submissions

3.1 Alliance Group Limited

3.1.1 Doyle Richardson advised Alliance generally supports the comments of Mishka Banhidi with respect to the suitability of the indicative provisions to manage locally distinctive and valued natural features and landscapes as set out in paragraphs 42 – 49 of her response.

3.1.2 Alliance agrees with Mishka Banhidi that the proposed rule that enables an existing lawfully established activity to occur where scale is not increased could result in more onerous consenting requirements compared to identified “outstanding natural features or landscapes”.

3.1.3 Doyle Richardson noted that the recommended Rule NFL-R1 provided for buildings and structures in an identified “outstanding natural feature or landscape” as a permitted activity where they are relatively small in size and have low reflectivity values. Overall, Alliance considers that any rule framework for “locally distinctive and valued natural features and landscapes” should be more permissive than the rule framework for “outstanding natural features or landscapes” to reflect the lower identified values of the natural feature or landscape.

3.1.4 Alliance also agrees with Mishka Banhidi that the proposed rule is largely covered by other chapters of the Proposed Plan. In particular, the Earthworks chapter already provides for setbacks from the Mataura River and the stream setback rule for buildings and structures applies to the Mataura River

3.2 New Zealand Transport Agency

3.2.1 Helen Dempster, Principal Planner for New Zealand Transport Agency advised the Panel by way of an email dated 27 January 2025 that she had reviewed the s42A Report and that NZTA accepted the changes recommended including those where submission points had been rejected.

3.3 Federated Farmers

3.3.1 Rachel Thomas and Bernadette Hunt on behalf of Federated Farmers supported the collaborative working group approach and the agreed outcomes which provided a more permissive framework for farming practices within areas considered more capable of absorbing change from a landscape perspective.

3.4 Transpower NZ Ltd

3.4.1 Ainsley McLeod, a consultant planner, attended the hearing by video link. Her written statement of evidence sought to ensure that the District Plan provisions were consistent with and gave effect to the National Policy Statement on Electricity Transmission 2008 (NPSET), Southland Regional Policy Statement 2017 (RPS) and the Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009 (NESETA).

3.4.2 Transpower opposed Policy NFL-P1 as it is inconsistent with the policy direction in the NPSET for the management of the National Grid in and on natural features and landscapes. Ainsley McLeod stated the s41A Report at paragraph 196 incorrectly stated NPSET Policy 8 referred to infrastructure instead of the National Grid and together with NFL-P3 did not consider the potential conflict with Infrastructure Policy INF-P7. In her view RMA s6(b) and RPS Policy LNF.4 apply a test in respect of the

'appropriateness' of an activity by directing the protection of outstanding natural features and landscapes from inappropriate activities as opposed to all activities. Ainsley McLeod considered an appropriate activity would be the operation, maintenance and upgrade of infrastructure that is already located in, on or over an Outstanding Natural Landscape or Feature. Having regard to these matters she recommended adding to Policy NFL-P1:

6. Notwithstanding clause (1), (3) and (4), for the National Grid,
   (a) enabling the reasonable operational, maintenance and minor upgrade requirements of established National Grid assets;
   (b) seeking to avoid adverse effects of the development of the National Grid on landscape values, including by having regard to:
      i. the operational needs or functional needs National Grid; and
      ii. the extent to which any adverse effects have been avoided, remedied or mitigated by the route, site and method selection
7. Avoid new infrastructure, unless, having regard to the operational needs or functional needs of the activity:
   (a) there is no reasonable alternative the location; and
   (b) adverse effects on landscape values can be avoided or appropriately mitigated.

3.4.3 Ainsley McLeod generally supported the recommended amendments to Policy NFL-P3. It was her understanding that the policy is intended to apply to new infrastructure in identified Outstanding Natural Features and Landscapes rather than infrastructure that is already 'placed' in those areas. To make this clear, she suggested three options for rewording the chapeau to Policy NFL-P3.

3.4.4 For the reasons given in Transpower's submission, along with the reasons given in the s42A Report, Ainsley McLeod supported the recommended amendments to Policy NFL-P4 and recommended rejection of the submissions of Department of Conservation to that policy and Policy NFL-P3.

3.4.5 In order to resolve potential conflict between chapters, Ainsley McLeod considered changes are required to recommended Infrastructure Policy INFR-P6(1) to read:

Manage the development of infrastructure to avoid, remedy, or mitigate any adverse effects on:

1. sensitive environments, by:
   (a) in identified Outstanding Natural Features and Landscapes in accordance with Policy NFL-P1;
   (b) in rivers and streams described in Appendix 6 in accordance with Policy NATC-P1;
   (c) [insert direction for other sensitive environments]

x. adjoining activities, sites and ecosystem health and

3.4.6 With regard to the Transpower submission seeking provision of infrastructure activities solely within the Infrastructure chapter, Ainsley McLeod noted in the changes recommended it is not clear how the Infrastructure rules apply in an identified Outstanding Natural Feature or Landscape. She added the NESETA sets out a regulatory framework for the operation, maintenance and upgrading of existing National Grid transmission lines which means that for all existing National Grid transmission lines in Gore, the Proposed District Plan Rules do not apply, including Rule NFL-R4. On this basis she did not consider it is necessary to delete or otherwise amend Rule NFL-R4 to address National Grid activities.

3.4.7 It was the view of Ainsley McLeod, Rule INFR-R9 manages new infrastructure in an identified Outstanding Natural Feature or Landscape, while the extent to which other provisions apply is not sufficiently clear. She considered additional regulation, beyond Rule INFR-R9 is unnecessary duplication, ineffective and inefficient. On this basis she supported the following amendment to Rule NFL-R1:

> NFL-R1 Buildings and Structures (excluding fences and new infrastructure managed by Rule INFR-R9) within an identified ONF/L

3.5 Wantwood Station – Coral McLeod

3.5.1 Coral McLeod appeared in person at the hearing and spoke to her submission noting her family had owned and farmed the land at Wantwood Station for over 120 years. She considered recommended changes to the chapter as being an improvement on what was notified, particularly to Rule NFL-R5 that provided for fencing within ONL areas and she supported not having controls on earthworks for fences within the ONL or anywhere else as it assists the day-to-day operations of farmers.

3.5.2 Coral McLeod requested that provision be made for non-farming buildings associated with farm tourism. She said the notified permitted rule allowing structures no more than 2m high and 5m^2 is not practical for farm tourism. Dwellings up to 60m^2 are more realistic. She also said farming in the ONL should not be seen as a negative and applying for consents diverts time and money that could otherwise be used for removing gorse and other farming activities. She questioned why rules are needed now when the s32 Report prepared for the notified Plan indicated the operative plan rules had been effective in managing the activities on the Hokonui Hills.

3.5.3 Coral McLeod opposed showing a Visual Amenity Landscape over part of the farm as requested by SDC, noting the document they refer to was not intended for use in the review of the Gore District Plan.

3.5.4 In reply to questions from the Panel, Coral McLeod described the potential for dwellings up to 60m^2 located in the lower sensitivity areas as something being thought about for agritourism if need be.

3.6 Stoney Creek Station

3.6.1 Stoney Creek was represented at the hearing in person by:

- Brett Highsted, General Manager of the Tulloch Group and Director of Stoney Creek Station Ltd
- Claire Perkins, Planning Consultant
- Ben Espie, Landscape Architect
- Nathan Bokser, Farm Manager Stoney Creek Station

<u>Brett Highsted</u>

3.6.2 Brett Highsted by way of introduction noted the Hokonui Hills had been farmed since 1901, with Ian and Annette Tulloch being the guardians of the land for 26 years. It was his view that the landscape seen as important to the community only exists because of the presence of farming and if the land was not farmed it would regenerate into gorse and broom. He said tracks and fences throughout the farm are present, but most are not discernible and noted 650 ha or 25% of the property is preserved, not by district plan rules but by guardianship.

3.6.3 Brett Highsted stated that when the Plan was notified the property was subject to an onerous and impractical set of rules without any consultation. He added that in early 2024 the Council offered to establish a working group with membership including Stoney Creek, Wantwood and the Council to develop a more refined set of provisions

that could apply to the Station. The outcome was a joint compromise agreement that represents an absolute minimum the Station can work with regard to both the NFL and Ecosystems rules that interact with each other. He added, considerable time and resources have been spent and given the agreement reached between the experts he would be extremely concerned if an alternative approach was adopted at this stage of the process.

3.6.4 Brett Highsted also referred the Panel to the earthworks chapter hearing which still has unresolved issues and some of these as they relate to practical farming activities impact on the NFL chapter as well.

Ben Espie

3.6.5 Ben Espie, landscape architect has more than 20 years' experience providing landscape and amenity assessments relating to resource consent applications and plan changes both on behalf of District Councils and private clients. He provided a written statement of evidence and noted that the planning regime that is recommended by Ms Banhidi's s42A Report (and supported by Mr Moore) is practically the same as the Working Group's agreed regime and he agrees with that and the updated version of Appendix 5 describing the Hokonui Hills ONL. He also noted, with one exception of an area of level land on Wantwood Station, the boundaries to the ONL are the same as those contained in the Operative District Plan and he supported that.

3.6.6 Ben Espie noted that except for the adjoining reserve land, the Hokonui Hills ONL is very largely managed by ongoing grazing and farming and has been for many decades and this is somewhat unusual for an ONL with most ONLs in New Zealand often being minimally modified high country or wilderness areas. Even at higher altitudes within the Hokonui Hills, the dominant land cover is pasture, both improved and unimproved. He added the manner of management has created the open and legible landscape character and appearance that now exists and is appreciated.

3.6.7 Ben Espie agreed with the maps of high and low sensitivity areas (LSA) submitted with the s42A Report and the structure of the rules being more enabling within the LSA, allowing ongoing farming use buildings without unnecessary restrictions. He also agreed with allowing exotic tree planting as this is required for shelter and it is very unlikely to be visible from outside the private farmland.

3.6.8 Ben Espie considered a key provision is that earthworks within an ONL are permitted subject to a limit on depth and the restrictions that apply to ridgelines and proximity to them together with requirements for regrassing. He noted that creating additional tracks and fencing is vital to the ongoing management of the Station as their paddock sizes are currently large and need dividing to enable better stock management. Given that the topography is rarely flat, he said fencing will involve earthworks. He also stated Stoney Creek currently have over 150km of fences and an additional 8km is planned for the next 10 – 15 years.

3.6.9 Ben Espie considered the proposed rules applying to quarrying are appropriate. The current farm quarry will soon need replacing and he supports their location away out of general public view as directed by the rules.

Claire Perkins

3.6.10 Claire Perkins in a written statement generally agreed with the recommendations in the s42A Report made in response to Stoney Creek Station's submissions and further submissions. She referred to and agreed with the s32AA assessment by Ms Banhidi in her paragraph 69, that the proposed s42A provisions are the most appropriate way to achieve Objective NFL-O1 compared to the notified provisions. She added these

provisions will ensure that the landscape values in Appendix 5 are protected from inappropriate use and development while providing for everyday farming activities, which contribute to the landscape value, to continue.

3.6.11 She did record that of the 2,696 ha of the farm 1,755 ha (65%) is subject to the ONL overlay and stressed the difference in approach and rules between the Operative and Proposed Plans.

3.6.12 In describing the Working Group process Claire Perkins highlighted:

> an additional important consideration was 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 12 years which has given protection to the landscape, sympathetic placement within the natural landscape of the improvements on the Station and their inter-generational approach to farming, conservation, lifestyle and ownership retention.

3.6.12 With regard to the provisions for earthworks Claire Perkins noted there were still outstanding issues, particularly given there have been no changes recommended by the s42A officer to any of the matters raised by Stoney Creek Station. In reply to questions from the Panel she set out it is desirable for any earthworks rules in the ONL chapter, which is an RMA s6 matter, to override rules in the Earthworks chapter, particularly given any concerns with ground instability has no off-site effects when undertaken on a large farm, compared to the approach in the Earthworks chapter that is more concerned with a small lot urban setting where off-site impacts are more likely.

3.6.13 In reply to a question Claire Perkins indicated she would not be opposed to recommended Policy NFL-P5 stopping after “appendix 5” agreeing the words that follow describe the method, which is the rules.

Nathan Bokser

3.6.14 Nathan Bokser, Farm Manager Stoney Creek Station, in reply to questions from the Panel indicated that future management on the farm will continue along the current pathway of improving production through removing plant and animal pests, better pasture and enhanced breeding, adding there was no plans to increase stock numbers significantly.

3.6.15 Brett Highsted added that the future development plans of Stoney Creek were shared with the Working Group and provided for, with some compromise, in the Plan provisions agreed to. He noted given the nature of the land, other options are limited, possibly with small areas of cropping. This will require additional fences.

3.6.16 Nathan Bokser when asked about the rules for regrassing disturbed land, indicated that if earthworks are undertaken before winter, grassing would take place in the following spring. He agreed that the rule requiring regrassing within 48 hours of completing earthworks was not practical.

3.6.17 Nathan Bokser also indicated that in his view if farming of the land ceased within two years gorse would reestablish.

4. Minute 39 and Response

4.1 The Minute

4.1.1 On 17 February 2025 the Hearings Panel issued Minute 39 in which it sought advice on several matters arising from the hearing. This included a request to assess the appropriateness of including provisions in the PDP, either in response to specific

provisions or by way of a Variation, relating to the management of *"locally distinctive and valued natural features and landscapes".* Such features could include:

- Strike ridges east of Mataura River
- New Zealand Geopreservation Inventory sites
- Mataura River Main Stem
- Cross-Boundary Visual Amenity Landscape between the Hokonui / Waterfall Range ONL and the SDC boundary and an area of native vegetation further south.

4.2 Response from the Council

Mike Moore

4.2.1 In a written statement of evidence dated 28 February 2025 Mike Moore stated:

> As outlined in my preliminary landscape assessment (Gore District Plan Review – Natural Features and Landscapes, dated 17 February 2023, I identified several landscapes / features as possible candidates for identification as 'locally distinctive and valued natural features and landscapes' (LDVNFL). These included:
>
> - Inland Catlins Strike Ridges
> - Landslip Hill • Mt Wendon Hill Country
> - Mataura River
>
> These areas have all been indicatively mapped … but this mapping would need to be refined. In the case of the Mataura River, given its scale, this would be a major task which, for the sake of robustness, would probably require assistance from a geomorphologist.
>
> It remains my opinion that it is appropriate to consider these areas as possible LDVNFL's should Council decide to identify this tier of landscape / feature in the PDP.
>
> Since I carried out my initial Gore District assessment work the Southland Murihiku Regional Landscape Study (Boffa Miskell, 2019) has been released. This identifies one Visual Amenity Landscape (VAL) that extends into the Gore District in two places, named Hokonui Hills / Ōtaupiri – Hokonui – Ōroko VAL. This landscape has been identified as a VAL (equivalent to a LDVNFL) at a regional level and in my opinion should now be a candidate for consideration as a LDVNFL should this category of landscape be identified in the Proposed Gore District Plan. This area too, is identified spatially (mapped). …
>
> Minute 39 also references New Zealand Geopreservation Inventory sites. … Advice on appropriate PDP management provisions to protect the site values would probably most appropriately be sought from a geomorphologist / geologist.

Mishka Banhidi

4.2.2 In a response dated 14 March 2025, Mishka Banhidi outlined some of the background explaining why locally distinctive and valued natural features and landscapes were not included in the Plan, stating at paragraph 6:

> The matter of Visual Amenity Landscapes (VALs) or locally distinctive and valued natural features and landscapes, was raised as Issue 2 of the S32A – Natural Features and Landscapes and addressed within the s32a Assessment. At the time it was recommended that a change towards inclusion of amenity landscape protection was not appropriate given direction of national RMA reform away from amenity protection, the absence of any conclusively identified amenity landscapes, and no prior history of amenity landscape protection within the district.

4.2.3 Mishka Banhidi went on to explain this matter was also discussed at length throughout a workshop with a group of elected members prior to the notification of the PDP. The possibility of inclusion of VALs was raised after Mr Moore's Landscape assessment but eventually time ran out to undertake any additional work utilising other experts.

4.2.4 Mishka Banhidi concluded as follows:

> 16 In my opinion, in order to include locally distinctive and valued natural features and landscapes within the PDP, further comprehensive assessment and community consultation is required. Putting aside any scope issues, locally distinctive and valued natural features and landscapes should not be included within the PDP unless the following can be determined:
>
> a. Features and landscapes in question can be clearly identified with refined mapping and in-depth expert input from both a landscape architect and a geomorphologist;
>
> b. The features have been identified as locally distinctive and valued by the community, through community consultation, informed by the above. This should include targeted consultation with landowners.
>
> c. Identified threats to identified landscape values have been identified that warrant management above and beyond that already managed through the PDP.
>
> d. Comprehensive assessment planning provisions developed and consulted on that manage (c) above.
>
> 17 It is my view that the above cannot happen within the limitations of the current process and would require a variation to the Plan.

4.2.5 With regard to the provisions drafted by the Panel in Minute 39 for feedback, Mishka Banhidi stated at paragraph 44:

> The proposed provisions lack sufficient evidence and analysis to demonstrate that they are fit for purpose, specifically they are not currently backed by supporting evidence that demonstrates a clearly defined spatial extent of the proposed features, identified values and threats. Additionally, this would introduce further regulation of areas of the district not previously circulated and may pose natural justice issues.

4.2.6 Mishka Banhidi's concluding recommendation was that further landscape regulation is not progressed through this current process, but if the Panel wishes it may deem it appropriate to signal to the Council that a variation to the plan is undertaken.

4.3 Other Responses to Minute 39

4.3.1 Submitters were provided with an opportunity to respond to Minute 39 and the reports received from the Council advisers. None did.

5. Request for Hokonui Hills Precinct

5.1 The Submissions

Submitter (S) Further Submitter (FS)	Decision Requested
S116.046 Nathan Bokser S127.082 Peters Farm Ltd Karen Peters S18.048 Reaby Downs Farm Ltd S19.048 Karen Temple S20.048 Sarah and Peter Barclay S24.048 Helen McIntosh S68.050 John Baynes S117.046 Greg Bokser S3.046 Stoney Creek Station Limited S118.046 AW+ JA Johnston Family Trust S113.046 Trudy Bokser	Insert Hokonui Hills Special Precinct. Develop appropriate provisions for the Hokonui Hills Special Precinct, in consultation with key stakeholders, that reflect the site-specific conditions and challenges of this area. Activities within the Hokonui Hills Special Precinct should be exempt from the GRUZ rules.
S113.047 Trudy Bokser S116.047 Nathan Bokser S118.047 AW+ JA Johnston Family Trust S127.083 Peters Farm Ltd Karen Peters S18.049 Reaby Downs Farm Ltd S19.049 Karen Temple	Insert an exemption in the preamble of the chapter for any activities within the Hokonui Hills Special Precinct.

S20.049 Sarah and Peter Barclay S24.049 Helen McIntosh S68.051 John Baynes S117.047 Greg Bokser S3.047 Stoney Creek Station Limited	
FS31.020 Department of Conservation	Disallow S3.046 Stoney Creek Station Limited
FS11.039 Heritage New Zealand Pouhere Taonga	Disallow in part S3.046 Stoney Creek Station Limited. Should the proposed Precinct be established, the objectives, policies and rules, provide for the conservation of historic heritage, including archaeology and sites of significance to Māori, as a priority.
FS17.088 Federated Farmers	Allow S118.046 AW+ JA Johnston Family Trust, S3.047 Stoney Creek Station Limited
S3.115 Stoney Creek Station Limited S113.115 Trudy Bokser S116.115 Nathan Bokser S118.115 AW+ JA Johnston Family Trust S127.151 Peters Farm Ltd Karen Peters S18.117 Reaby Downs Farm Ltd S19.117 Karen Temple S20.117 Sarah and Peter Barclay S24.117 Helen McIntosh S68.119 John Baynes S117.115 Greg Bokser	Modified pastoral landscape should not be mapped as ONL. Reduce restrictions relating to the Hokonui Hills ONL overlay
S18.001 Reaby Downs Farm Ltd S19.001 Karen Temple S20.001 Sarah and Peter Barclay S24.001 Helen McIntosh	Seeks the relief sought within the Stoney Creek submission. Considers there is a lack of evidence for the mapped extent of the Hokonui Hills ONL and Plan provisions.
S113.016 Trudy Bokser S116.016 Nathan Bokser S118.016 AW+ JA Johnston Family Trust S68.020 John Baynes S24.018 Helen McIntosh S20.018 Sarah and Peter Barclay S19.018 Karen Temple S18.018 Reaby Downs Farm Ltd S127.052 Peters Farm Ltd Karen Peters S117.016 Greg Bokser S3.016 Stoney Creek Station Limited	Preferred Relief: Withdraw the Natural Features and Landscapes chapter in its entirety and redraft in consultation with key stakeholders, including Stony Creek Station. Create a Hokonui Hills Special Precinct, within which rural activities associated with pastoral farming are permitted, with appropriate and practical limits set. The provisions of the other chapters of the PGDP would not apply to farming activities within the Hokonui Hills Special Precinct
FS11.001 Heritage New Zealand Pouhere Taonga	Disallow in part S3.016 Stoney Creek Station Limited. Should the proposed Precinct be established, the objectives, policies and rules, provide for the conservation of historic heritage, including archaeology and sites of significance to Māori, as a priority.
FS17.046 Federated Farmers	Allow S3.016 Stoney Creek Station Limited
S113.111 Trudy Bokser S116.111 Nathan Bokser S118.111 AW+ JA Johnston Family Trust S127.147 Peters Farm Ltd Karen Peters S18.113 Reaby Downs Farm Ltd S19.113 Karen Temple S20.113 Sarah and Peter Barclay S24.113 Helen McIntosh S68.115 John Baynes S117.111 Greg Bokser S3.111 Stoney Creek Station Limited	Insert a new map layer to be called the Hokonui Hills Special Precinct. Replace the underlying zoning of this area (General Rural) with the special precinct zoning.
FS31.022 Department of Conservation	Disallow S3.111 Stoney Creek Station Limited

5.2 Evaluation

5.2.1 The Panel notes these submissions are opposing the Proposed District Plan provisions as they relate to the Hokonui Hills and seeking the establishment of the Hokonui Hills Special Precinct. The Panel also notes that 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 rather than the requested precinct, and that Mishka Banhidi in her s42A Report recommended that be adopted.

5.2.2 Department of Conservation and Heritage NZ opposed the submissions seeking the Hokonui Hills Special Precinct but neither attended the hearing, nor did they provide any additional information to assist the Panel's consideration of this matter.

5.2.3 The Panel accepts the undisputed expert evidence provided by both the submitters and the Council advisers and on that basis agrees with the recommendation of Mishka Banhidi at paragraph 66 of her s42A Report, for the reasons she gives, that provisions should be included in the Plan to manage activities:

(a) in proximity to identified and mapped ridgelines; and

(b) within the Lower Sensitivity Areas of the Hokonui Hills; and

(c) within other areas of the Hokonui Hills, which to avoid confusion with the wider district, the Panel describes and Higher Sensitivity Areas.

5.2.4 The Panel considers Mishka Banhidi provided strong reasoning to adopt the recommendation not to apply a precinct, stating at paragraph 56 of her s42A Report:

> This approach was considered more appropriate than a precinct given the National Planning Standard direction as an overlay already existed on the properties and changes could be easily incorporated within the existing overlay provisions.

5.2.5 Various matters have been raised by submitters and the Panel comments on these as follows:

(a) Withdraw the NFL chapter and create a Hokonui Hills Special Precinct, within which farming activities are permitted and exempt from the provisions of other chapters.

5.2.6 The Panel notes RMA s6 requires the District Plan to recognise and provide for the various matters of national importance, including in s6(b) the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development. The Panel is satisfied that the general public recognise the Hokonui Hills as a special landscape feature. The Operative District Plan describes the Hokonui Hills as follows:

> The Hokonui Hills are the most dominant natural feature of the District. They provide a backdrop to Gore and are highly visible from the main traffic routes of the District. The elevated slopes and ridgelines of the Hokonui Hills are of most importance because of their high visibility. The strike ridges in particular are of scientific interest.

5.2.7 The Regional Policy Statement, together with the background report and evidence of Mike Moore reaffirmed the landscape significance of the Hokonui Hills, and the Panel accepts that and notes it is not in dispute. Having regard to the National Planning Standards a separate chapter is required in the Plan applying to Outstanding Natural Landscapes and it must be limited to relevant issues on that topic. It is the view of the Panel that it is not appropriate nor practical to include all relevant rules applying to Hokonui Hills. Such duplication would hinder rather than simplify implementation of the Plan. One area where the Panel has exempt the provisions of the Natural Features and Landscape chapter from other chapters is with regard to earthworks, with all applicable rules being contained in this chapter. Other provisions, including those applying to the underlying General Rural Zone, and the Ecosystems and Indigenous Biodiversity overlay are considered in the respective chapters.

(b) Provisions in the precinct should acknowledge the cultural landscape and the conservation of historic heritage, including archaeology and sites of significance to Māori.

5.2.8 The Panel notes that Appendix 5 of the notified Plan that describes the values of the Hokonui Hills Outstanding Natural Landscape includes a description of the cultural importance of the Hokonui Hills. The Panel acknowledges it is highly likely there are a number of archaeological sites within the Hokonui Hills. The Council only holds information on two sites and these are included on the information layer for archaeological sites on the Council's web site linked to the District Plan. The Plan too, includes an Accidental Discovery Protocol with associated rules. The Panel on available information considers the current provisions appropriate.

(c) The notified Plan provisions limit the development potential and are not proportionate to the potential environmental effects. The provisions do not recognise the benefits of farming activities which have low environmental effects.

5.2.9 The Panel notes that the affected landowners understand and are accepting of the outcome of the Working Party as it applies to this chapter of the District Plan. It is the view of the Panel that recommendations included in the Record of Consensus and the s42A Report as they apply to landscape issues are consistent with the statutory provisions of the RMA and higher order planning documents, including the Southland Regional Policy Statement, while providing for appropriate farming activities on the land.

(d) The modified pastoral landscape should not be mapped as ONL and restrictions relating to the Hokonui Hills ONL overlay should be reduced. They consider that there was no evidence provided to suggest that the level of protection provided by the Operative Gore District Plan was insufficient.

5.2.10 The Panel is satisfied on the basis of the reports and s32 analysis accompanying the notified District Plan that a more refined approach is required to manage land use on the Hokonui Hills. In the case of farm quarry activities the provisions included in this decision are more lenient within areas described as Lower Sensitivity than the Operative Plan and as requested by submitters, the response of the Panel with regard to some of the rules has resulted in reduced restrictions.

(e) Amend the Hokonui Hills ONL boundaries to accurately reflect the area of Outstanding Natural Landscape values.

5.2.11 The Panel notes that the boundary of the ONL in the notified Plan was the same as that contained in the Operative District Plan. This boundary was assessed by the expert landscape architects representing Stoney Creek Station Ltd and the Council and, subject to a minor change the landscape architect experts agreed the boundary is appropriate. That was endorsed in the Record of Consensus and recommended for adoption in the s42A Report. Having regard to the agreement of the expert landscape architects, the Panel adopts the boundary change recommended.

5.2.12 Having regard to all of these matters, the original submissions listed are all accepted in part by accepting the recommendation of Mishka Banhidi at paragraph 66 of her s42A Report to adopt a landscape spatial management approach for the Hokonui Hills area as modified by the plan attached in Appendix B of this decision, with bespoke

provisions applying to Higher Sensitivity Areas, Lower Sensitivity Areas and Ridgelines as set out in the body of this decision.

5.2.13 As a corollary to the above, as recommended by Mishka Banhidi at paragraph 63 of her s42A Report, an additional policy is required to ensure vertical integration within the plan. This is included in paragraph 6.4.22 below.

6. Natural Features and Landscapes Submissions

6.1 Natural Features and Landscapes: General

Submitter (S)	Decision Requested
S69.007 Ian Davidson-Watts	We fully support the proposed objectives and rules for Natural Features and Landscapes.
S112.070 Waka Kotahi NZ Transport Agency	Amend the text of the NFL chapter, Appendix 5 and the Planning Map Index, to use consistent terminology and abbreviations to identify outstanding natural features and outstanding natural landscapes.

6.1.1 The submission supporting the objectives and rules for Natural Features and Landscapes is acknowledged. As these provisions have been amended as a consequence of other submissions lodged, submission 69.007 is accepted in part.

6.1.2 The Panel acknowledges the submission by NZTA and agrees consistent terminology is appropriate. Changes required are generally of a minor nature and this submission is had regard to in considering amendments to the chapter. The change of most significance is the hearing to Appendix 5.

6.1.3 Submission S112.070 Waka Kotahi NZ Transport Agency is accepted by making minor changes to the Plan as required, including amending the title of Appendix 5 as follows:

Appendix 5 – Natural Feature and Landscape Values - ~~ONL~~ NFL-App

Submitter (S) Further Submitter (FS)	Decision Requested
S136.016, S136.018 Jenny Campbell	Ensure significant landscapes are retained with consultation with the local community & wider population, especially tangata whenua values, before making decisions
S148.005 Alistair & Bernadette Hunt	The provisions of these chapters are opposed and prefer broader consultation with the landowners affected. Pastoral and arable farming should be permitted without restrictions on day to day activities.
S115.179 Kevin Robertson S143.190 Rural Ratepayers Group S148.191 Alistair & Bernadette Hunt S60.181 Ronald Crispin S68.299 John Baynes S126.178 Southland Federated Farmers of New Zealand	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
FS5.48 Hamish Weir FS25.076 Stoney Creek Station Ltd	Allow S126.178 Southland Federated Farmers of New Zealand
S148.010 Alistair & Bernadette Hunt	We oppose the provisions of these chapters and support broader consultation with the landowners affected.

6.1.4 The Panel acknowledges the concerns of submitters with regard to the lack of consultation undertaken with landowners affected by the provisions of the Natural Features and Landscape chapter and notes through the submission process a range of people have lodged submissions. The Panel is satisfied that the dialogue undertaken through the Working Party process has rectified this situation and meets the concerns expressed.

6.1.5 Alistair & Bernadette Hunt seek removal of restrictions on day to day farming activities. The Panel agrees that as far as practical, accepted farming activities should not be subject to restrictions in the District Plan unless required by legislation or otherwise justified having regard to the environmental effects. However, in this case s6(b) of the RMA requires the Plan to recognise and provide for the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development. The Regional Policy Statement, together with the background report and evidence of Mike Moore reaffirmed the Hokonui Hills as an outstanding natural feature and landscape. Arising from that, the District Plan is required, and has, put in place provisions for its protection. As a result of submissions lodged the Panel has amended provisions to provide what it considers an appropriate balance between protection and use.

6.1.6 Given the submissions lodged, the consultation that has taken place with landowners through the Working Party and changes being made to the chapter, submissions S136.016, S136.018 Jenny Campbell; S148.005 and S148.010 Alistair & Bernadette Hunt; and S115.179 Kevin Robertson and others these submissions are accepted in part.

Submitter (S)	Decision Requested
S143.003 Rural Ratepayers Group	In areas of significant natural tussock, i.e. high country, discourage heavy stocking rates.
S143.009 Rural Ratepayers Group	Policy NFL-P1 In areas of significant natural tussock, i.e. high country, discourage heavy stocking rates.
FS5.49 Hamish Weir	Allow S143.009 Rural Ratepayers Group

6.1.7 As native tussock is an indigenous species then the provisions of the Ecosystems and Indigenous Biodiversity chapter apply. Under the National Policy Statement for Indigenous Biodiversity rules cannot impinge on existing and ongoing farming activities within areas of indigenous vegetation. So, if there is currently farming use within areas of natural tussock that can continue. However, the rules in Ecosystems and Indigenous Biodiversity chapter do apply where tussock vegetation is cleared from other undisturbed areas, either by stock or machinery. As the Plan provisions manage indigenous vegetation clearance from new activities submissions S143.003, S143.009 Rural Ratepayers Group are accepted in part.

Submitter (S) Further Submitter (FS)	Decision Requested
S74.009 Hamish Weir	It is acknowledged that protections should be afforded to distinctive areas such as the Hokonui Hills. The submitter is concerned that the proposed regulatory approach could be contrary to this. Having been a frequent user of the Croydon Bush Reserve and adjacent trails in Dolamore Park and East Peak areas I have noticed the frequent incursion of pest plant species, especially gorse. If resource consent processes are required to farm the hills around these areas then there will be no economic incentive to manage the pest species present. 1) Inclusion of permitted rules for fencing capable of preventing movement of all stock and feral animals including deer. 2) Inclusion of permitted rules for establishment of additional recreational assets such as mountain bike tracks 3) Protections against establishment of any form of forestry on the Hills should be enforced to prevent a loss of their natural and distinctive rugged character.
FS22.071 Clark Fortune McDonald & Associates	Allow S74.009 Hamish Weir
FS11.045 Heritage New Zealand Pouhere Taonga	Disallow S74.009 Hamish Weir. Activities within these areas should have sufficient triggers in the District Plan to create awareness of the plan users' potential obligation under the archaeological

	provisions of the HNZPTA.

6.1.8 The Panel notes that as amended by decisions on submissions, the Plan provisions do not control activities associated with the removal of pest plants nor the control of animal pests. In the context of the Natural Features and Landscape chapter there are no impediments restricting the construction of fences to control the movement of animal pests. The Panel does not consider there is a need for a permitted rule in this regard.

6.1.9 The Panel does not agree that the construction of mountain bike tracks should be enabled in the District Plan. Associated construction works can give rise to significant adverse visual impacts on open land and ecological impacts through areas of indigenous vegetation. Each proposal requires case by case consideration, and if approved, care in construction. That would not apply if permitted status was provided.

6.1.10 The Panel agrees that commercial forestry plantings are inappropriate within the Hokonui Hills Outstanding Natural Landscape area. In that regard, the Panel notes notified Rule NFL-R8 listed Commercial Forestry as a non-complying activity and in response to submissions that has not changed.

6.1.11 As a consequence of these matters Submission S74.009 Hamish Weir is accepted in part.

Submitter (S) Further Submitter (FS)	Decision Requested
S140.002 Robina Johnston	Protect the slopes on the eastern side of Mataura River, and the ranges around the Marauwai basin
S146.039, S146.049 Southland District Council	Work on cross-boundary issues with SDC, particularly adverse effects on the Hokonui Hills ONFL area. Lack of objective for maintaining or enhancing their ONFL landscapes in addition to inappropriate direct-use objectives. The Proposed Plan does not have an objective for identifying ONFLs and alignment with Objective LNF.2 of the Southland Regional Policy Statement. Consideration of geological sites of national or higher importance, that may need ONFL level protections. Integrating geoheritage sites into the Natural Features and Landscapes section. There is a strip of land between the Hokonui Hills ONFL and Southland District that we think may be best zoned as Visual Amenity Landscape (VAL) or equivalent, and another area further south that adjoins Southland District along native vegetation that should also be zoned as VAL.
FS25.075, FS25.078 Stoney Creek Station Ltd	Disallow in part S146.039, FS146.049 Southland District Council as Stoney Creek does not support the inclusion of additional areas within the ONL

6.1.12 The Panel is aware that during the preparation of the Proposed District Plan an assessment was undertaken of the slopes on the eastern side of the Mataura River to assess their significance. Mike Moore landscape architect reported to the Council these were not outstanding, but along with other areas could potentially be identified as locally important amenity landscapes. Having regard to proposed legislation changes which would exclude locally important amenity landscapes from inclusion in District Plans the Council decided not to advance this work any further.

6.1.13 In response to these submissions, the Panel sought a further report from Mike Moore, who relying on more recent work undertaken at a regional level identified several areas with values that could meet locally important amenity landscapes criteria. He highlighted however that additional work was required to accurately map these areas, identify potential risks and following consultation with affected landowners develop provisions for inclusion in the District Plan. Mishka Banhidi advised the Panel that it was not within the scope of submissions lodged to advance the work required, nor is it within the delegations of the Hearings Panel to authorise such work. This may be a

matter the Council is prepared to explore further in the future but regretfully it cannot be advanced at this stage. Accordingly, submissions S140.002 Robina Johnston and S146.039, S146.049 Southland District Council are rejected.

Submitter (S) Further Submitter (FS)	Decision Requested
S104.001 McLeod-Wantwood Trust / Wantwood Station S127.001 Peters Farm Ltd Karen Peters S105.001 Farm Manager - Wantwood Station	To amend the provisions to acknowledge the continued presence of existing activities, particularly farming, within the ONL.
FS25.074, FS25.077 Stoney Creek Station Ltd	Allow S104.001 McLeod-Wantwood Trust Wantwood Station, S127.001 Peters Farm Ltd Karen Peters

6.1.14 The Panel accepts that the Proposed Plan as notified did not provide appropriate balance between the statutory requirement to protect the Hokonui Hills landscape values and to recognise existing farming activities. The Panel considers that the outcome of the Working Party process, together with changes recommended in the s42A Report and amendments made by the Panel in considering submissions, an appropriate balance has now been achieved. The amendments made to provisions are considered in the context of individual submissions and shown in the update Plan provisions. Accordingly, these submissions are accepted in part by way of changes made to the various Plan provisions set out in this Decision.

Submitter (S) Further Submitter (FS)	Decision Requested
S85.036 Environment Southland	Include in the Overview some anticipated impacts on these features eg indigenous biodiversity loss and afforestation. Acknowledge Apiti Hono Tatai Hono framework for managing cultural landscapes.
S85.040 Environment Southland	Establish an objective and policy about the process for mana whenua to identify areas of cultural significance through narrative methodologies (such as but not limited to Apiti Hono Tatai Hono).
FS5.67 Hamish Weir FS25.112 Stoney Creek Station Ltd	Disallow S85.040 Environment Southland
FS20.008 Hokonui Runanga Inc	Allow in part S85.040 Environment Southland. The submitter appears to have misunderstood that Apiti Hono Tati Hono is not using narrative to identify culturally significant sites. All whenua and wai is culturally important. However, we agree, the Gore District Plan process should include a more explicit land classification approach whereby mana whenua identify the values associated with each part of the takiwā and can have more tailored policies and targeted rules
S85.038 Environment Southland	There should be some acknowledgement in NFL-P4 that cultural landscapes are not mapped and this work will occur at some stage during the life of the plan. An additional policy is needed to identify that the Apiti Hono Tatai Hono framework is an approach (but not the only approach) to identifying cultural values. An additional policy will provide a way to incorporate cultural landscape values into decision making on resource consents.
FS5.52 Hamish Weir	Disallow S85.038 Environment Southland

6.1.15 Hokonui Rūnanga, through submissions and presentations at hearings, has outlined that it does not seek to identify sites of cultural significance in the District Plan, and the Council is not able enforce the inclusion of sites in the absence of the agreement of the Rūnanga. As a consequence, how sites are identified is not a relevant consideration in the Plan. The approach being adopted following consideration of submissions is to recognise the values important to mana whenua that should be had regard to in RMA consenting processes, including resource consents.

6.1.16 The Panel does not consider it necessary to include impacts or threats to the Outstanding Natural Features. These are included in Appendix 5 of the Plan and with regard to the Hokonui Hills are as follows:

- Quarrying / Earthworks that significantly erode the legibility of the natural landforms and the landscape coherence.
- Clearance of or damage to, areas of indigenous vegetation.
- Visually prominent buildings and structures.
- Visually prominent exotic forestry and shelter plantings.
- Lighting
- Alterations to the naturalness of waterways
- Pest plant and animal infestation

6.1.17 Having regard to these matters, submissions S85.036, S85.040, 36.038 Environment Southland are rejected.

6.2 Natural Features and Landscapes: Overview

Submitter (S) Further Submitter (FS)	Decision Requested
S110.035 Royal Forest and Bird Society of NZ Inc	Change: The Landscape of the Gore District can largely be characterised as pastural and arable farmland along with pockets of tussock grasslands, native forest, shrubland, scrubland, grassland and wetlands. There are with ~~two~~ three prominent natural landscapes / features: the Hokonui Hills, ~~and~~ the Te Au Nui Pihapiha Kanakana Mataura Falls and the Southland Syncline parallel ridges.
FS20.020 Hokonui Runanga Inc	Allow in part S110.035 Royal Forest and Bird Society of NZ Inc as the plan must achieve the purpose of the Act and give effect to relevant higher-order planning documents.

6.2.1 Both Mike Moore in Mishka Banhidi in their reports recommended accepting the Forest and Bird submission, subject to changes recognising the approach being preferred by the Panel during the hearing process to recognise the natural character of the Mataura River. The Panel adopts the recommendation for the reasons given.

6.2.2 Submission S110.035 Royal Forest and Bird Society of NZ Inc is accepted in part by amending the Overview as follows:

> The Landscape of the Gore District can largely be characterised as past~~u~~oral and arable farmland including pockets of valuable indigenous biodiversity. ~~with two prominent natural landscapes / features - the Hokonui Hills and the Te Au Nui Pihapiha Kanakana Mataura Falls.~~ There are two Natural Features of particular note – the Southland Syncline parallel ridges (most notably expressed in the Hokonui Hills), and the Mataura River.
>
> Two areas have been ~~These areas have been assessed and~~ identified in accordance with the Southland Regional Policy Statement 2017 criteria as having high levels of biophysical, sensory or associative landscape values, which makes them either Outstanding Natural Landscapes (ONL) or Outstanding Natural Features (ONF). These are the Hokonui Hills ONL and the Te Au Nui Pihapiha Kanakana Mataura Falls ONF.

6.2.3 In considering this submission the Panel notes the Overview refers to provisions in other chapters of the Plan. Given the content of the Introductory chapter of the Plan, this is unnecessary duplication and is being deleted as a minor change. The final paragraph of the Overview therefore reads as follows:

> The District's Outstanding Natural Features and Landscapes are identified on the District Plan Maps and described in Appendix 5. ~~Note there are other provisions relevant to Outstanding Natural Features and Landscapes within the Infrastructure and Subdivision Chapters.~~

6.3 Natural Features and Landscapes: Objectives

Submitter (S) Further Submitter (FS)	Decision Requested
S109.071 Department of Conservation	Retain NFL-O1 as notified
S115.099 Kevin Robertson S143.110 Rural Ratepayers Group S148.111 Alistair & Bernadette Hunt S60.101 Ronald Crispin S68.219 John Baynes S126.098 Southland Federated Farmers of New Zealand	Amend NFL-O1: To protect the values and characteristics of the Outstanding Natural Features and Landscapes of the Gore District from inappropriate subdivision, use and development by maintaining the core values of the Outstanding Natural Feature or Landscape.
FS25.079 Stoney Creek Station Ltd	Allow S126.098 Southland Federated Farmers of New Zealand

6.3.1 The Panel accepts the advice of Mishka Banhidi at paragraph 175 of her s42A Report that the addition sought is not required because the objective already refers to protecting the values and characteristics of the Outstanding Natural Features and Landscapes. The Panel notes that no submitter spoke to this provision at the hearing or provided additional information for the Panel to consider. Accordingly, submissions S115.099 Kevin Robertson and others are rejected.

6.3.2 The Panel acknowledges the submission in support of the Objective. As no changes are being made to the provision submission S109.071 Department of Conservation is accepted.

6.4 Natural Features and Landscapes: Policies

Submitter (S) Further Submitter (FS)	Decision Requested
S115.100 Kevin Robertson S143.111 Rural Ratepayers Group S148.112 Alistair & Bernadette Hunt S60.102 Ronald Crispin S68.220 John Baynes S126.099 Southland Federated Farmers of New Zealand S109.072 Department of Conservation	Retain NFL-P1 as notified.
FS25.080 Stoney Creek Station Ltd	Disallow S109.072 Department of Conservation

6.4.1 The Panel acknowledges the submissions in support of the Policy. As changes are being made to the provision, submissions S115.100 Kevin Robertson and others are accepted in part.

Submitter (S)	Decision Requested
S85.037 Environment Southland	In NFL-P1 acknowledge that indigenous biodiversity loss can have an impact on outstanding landscapes.

6.4.2 Mishka Banhidi at paragraph 240 of the s42A Report acknowledges that a loss of indigenous biodiversity loss can result in adverse landscape effects. However, she considers this is provided for in Appendix 5. The Panel does not consider any additional reference or provisions are required to indigenous vegetation in the Natural Features and Landscape chapter, noting that is the purpose of the Ecosystems and Indigenous Biodiversity chapter. Accordingly, submission S85.037 Environment Southland is rejected.

Submitter (S) Further Submitter (FS)	Decision Requested
S19.019 Karen Temple S105.002 Farm Manager - Wantwood Station S127.002 Peters Farm Ltd Karen Peters S113.017 Trudy Bokser	NFL-P1.2 notes that the ONL contains working pastoral farms. The rules in the NFL and ECO section for SNA does not consider this aspect. Amend NFL-P1.2. as follows:

S116.017 Nathan Bokser S118.017 AW+ JA Johnston Family Trust S127.053 Peters Farm Ltd Karen Peters S18.019 Reaby Downs Farm Ltd S20.019 Sarah and Peter Barclay S24.019 Helen McIntosh S68.021 John Baynes S104.002 McLeod-Wantwood Trust/Wantwood Station	2. Recognising ~~the~~ that working pastoral farms exist within the ONL and as such contribute to ~~existence of working pastoral farms and their contribution to~~ the openness and landform legibility of outstanding natural features and landscapes
FS25.081 Stoney Creek Station Ltd	Allow S104.002 McLeod-Wantwood Trust/ Wantwood Station
S117.017 Greg Bokser S3.017 Stoney Creek Station Limited	Amend NFL-P1 to read: 2. Recognising the benefits provided by existing ~~existence of~~ working pastoral farms and their contribution to the openness and landform legibility of outstanding natural features and landscapes;
FS17.047 Federated Farmers	Allow S3.017 Stoney Creek Station Limited

6.4.3 Mishka Banhidi at paragraph 199 of her s42A Report recommended no changes to the Policy in response to this submission, noting that additions to Appendix 5 may meet some of the concerns of submitters. The Panel anticipates that the additions to Appendix 5 referred to by Mishka Banhidi relate to the description of the Management Areas where their purpose is to facilitate farming without being unreasonably restrained.

6.4.4 Taking into account the purpose of this chapter is the consideration of effects on Outstanding Natural Features and Landscapes, the Panel does not agree that the policy should refer to the benefits of farming. Accordingly, submissions S117.017 Greg Bokser and S3.017 Stoney Creek Station Limited are rejected.

6.4.5 The Panel does agree with the request of Karen Temple and others on the rewording of clause (2) as it is expressed more positively. The Panel has however in paragraph 6.4.21 restructured the policy but generally retained as far as practical the wording sought.

6.4.6 Submissions S19.019 Karen Temple and others are accepted by amending clause (2) of Policy NFL-P1 (renumbered as Policy NFL-P5) as set out in paragraph 6.4.22 below.

Submitter (S) Further Submitter (FS)	Decision Requested
S110.036 Royal Forest and Bird Society of NZ Inc	Change NFL-P1(4): Avoiding activities that are incompatible with the identified values, including plantation forestry, renewable energy and mineral extraction,
FS17.048 Federated Farmers FS24.038 Contact Energy Ltd	Disallow S110.036 Royal Forest and Bird Society of NZ Inc

6.4.7 Mike Moore in his report highlighted that it is the size of wind turbines not their purpose that gives rise to adverse visual impacts. Mishka Banhidi at paragraph 202 of her s42A Report considered the policy together with the description and values in Appendix 5 covers the issue sufficiently, and the Panel agrees. Accordingly, submission S110.036 Royal Forest and Bird Society of NZ Inc is rejected.

Submitter (S)	Decision Requested
S139.058 Hokonui Rūnanga Inc	Amend NFL-P1 to read: "Avoid adverse effects on the values and characteristics of identified outstanding natural features and landscapes described within Appendix 5 by: 5. ~~Recognising and providing protection for Ngāi Tahu cultural values as they relate to natural features and landscapes.~~ Ensuring values mana whenua associate with areas classified as outstanding natural features or landscapes are recognised and provided for in both classifying these areas and assessing the effects of activities

	in these areas."

6.4.8 Mishka Banhidi at paragraph 199 of her s42A Report recommended accepting this submission and amending clause 5 as requested. The Panel notes that the chapeau of the policy refers to avoiding adverse effects on ONLs and then lists various means by which that will be achieved. The Panel does not consider the provisions referring to mana whenua values sits well in that context, preferring to insert a new policy altogether.

6.4.9 With regard to the wording sought, given ONLs are already identified there appears to the Panel to be no benefit in referring to classifying areas. In addition, as set out in paragraph 6.4.21 below Policy NFL-P1 has been restructured, and clause (5) of the original policy has been deleted given the decision below.

6.4.10 Submission S139.058 Hokonui Rūnanga Inc is accepted in part by including a new policy as follows:

NFL-P6 In managing the effects of activities within Outstanding Natural Features and Landscapes recognise and provide for those values that mana whenua associate with the area.

Submitter (S) Further Submitter (FS)	Decision Requested
S101.057 Transpower New Zealand Limited	The Policy is inconsistent with the direction for the management of the National Grid in and on natural features and landscapes in the NPSET. Amend Policy NFL-P1 as follows: "NFL-P1 Except where NFL-P3 applies, a ~~–~~Avoid adverse effects on the values and characteristics of identified outstanding natural features and landscapes described within Appendix 5 by:
S121.053 Alliance Group Limited	Avoidance of all adverse effects on the values and characteristics of outstanding natural features and landscapes is not practicable or necessary to protect them from inappropriate development. Amend as follows: Avoid, remedy or mitigate adverse effects on the values and characteristics of identified outstanding natural features and landscapes described within Appendix 5 by: 3. Recognising the existence of weirs, races and other structures which have modified the natural form of the Mataura Falls;
S130.051 Mercury NZ Limited	~~Avoid~~ manage adverse effects on the values and characteristics of identified outstanding natural features and landscapes described within Appendix 5 by: 2. Recognising the existence of working structures within the rural environment, including pastoral farms and their contribution to the openness and landform legibility of outstanding natural features and landscapes; 3. (d) the functional needs of infrastructure.
FS24.039 Contact Energy Ltd	Allow S130.051 Mercury NZ Limited

6.4.11 Mishka Banhidi at paragraph 40 of her supplementary evidence stated in response to this submission and the evidence submitted by Ainsley McLeod on behalf of Transpower:

> While I acknowledge Ms McLeod's position that the policy may be in conflict with the NPS-ET in regards to the National Grid, the requested relief results in an already lengthy policy becoming significantly longer. In my view, the policy becomes too long to by trying to provide for this specific activity. However, I do not disagree with the intent of the requested relief based on Ms McLeod's evidence. As an alternative the panel may wish to consider expanding on the existing NFL-P3 which has been developed as the specific policy for infrastructure, rather than having NFL-P1 as a catch all for activities generally, as well as more specifically the national grid. The following may be a more practical solution to achieve the intent of the relief requested

6.4.12 The Panel considers the evidence of Ainsley McLeod highlights an inadequacy in Policy NFL-P1 and a conflict between Policies NFL-P1 and NFL-P3 both in the notified Plan and in the s42A Report. In response to questions from the Panel, Ainsley McLeod stressed the importance of the higher order planning documents. She referred in particular to Policy LNF.4 of the RPS as follows:

> **Policy LNF.4 Protection of outstanding natural features and landscapes**
> Local authorities shall protect outstanding natural features and landscapes from inappropriate subdivision, use and development by having regard to the following:
> (a) whether the adverse effects of inappropriate activities on outstanding natural features and landscapes are avoided;
> (b) the extent to which the outstanding natural feature or landscape would be modified or damaged including duration, frequency, magnitude or scale of any effect;
> (c) the irreversibility of adverse effects on outstanding natural features or landscape values;
> (d) the resilience of the outstanding natural feature or landscape to change;
> (e) opportunities to remedy or mitigate previous adverse effects on the outstanding natural feature or landscape;
> (f) whether the activity will lead to cumulative adverse effects on the outstanding natural feature or landscape;
> (g) the relationship of the landscape to the surrounding environment.

6.4.13 The Panel agrees with Ainsley McLeod and the submissions of Alliance and Mercury that the notified policies in the NFL chapter are inconsistent with RMA s6(b) that requires "the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development" and Policy LNF.4 of the Regional Policy Statement as set out above.

6.4.14 Policy NFL-P1 refers to avoiding adverse effects on the values identified in Appendix 5 but that is different to both the RMA and the RPS that require protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development. The submissions of Alliance and Mercury seek to change the "avoiding" of the policy to "avoid, remedy or mitigate" or "manage" and for "appropriate" activities that may be acceptable. The Panel is not satisfied that it is appropriate to avoid adverse effects on all the values listed in Appendix 5 all of the time. For example, the generic nature of "recreational opportunities" and "perception values" are such that avoidance is not necessarily practical. Rather, the Panel considers the values are matters to take into account when determining what is "inappropriate" within an outstanding natural feature and landscape. In some respects that is the intent of Policy NFL-P4, and close examination of that Policy shows overlap, and potential inconsistencies between that policy and Policy NFL-P1 as notified and as recommended to be amended in the s42A Report.

6.4.15 With regard to the NPSET the Panel notes that that Preamble states:

> The national policy statement is to be applied by decision-makers under the Act. The objective and policies are intended to guide decision-makers in drafting plan rules, in making decisions on the notification of the resource consents and in the determination of resource consent applications, and in considering notices of requirement for designations for transmission activities.
>
> However, the national policy statement is not meant to be a substitute for, or prevail over, the Act's statutory purpose or the statutory tests already in existence. Further, the national policy statement is subject to Part 2 of the Act.
>
> For decision-makers under the Act, the national policy statement is intended to be a relevant consideration to be weighed along with other considerations in achieving the sustainable management purpose of the Act.

6.4.16 When asked by the Panel whether the policy framework should seek to avoid adverse effects on the values specified in Appendix 5 while recognising the provisions of the NPSET, Ainsley McLeod replied that doesn't logically fit, in that avoid by itself does not enable a compromise in balancing other factors. In reply to other questions Ainsley McLeod advised she would support a policy that recognised existing infrastructure rather than just the National Grid but also considers a policy approach is required for new infrastructure, referring to RPS Policy INF.2 that states:

> Policy INF.2 – Infrastructure and the environment
> Where practicable, avoid, remedy or mitigate the adverse effects of infrastructure on the environment. In determining the practicability of avoiding, remedying, or mitigating adverse effects on the environment, the following matters should be taken into account:
> (a) any functional, operational or technical constraints that require the physical infrastructure of regional or national significance to be located or designed in the manner proposed;
> (b) whether there are any reasonably practical alternative designs or locations;
> (c) whether good practice approaches in design and construction are being adopted;
> (d) where appropriate, and such measures are volunteered by a resource user, whether any significant residual adverse effects can be offset or compensated for; and
> (e) the need to give effect to the NPSET (2008) including that planning and development of the transmission system should seek to avoid adverse effects on outstanding natural landscapes, areas of high natural character and areas of high recreation value and amenity and existing sensitive activities.

6.4.17 Having regard to the NPSET and the RPS Ainsley McLeod considers some infrastructure is more important than others and rather than dealing with all infrastructure in a policy in a way that creates a less than desirable pathway for some infrastructure, the approach of the RPS provides a good model.

6.4.18 With regard to other matters raised in the Alliance submission, Mishka Banhidi at paragraph 197 of her s42A Report advised the Panel the existence of weirs, races and other structures within the Mataura Falls is referred to in Appendix 5 and given Policy INF-P1 links to Appendix 5 the addition sought to the policy is not required. In an email to the Panel dated 28 January 2025 Doyle Richardson appeared to imply acceptance of that outcome. The Panel agrees with the advice of Mishka Banhidi that Appendix 5 can be relied on to describe the characteristics and values of the natural feature, including its modifications. The Panel has included reference to existing structures in new Policy NFL-P5 specific to existing lawfully established activities.

6.4.19 It is the concluding view of the Panel that, arising from these submissions a revising and restructuring of the policies in this chapter is required by amending the notified policies and including new policies as set out elsewhere in this decision.

6.4.20 Submissions S101.057 Transpower New Zealand Limited, S121.053 Alliance Group Limited and S130.051 Mercury NZ Limited are accepted in part by amending Policies NFL-P1, NFL-P2, NFL-P3 and NFL-P4:

NFL-P~~2~~1 Provide for and encourage the restoration and/or enhancement of the ~~natural character~~ values ~~described within Appendix 5,~~ of the Te Au Nui Pihapiha Kanakana Mataura Falls described within Appendix 5, where:

1. Restoration and/or enhancement will achieve long-term improvement in ~~natural character landscape and associated~~ Ngāi Tahu cultural values; ~~and/or~~
2. It will assist in the restoration of indigenous *biodiversity* or ecosystems and angling fisheries species; ~~and/or~~
3. It will enhance the taonga species and mahinga kai and the ability to exercise kaitiakitanga; ~~and/or~~
4. It will support improved health and abundance of taonga species, and the ability for mana whenua to engage in mahinga kai activities; ~~and/or~~

5. Riparian margins provide a buffer from activities that may adversely affect the ~~natural character~~ values of the *river*; ~~and/or~~
6. Riparian margins provide spawning or other significant habitats for at risk or threatened species; ~~and/or~~
7. Public access is restored or improved; and~~/ or~~
8. Activities are an expression of mana whenua kaitiakitanga responsibilities.

NFL-P1~~1~~2 ~~Avoid adverse *effects* on the values and characteristics of identified~~ Within outstanding natural features and landscapes, ~~described within Appendix 5 by~~ to the extent practicable, avoid:

1. ~~Avoiding d~~Development and land use that results in significant adverse *effects* on~~ landscape~~ their values and characteristics~~avoiding or appropriately mitigating other adverse *effects* on landscape values.~~;
2. ~~Recognising the existence of working pastoral farms and their contribution to the openness and landform legibility of outstanding natural features and landscapes;~~
3~~2~~. ~~Demonstrating how d~~Development that cannot be visually integrated into the landscape~~ by:~~;
3. ~~(a) remedying or mitigating the impacts on the visual continuity of~~ structures and development that alter the Hokonui Hills skyline and ~~visually prominent hillslopes~~ the appearance of mapped ridgelines;

   ~~(b) ensuring buildings and structures are appropriately sited, designed, finished, and if required, mitigated by appropriate plantings, to have minimal impact on the landscape values.~~

   ~~(c) ensuring that building density and form maintains the identified landscape values.~~
4. ~~Avoiding a~~Activities that are incompatible with the identified values, including ~~plantation~~ commercial forestry and mineral extraction~~,~~.
5. ~~Recognising and providing protection for Ngāi Tahu cultural values as they relate to Natural Features and Landscapes.~~

NFL-P3 Avoid the placement of critical infrastructure within identified outstanding natural features and landscapes, unless, having regard to the operational need or functional need of the activity:

1. There is no reasonable alternative ~~due to the operational or functional need~~ for the location; and
2. Adverse effects on landscape values can be avoided or appropriately mitigated to the extent practicable.

NFL-P4 When ~~assessing resource consents~~ considering subdivision, use and development within Outstanding Natural Features and Landscapes, consider ~~the following matters;~~

~~1. The~~ extent to which adverse effects on ~~landscape~~ their values can be managed~~,~~ where they cannot be avoided. ~~or appropriately mitigated; and~~

~~2. The extent to which the proposed activity recognises and provides for Ngāi Tahu cultural values, rights and interests; and~~

~~3. The operational or functional need for the activity to be undertaken within an Outstanding Natural Feature or Landscape.~~

Submitter (S) Further Submitter (FS)	Decision Requested
S109.073 Department of Conservation S121.054 Alliance Group Limited	Retain NFL-P2 as notified
S115.101 Kevin Robertson S126.100 Southland Federated Farmers of New Zealand S143.112 Rural Ratepayers Group	Amend NFL-P2: 2. It will assist in the restoration of indigenous biodiversity or ecosystems and angling and native fisheries species;

S148.113 Alistair & Bernadette Hunt S60.103 Ronald Crispin S68.221 John Baynes	
S110.037 Royal Forest and Bird Society of NZ Inc	NFL-P2 The restoration or enhancement of angling fisheries species could adversely impact indigenous fish by increasing predation by exotic species. Change: 2. It will assist in the restoration of indigenous biodiversity or ecosystems ~~and angling fisheries species;~~ and/or
FS5.50 Hamish Weir	Disallow S110.037 Royal Forest and Bird Society of NZ Inc

6.4.21 The Panel accepts the advice of Mishka Banhidi at paragraphs 213 and 214 of the s42A Report where she advises:

(a) While it is agreed that native fish species form an important part of the biodiversity of this river, this is considered to be covered by the reference to indigenous biodiversity and further inclusion is considered unnecessary.

(b) The inclusion of angling fisheries within this policy was intentional to reflect the rivers status under the water conservation order as a contributing factor to the values of the ONF

6.4.22 The Panel notes that no submitter spoke to this provision at the hearing or provided additional information for the Panel to consider. Accordingly, submissions S115.101 Kevin Robertson and others and S110.037 Royal Forest and Bird Society of NZ Inc are rejected.

Submitter (S) Further Submitter (FS)	Decision Requested
S112.072 Waka Kotahi NZ Transport Agency	Retain NFL-P3 as notified
S101.058 Transpower New Zealand Limited	Amend Policy NFL-P3 as follows: "NFL-P3 Avoid the placement of critical infrastructure within identified outstanding natural features and landscapes, unless, <u>having regard to the operational needs or functional needs of the activity</u> 1. There is no reasonable alternative ~~due to the operational or functional need~~ for the location; and 2. Adverse effects on landscape values can be avoided or appropriately mitigated <u>to the extent feasible</u>."
S130.052 Mercury NZ Limited	NFL-P3 Avoid the placement of critical infrastructure within identified outstanding natural features and landscapes, unless 1. There is **a** ~~no reasonable alternative due to the operational or~~ functional need for the location; and 2. Adverse effects on landscape values can be avoided or appropriately mitigated.
FS24.041 Contact Energy Ltd	Allow in part S130.052 Mercury NZ Limited. Contact support the relief sought as it recognises the functional need of critical infrastructure and is consistent with the NPS-REG, however Contact considers it important to retain reference to "operational need".

6.4.23 The Panel acknowledges the submissions in support of the Policy. As changes are being made to the provision submission S112.072 Waka Kotahi NZ Transport Agency is accepted in part.

6.4.24 The issues raised in the submissions by S101.058 Transpower New Zealand Limited and S130.052 Mercury NZ Limited are discussed in paragraphs 6.4.11 to 6.4.21 above and accepted in part as set out in paragraph 6.4.22.

Submitter (S) Further Submitter (FS)	Decision Requested
S109.074 Department of Conservation	Amend P3 with the following amendments: NFL-P3: Avoid the placement of ~~critical~~ infrastructure within identified

	outstanding natural features and landscapes, unless 2. Adverse effects on landscape and indigenous biodiversity values can be avoided or appropriately mitigated by applying the effects management hierarchy.
FS5.51 Hamish Weir FS30.024 Transpower New Zealand Limited FS24.040 Contact Energy Ltd FS24.042 Contact Energy Ltd	Disallow S109.074 Department of Conservation
S109.075 Department of Conservation	Amend P4 1. The extent to which adverse effects on landscape and indigenous biodiversity values can be ~~managed,~~ avoided or appropriately mitigated through the application of the effects management hierarchy;
FS27.017 Alliance Group Limited FS30.025 Transpower New Zealand Limited FS25.083 Stoney Creek Station Ltd	Disallow S109.075 Department of Conservation

6.4.25 Mishka Banhidi at paragraph 240 of the s42A Report acknowledges that a loss of indigenous biodiversity loss can result in adverse landscape effects, she considers this is already provided for in Appendix 5. The Panel does not consider any additional reference or provisions are required to indigenous vegetation in the Natural Features and Landscape chapter, noting that is the purpose of the Ecosystems and Indigenous Biodiversity chapter and for that reason the Panel has also deleted Rule NFL-R6 in paragraph 6.5.41 below. The Panel considers that removes duplication and will assist in administration of the Plan provisions. The Panel also notes within the Ecosystems and Indigenous Biodiversity chapter provisions include consideration of the effects management hierarchy. Accordingly, submissions S109.074 and S109.075 Department of Conservation are rejected.

Submitter (S) Further Submitter (FS)	Decision Requested
S126.101 Southland Federated Farmers of New Zealand S3.018 Stoney Creek Station Limited	Amend NFL-P4: When assessing resource consents within Outstanding Natural Features and Landscapes, consider the following matters**.** The presence of existing activities within the ONF/L and whether the activity is changing in intensity, scale or character
FS5.53 Hamish Weir FS25.085 Stoney Creek Station Ltd	Allow S126.101 Southland Federated Farmers of New Zealand
FS17.049 Federated Farmers	Allow S3.018 Stoney Creek Station Limited
S104.003 McLeod-Wantwood Trust/Wantwood Station	Amend NFL-P4 to add: 4. In the Hokonui Hills ONL, whether the site is a working farm and the contribution this makes to the values of the Outstanding Natural Feature.
FS25.084 Stoney Creek Station Ltd	Allow S104.003 McLeod-Wantwood Trust/Wantwood Station

6.4.26 The Panel in its consideration of Policy NFL-P1 had regard to the farming activities within the ONL and at the request of submitters made a change to the policy to acknowledge farming in the ONL and that this contributes to the character of the landscape. The Panel does not consider it necessary to add a similar reference in this policy but does consider it desirable to strengthen the link to Appendix 5 by way of a minor addition. Given the restructuring of the policy framework for this chapter reference to Appendix 5 is now being recognised by a separate policy.

6.4.27 The Panel does not consider it necessary for the policy to enquire whether an activity alters the intensity, scale or character of the area. In effect, that is a link back to existing use rights and if these don't change then that is a factor in determining whether a resource consent is required in the first place. In addition, as set out in paragraph

6.4.21 Policy NFL-P1 has been amended. The Panel has also introduced Policy NFL-P5 specific to existing lawfully established activities.

6.4.28 Submissions S126.101 Southland Federated Farmers of New Zealand, S3.018 Stoney Creek Station Limited and S104.003 McLeod-Wantwood Trust / Wantwood Station are accepted in part including a new Policy NFL-P5 as follows:

NFL-P5 Enable the continuation of existing lawfully established activities within Outstanding Natural Features and Landscapes, including:

1. working pastoral farms, recognising they contribute to the openness and landform legibility of outstanding natural features and landscapes; and
2. the hydroelectric power generating facility and other structures that have modified the natural form of Te Au Nui Pihapiha Kanakana Mataura Falls.

Submitter (S) Further Submitter (FS)	Decision Requested
S130.053 Mercury NZ Limited	NFL-P4 The submitter seeks to ensure that development within areas of significant landscapes are well justified in terms of functional need.
S101.059 Transpower New Zealand Limited	Amend Policy NFL-P4 as follows: NFL-P4: (...) 3. The operational needs or functional needs of ~~for~~ the activity ~~to be undertaken within an Outstanding Natural Feature or Landscape~~. x. The benefits of the proposed activity to the health, safety and wellbeing of people and communities." Such an approach is consistent with the Objective and Policy 1 of the NPSET
FS25.082 Stoney Creek Station Ltd	Allow S101.059 Transpower New Zealand Limited

6.4.29 The Panel acknowledges the submission by Mercury and agrees that clarity is required with regard to functional need. This has been done by revising Policy NFL-P3. In that regard, submission S130.053 Mercury NZ Limited is accepted in part.

6.4.30 The Panel accepts the need for the minor change to clause (3) as it adds clarity and removes duplication. With a restructuring of the policies for this chapter that clause is redundant and sufficiently covered by Policy NFL-P3 as set out in paragraph 6.4.22 above.

6.4.31 Mishka Banhidi at paragraph 241 of her s42A Report recommended adding the additional clause sought because the wording aligned with Objective 1 of the National Policy Statement for Electricity Transmission (NPSET). The Panel has reviewed the NPSET and does not see a link between the wording recommended and the content of the NPSET. There is an objective in the NPSET that refers to meeting the needs of future generations and in Clause 6 (Policy 1) a list of potential benefits decision-makers must have regard in considering any project or development of the electricity transmission network. That applies in any case and in the view of the Panel does not therefore require inclusion into the Plan. Nor does the Panel consider it appropriate for what is intended as a focus for one activity to apply to all activities within ONLs. The second limb of the submission is therefore rejected.

6.4.32 Submission S101.059 Transpower New Zealand Limited is therefore rejected.

Submitter (S)	Decision Requested
S126.102 Southland Federated Farmers of New Zealand S115.103 Kevin Robertson S143.114 Rural Ratepayers Group S148.115 Alistair & Bernadette Hunt S60.105 Ronald Crispin S68.223 John Baynes	If the amendments to NFL-R2 are accepted then a new policy is recommended: Avoid planting exotic tree species that would affect indigenous biodiversity values and/or are prone to wilding spread in hill and high country area.

6.4.33 Mishka Banhidi at paragraph 122 of her s42A Report supported the intent of the submission and acknowledged there are landscape effects arising from the spreading of exotic tree species justifying some management within the NFL chapter rather than relying on the ECO chapter. However, she considered the intent of the submission is already provided for through NFL-P1 and Appendix 5 as revised that refers to pest plants as a threat to the Hokonui Hills.

6.4.34 The Panel notes Rule NFL-R2 has been strengthened in limiting tree plantings to indigenous species. Reference to wilding trees has not been included in that rule and therefore the policy referring solely to wilding trees is not needed. However, the Panel does wish to provide a signal consistent with the rules and therefore considers a policy is appropriate referring to indigenous trees.

6.4.35 Accordingly, submissions S126.102 Southland Federated Farmers of New Zealand and others are accepted in part by including the following new policy:

NFL-P7 Promote and encourage any tree planting within Outstanding Natural Landscapes to be indigenous species and where indigenous species are not planted discourage the planting of wilding tree species.

Submitter (S)	Decision Requested
S140.005 Robina Johnston	Policy consideration of visual effects on landscape values from infrastructure and commercial developments. Consideration needed for colour and effect of lights on the landscape.

6.4.36 The Panel notes the advice of Mishka Banhidi at paragraph 85 of her s42A Report where she states that the policy framework of the Plan does already provide for consideration of the visual impact of infrastructure and throughout the General Rural zone commercial developments would be considered as a non-complying activity with regard given to all effects. The Panel agrees with Mishka Banhidi on this point and accordingly, submission S140.005 Robina Johnston is rejected.

Submitter (S)	Decision Requested
S101.061 Transpower New Zealand Limited	Amend Note 1 as follows: "The provisions in this chapter apply in addition to the provisions of the other chapters in the District Plan and the plan should be read as a whole. This chapter also implements other chapters in the District Plan that do not have specific rules such as Sites and Areas of Significance to Māori and Mana Whenua. Infrastructure activities are provided for in the Infrastructure Chapter and the rules in this chapter do not apply to infrastructure activities."

6.4.37 As the Introductory sections highlight the Plan should be read as a whole, in response to requests to remove unnecessary duplication in the Plan, the Panel considers this note can be deleted. As notes have no statutory status, this change is made as an amendment under Clause 16(2) of the First Schedule. Accordingly, submission S101.061 Transpower New Zealand Limited seeking an addition to the Note is rejected.

6.5 Natural Features and Landscapes: Rules

6.5.1 It should be noted that arising from the addition and deletion of various rules in this chapter, and to provide a logical progression, while the rule numbers used in the following part of this Decision are the same as those notified, the order of the rules has been changed in the updated Plan provisions.

Submitter (S) Further Submitter (FS)	Decision Requested
S116.019 Nathan Bokser S68.023 John Baynes S24.021 Helen McIntosh S20.021 Sarah and Peter Barclay S19.021 Karen Temple S18.021 Reaby Downs Farm Ltd S127.055 Peters Farm Ltd Karen Peters S118.019 AW+ JA Johnston Family Trust S117.019 Greg Bokser S113.019 Trudy Bokser S3.019 Stoney Creek Station Limited	Amend "All zones" under rules NFL-R1 to NFL-R8 to read "All areas identified as ONL/ONF in the Planning Maps".
FS17.050 Federated Farmers	Allow S3.019 Stoney Creek Station Limited

6.5.2 The Panel agrees with submitters that the description of the areas within which the rules of this chapter apply are confusing, particularly in referring to “All areas”. Mishka Banhidi in her s42A Report adopted the modified approach of the Hokonui Hills Working Party, but as that retained reference to “all areas” that has not assisted in adding clarity. Mishka Banhidi did however at paragraph 80 of her s42A Report invite the Panel to consider other approaches.

6.5.3 The recommendations of Mishka Banhidi to adopt the outputs of the Hokonui Hills Working Party would result in some of the rules being split with separate provisions applying to “Lower Sensitivity Areas” and “All Other Areas”. Mike Moore in his evidence and in his recommended changes to Appendix 5 used the term “Higher Sensitivity Areas” when referring to the other areas. The Panel prefers his approach but notes this only applies to the ONL of the Hokonui Hills and not the ONF of Te Au Nui Pihapiha Kanakana Mataura Falls, and that some rules only apply to the ONL while other rules apply to both the ONL and the ONF. As a consequence, there is no common answer across all rules.

6.5.4 The Panel does not consider it necessary to include a reference to the planning maps in the Rule as the ONL and ONF are terms that refer to identified areas on the planning maps in the same way “General Rural Zone” refers to areas on the planning maps zoned General Rural. However, amendments are required to the rule heads and the descriptors in the left hand column of the rules table clarifying the areas where the rules apply.

6.5.5 Submissions S116.019 Nathan Bokser and others are accepted in part by amending as a minor change references to “All Other Areas” in the rules table, as appropriate, to:
- Higher Sensitivity Areas
- Lower Sensitivity Areas
- All NFL Areas
- ONL

Submitter (S) Further Submitter (FS)	Decision Requested
S109.076, S109.077, S109.078, S109.079, S109.076, S109.077, S109.078, S109.079, S109.080, S109.081 Department of Conservation	Amend all of the matters of discretion within all of the rules with the following amendment (or words to similar effect): Matters of discretion: 1. Effects on the values <u>including indigenous biodiversity values</u> as listed in NFL-APP Appendix 5.

FS27.018 Alliance Group Limited	Allow S109.076 Department of Conservation
FS5.54, FS5.57, S5.58, FS5.61, FS5.62 Hamish Weir FS24.043, FS24.044, FS24.045, FS24.046, FS24.047, FS24.048 Contact Energy Ltd FS25.087, FS25.088, FS25.089, FS25.090, FS25.091, FS25.092 Stoney Creek Station Ltd	Disallow S109.076, S109.077, S109.078, S109.079, S109.080, S109.081 Department of Conservation

6.5.6 Mishka Banhidi at paragraph 80 of her s42A Report recommended rejecting these submissions on the basis that Appendix 5 refers to indigenous biodiversity values and that is sufficient. The Panel agrees, noting if one value stated in Appendix 5 is referred to all should be included and that is unnecessary. As no additional material was submitted to the Panel by DoC to assist in determining this matter, the submissions of Department of Conservation are rejected.

Submitter (S) Further Submitter (FS)	Decision Requested
S79.001 Andrew Welsh S53.005 Katherine Welsh	Remove NFL-R1. Unnecessary to pay for consent under this provision when it is already subject to building consent. Council is trying to double dip on fees and control the operations of people's farms and livelihoods. There is no need to restrict the size of farm buildings/structures.
FS25.086, FS25.096 Stoney Creek Station Ltd	Allow in part S79.001 Andrew Welsh, S53.005 Katherine Welsh to remove unnecessary restrictions where these are existing activities

6.5.7 The Panel does not accept that the Council is double dipping in requiring resource consent for some buildings within ONL. The effects arising from large structures in an ONL, having regard to the statutory requirements of legislation and matters that Council is required to take into account, justifies the proposed approach. If some of the concern of the submitters applies to the size of buildings permitted, attention is drawn to the revisions to the rule set out in paragraph 6.5.9. Having regard to these matters, submissions S79.001 Andrew Welsh and S53.005 Katherine Welsh are rejected.

Submitter (S) Further Submitter (FS)	Decision Requested
S105.004 Farm Manager - Wantwood Station S127.004 Peters Farm Ltd Karen Peters S113.020 Trudy Bokser S116.020 Nathan Bokser S118.020 AW+ JA Johnston Family Trust S127.056 Peters Farm Ltd Karen Peters S18.022 Reaby Downs Farm Ltd S19.022 Karen Temple S20.022 Sarah and Peter Barclay S24.022 Helen McIntosh S68.024 John Baynes S104.004 McLeod-Wantwood Trust/Wantwood Station	Amend NFL-R1 as follows: 1. The building or structure is for farming purposes, excluding residential use; (a) Does not exceed ~~30m2~~ 300m2 in area; and (b) Height shall not exceed 6m ~~3m;~~ 2. Buildings or structures for non-farming purposes; (a) The maximum height does not exceed ~~2m~~ 5m**;** and (b) The maximum gross floor area is no more than ~~5m2~~ 30m2. 3. All non-farming buildings and structures must be finished in materials with a maximum reflectance value of 30%.
FS25.094 Stoney Creek Station Ltd	Allow in part S104.004 McLeod-Wantwood Trust/Wantwood Station
S115.104 Kevin Robertson S143.115 Rural Ratepayers Group S148.116 Alistair & Bernadette Hunt S60.106 Ronald Crispin S68.224 John Baynes S117.020 Greg Bokser S3.020 Stoney Creek Station Limited S126.103 Southland Federated Farmers of New Zealand	Amend NFL-R1: Activity status: Permitted Where: 1. The building or structure is for farming purposes, excluding residential use; (a) Does not exceed ~~30~~ 500m2 in area; (b) Height shall not exceed 8~~3~~m; 3. All buildings and structures (excluding those for farming purposes)
FS5.55 Hamish Weir FS17.051 Federated Farmers	Allow S3.020 Stoney Creek Station Limited
FS5.56 Hamish Weir	Allow S126.103 Southland Federated Farmers of

S25.095 Stoney Creek Station Ltd	New Zealand

6.5.8 Mishka Banhidi at paragraphs 250 and 251 of her s42A Report recommended that the changes to Rule NFL-R1 agreed by Hokonui Hills Working Party be adopted. While these changes are less that those sought by some submitters she notes that a four bay farm building was used as a guide as to what was appropriate within the identified Lower Sensitivity Areas, with the notified rule provisions applying solely to Higher Sensitivity Areas. Mishka Banhidi supported the approach of differentiating between sensitivity areas and between farm buildings and non-farm buildings. The Panel did not receive any evidence or feedback expressing a contrary view and on the Panel being satisfied that what has been recommended is appropriate and practicable has adopted the recommendation unchanged.

6.5.9 Submissions S105.004 Farm Manager - Wantwood Station and others and S115.104 Kevin Robertson and others are accepted in part by amending Rule NFL-R1 as follows:

NFL-R1 *Buildings* and *Structures* (excluding fences) within an identified ~~ONF/~~ONL

Lower Sensitivity Areas

Activity status: Permitted

Where:

1. The *building* or *structure* is for farming purposes, excluding residential use;
   (a) Does not exceed 175m^2 in area; and
   (b) Height shall not exceed 6m;
2. Buildings or structures for non-farming purposes;
   (a) The maximum height does not exceed 2m; and
   (b) The maximum gross floor area is no more than 5m2;
3. All *buildings* and *structures* shall be finished in materials with a maximum reflectance value of 30%.

~~All zones~~ Higher Sensitivity Areas

Activity status: Permitted

Where:

4. The building or structure is for farming purposes, excluding residential use;
   (a) Does not exceed 30m^2 in area; ~~and~~
   (b) Height shall not exceed 3m; and
   (c) Is not located within 30m of a mapped ridgeline
5. Buildings or structures for non-farming purposes;
   (a) The maximum *height* does not exceed 2m; ~~and~~
   (b) The maximum *gross floor area* is no more than 5m^2 ; and
   (c) Is not located within 30m of a mapped ridgeline
6. All *buildings* and *structures* must be finished in materials with a maximum reflectance value of 30%

Submitter (S) Further Submitter (FS)	Decision Requested
S113.021 Trudy Bokser S115.105 Kevin Robertson S68.025 John Baynes S24.023 Helen McIntosh S20.023 Sarah and Peter Barclay	Amend NFL-R2 to read: 1. The tree planting is of indigenous species or is required and for restoration, conservation, or hazard prevention measures, shelter belts, wind breaks, or to address land instability or erosion.

S19.023 Karen Temple S18.023 Reaby Downs Farm Ltd S127.057 Peters Farm Ltd Karen Peters S118.021 AW+ JA Johnston Family Trust S116.021 Nathan Bokser S143.116 Rural Ratepayers Group S68.225 John Baynes S60.107 Ronald Crispin S148.117 Alistair & Bernadette Hunt S117.021 Greg Bokser S126.104 Southland Federated Farmers of NZ S3.021 Stoney Creek Station Limited	Matters of discretion: 3. Any benefits provided by the proposed tree planting.
FS17.052 Federated Farmers	Allow S3.021 Stoney Creek Station Limited request that the impact on Ngāi Tahu cultural values as a matter of discretion shall be limited to those listed in the Mana Whenua Chapter 2.3
FS25.097 Stoney Creek Station Ltd	Allow S126.104 Southland Federated Farmers of New Zealand

6.5.10 Mishka Banhidi at paragraphs 258 and 259 of her s42A Report stated:

> A number of submitters request greater flexibility within this rule for tree planting within an ONFL. Through the working group process a number of changes have been proposed to NFL- R2, and while they do not provide for the specific relief of the submitters, in my opinion they provide for the intent, and improve the workability of the proposed rule whilst still protecting landscape values of the area.
>
> Amendments to NFL-R2 are proposed that provide a tiered approach with more permissive tree planting provided for within the LSA, and more restrictive planting requirements within all other areas of the ONFL. As outlined within Appendix C, greater flexibility has been provided within the LSA around the curtilage of farm buildings and stockyards to control the extent of exotic plantings and associated effects on landscape values. Indigenous vegetation planting is provided for elsewhere in the ONL with some limits to avoid visual dissecting of these more sensitive landscape areas by shelterbelts. Mr Moore's evidence is adopted for the purpose of this assessment, specifically the recommendation for a tiered approach enabling exotic plantings within the LSA with controls, with a less permissive approach in other areas of the ONL.

6.5.11 The Panel did not receive any evidence or feedback expressing a contrary view and on the Panel being satisfied that what has been recommended is appropriate and practicable has adopted the recommendation subject to a minor change. The Panel notes the evidence of Mike Moore limited application of the rules to ONLs and not the ONF and it has amended the rule accordingly. In addition, it is the view of the Panel that recommended clause (3) referring to pest plants identified in any Regional Pest Management Plan or the Biosecurity Act 1993 is ultra vires and represents an unnecessary duplication of statutory provisions that apply through legislation outside of the RMA.

6.5.12 Consistent with the Panel's Decisions 14 Mana Whenua and 43 Sites and Areas of Significance to Māori the Panel agrees with Federated Farmers that a minor amendment is required when referring to MW-2.3 (now MW-1.2).

6.5.13 Submissions S113.021 Trudy Bokser and others are accepted in part by amending Rule NFL-R2 as follows:

NFL-R2 **Tree planting, other than *~~plantation~~* *commercial forestry* or *woodlots* within an identified ~~ONF/~~ONL**

Lower Sensitivity Areas

Activity status: Permitted

Where:

1. The tree planting is *indigenous vegetation*; or

2. It is within 100m of a farm building or stockyard.

~~All zones~~ Higher Sensitivity Areas

Activity status: Permitted

Where:

3. The tree planting is of indigenous vegetation ~~species~~ and for restoration, conservation, or hazard ~~prevention~~ management measures, or

4. The tree planting is of *indigenous vegetation* and for a shelterbelt of up to 40m in length.

Activity status where compliance is not achieved:

Restricted Discretionary

Matters of discretion:

1. *Effects* on the values as listed in NFL-APP Appendix 5.

2. Impacts on Ngāi Tahu cultural values~~, including those~~ listed in MW-1.2.~~3.~~

Submitter (S) Further Submitter (FS)	Decision Requested
S112.073 Waka Kotahi NZ Transport Agency	Retain NFL-R3 as notified
S79.002 Andrew Welsh S53.001 Katherine Welsh	Section NFL-R3 to be removed they are not acceptable for farming practice.
S105.013, S105.035 Farm Manager - Wantwood Station S127.013, S127.035 Peters Farm Ltd Karen Peters S104.013, S104.035 McLeod-Wantwood Trust/ Wantwood Station	The definition for earthworks excludes fencing, therefore the reference to fencing in NFL-R3 should be removed.

6.5.14 The Panel acknowledges the support for the rule. As changes have been made to the provision submission S112.073 Waka Kotahi NZ Transport Agency is accepted in part.

6.5.15 The Panel considers the effects arising from ground disturbance and earthworks can give rise to long terms visual landscape impacts and within areas where landscape values are outstanding s6 of the RMA requires the Council through the district plan to manage activities so as to protect the values of the landscape from inappropriate subdivision, use, and development. As set out below, Mishka Banhidi acknowledges that the rule as notified was overly restrictive and changes were recommended, but that does not remove the justification for a rule. Having regard to these matters, submissions S79.002 Andrew Welsh and S53.001 Katherine Welsh are rejected.

6.5.16 Three submitters requested the removal of reference to fencing in the rule having regard to the definition of earthworks. The Panel notes that the definition of earthworks is as follows:

> Earthworks: Has the same meaning as per the National Planning Standards -
> means the alteration or disturbance of *land*, including by moving, removing, placing, blading, cutting, contouring, filling or excavation of earth (or any matter constituting the *land* including soil, clay, sand and rock); but excludes gardening, *cultivation*, and disturbance of *land* for the installation of fence posts.

6.5.17 The definition does not exclude earthworks associated with fencing, but it does exclude earthworks associated with creating holes for fence posts. Accordingly, submissions S105.013, S105.035 Farm Manager - Wantwood Station, S127.013, S127.035 Peters Farm Ltd Karen Peters and S104.013, S104.035 McLeod-Wantwood Trust/ Wantwood Station are rejected.

Submitter (S) Further Submitter (FS)	Decision Requested
S105.005 Farm Manager - Wantwood Station S127.005 Peters Farm Ltd Karen Peters	Ideally, the whole clause should be removed especially points 3, 4 and 5. As they are unachievable when looked at from a fencing perspective.

	Where it is needed for the construction of any road or track no greater than 7 meters in width or requiring more than 2 meters of cut or fill. 1. The depth of the earthworks shall not exceed ~~1m~~ 2m below the original surface of the ground; and 2. the ~~depth~~ height of fill or stockpiles shall not exceed ~~1m~~ **3m** above the original surface of the ground; and 3. the area of the earthworks shall not exceed 100m2in any 12-month period; ~~and 4. the width of land disturbance for fencing shall not exceed 1m; and 5. the ground for fencing related land disturbance is reinstated to original levels within 48 hours of work being completed~~
S113.022 Trudy Bokser S68.026 John Baynes S24.024 Helen McIntosh S19.024 Karen Temple S18.024 Reaby Downs Farm Ltd S127.058 Peters Farm Ltd Karen Peters S118.022 AW+ JA Johnston Family Trust S116.022 Nathan Bokser S20.024 Sarah and Peter Barclay S104.005 McLeod-Wantwood Trust/Wantwood Station	S32 report states the operative plan controls were effective at managing activities within ONLs. As such, additional controls in the PGDP are not supported and should align more with the controls that exist currently. Amend Rule NFL-R3 to read: Activity status: Permitted Where: X. Required for cultivation, fencing or pest plant management; or X. Associated with the construction of any road or track no greater than 7 metres in width or requiring more than 2 metres of cut or fill for a total distance greater than 100 metres; or X. The earthworks do not exceed 100 linear metres in any direction; and 1. The depth of the earthworks shall not exceed ~~1m~~ 2m below the original surface of the ground; and 2. the ~~depth~~ height of fill or stockpiles shall not exceed ~~1m~~ 3m above the original surface of the ground; and 3. the area of the earthworks shall not exceed 100m2in any 12 month period; ~~and 4. the width of land disturbance for fencing shall not exceed 1m; and 5. the ground for fencing related land disturbance is reinstated to original levels within 48 hours of work being completed.~~
FS25.098 Stoney Creek Station Ltd	Allow S104.005 McLeod-Wantwood Trust / Want-wood Station
S115.106 Kevin Robertson S117.022 Greg Bokser S68.226 John Baynes S60.108 Ronald Crispin S148.118 Alistair & Bernadette Hunt S143.117 Rural Ratepayers Group S126.105 Southland Federated Farmers of New Zealand S3.022 Stoney Creek Station Limited	Amend NFL-R3: Land disturbance and Earthworks within an identified ONF/L (excluding for the laying of stockwater, drainage or other utility pipes, or stock exclusion) Activity status: Permitted Where: 1. The depth of the earthworks shall not exceed ~~1~~2m below the original surface of the ground; and 2. the ~~depth~~ height of fill or stockpiles shall not exceed ~~1~~3m above the original surface of the ground; and 3. the area of the earthworks shall not exceed 100m2 in any 12 month period; and/or ~~4. the width of land disturbance for fencing shall not exceed 1m; and 5. the ground for fencing related land disturbance is reinstated to original levels within 48 hours of work being completed~~ 4. The land disturbance and earthworks are for the removal of shingle or stone for use on the same property to maintain tracks.
FS5.59 Hamish Weir FS17.053 Federated Farmers	Allow S3.022 Stoney Creek Station Limited
FS25.099 Stoney Creek Station Ltd	Allow S126.105 Southland Federated Farmers of New Zealand
S3.034 Stoney Creek Station Limited S113.034 Trudy Bokser S116.034 Nathan Bokser S118.034 AW+ JA Johnston Family Trust S127.070 Peters Farm Ltd Karen Peters S18.036 Reaby Downs Farm Ltd S19.036 Karen Temple S20.036 Sarah and Peter Barclay S24.036 Helen McIntosh S68.038 John Baynes	Preferred relief: Insert an exemption in the preamble of the Earthworks chapter for any earthworks and land disturbance activities within the Hokonui Hills Special Precinct. Develop appropriate earthwork provisions for the Hokonui Hills Special Precinct, in consultation with key stakeholders, that reflect the site specific conditions and challenges of this area.

S117.034 Greg Bokser	
FS11.038 Heritage New Zealand Pouhere Taonga	Disallow in part. Should the proposed Precinct be established, the objectives, policies and rules, provide for the conservation of historic heritage, including archaeology and sites of significance to Māori, as a priority.
FS17.060 Federated Farmers	Allow S3.034 Stoney Creek Station Limited
S104.036 McLeod-Wantwood Trust/Wantwood Station S105.036 Farm Manager - Wantwood Station S127.036 Peters Farm Ltd Karen Peters	Additional Provision: Include the earthworks exemptions as a permitted activity rule in the Natural Features and Landscapes (ONL) along with farm fencing (as previously mentioned, proposed rule NFL- R5)

6.5.18 In considering these submissions the Panel is mindful of its approach to earthworks rules within the Plan. Generally, rules applying to earthworks and ground disturbance are situated in the Earthworks chapter. However, where RMA s6 matters apply, for example, within areas of outstanding natural features and landscapes or within the curtilage of historic heritage structures; or for special reasons such as within the dripline of protected trees, then the earthworks rules are located within the relevant Plan chapter. This is consistent with the requirements of the National Planning Standards.

6.5.19 Also in considering these submissions the Panel has had regard to the evidence presented to the hearing considering submissions to the Earthworks chapter, and also the evidence presented to the hearing held on 10 - 11 March 2025 in response to Minutes 27 and 36, particularly the evidence presented on behalf of Stoney Creek Station Ltd.

6.5.20 Mishka Banhidi at paragraphs 270 - 277 of her s42A Report acknowledged that the notified version of the NFL chapter may have resulted in unnecessary restrictions on earthworks associated with fencing specifically and farming related activities more generally. Reliant on the evidence of Mike Moore and his work undertaken jointly with Ben Espie through the Hokonui Hills Working Group process, she supported revising Rule NFL-R3 with bespoke provisions applying to each of the Lower Sensitivity Areas, the Higher Sensitivity Areas and what have been identified as significant ridgelines.

6.5.21 Ben Espie, the landscape witness for Stoney Creek Station Ltd, supported the recommendation, noting at paragraph 5.4 of his statement of evidence:

> Through assessment and consideration that has formed my input into the Working Group and through visits to the Hokonui Hills and the surrounding landscape, I am in agreement with Ms Banhidi and Mr Moore that the S42a regime will appropriately manage activities within the ONL such that its landscape values are protected. Provisions will allow ongoing farming management to continue, which will maintain the landscape in the way that it has been over past decades, without adversely affecting its values.

6.5.22 Claire Perkins, the planning witness for Stoney Creek Station Ltd at paragraph 7.5 of her statement of evidence agreed the proposed amendments are suitable for the nature and scale of earthworks that has occurred and will continue to occur on Stoney Creek Station whilst protecting the landscape values of the ONL.

6.5.23 In the absence of any evidence or submissions contrary to the views of the expert witnesses, and on the Panel being satisfied that what has been recommended is appropriate and practicable, the Panel has adopted the recommendation subject to amendments to the Earthworks standard references. These changes are required given the revised structure of manner in which earthworks are considered in Decisions, and consequential to Decision 37 Earthworks. The Panel has also provided for a fully discretionary pathway for new roads, farm tracks, walking and cycling tracks within 30 metres of a mapped ridgeline in high sensitivity areas.

6.5.24 The submissions set out above are accepted in part by amending Rule NFL-R3 as follows:

NFL-R3 **Land disturbance and Earthworks within an identified ~~ONF/~~ONL**

Lower Sensitivity Areas

Activity status: Permitted

Where:

1. The depth of the *earthworks* cut and/or *earthworks* fill shall not exceed 3m below or above the original surface of the ground, except that for fencing and tracking, this height may be exceeded for a distance of no more than 30m within any one 100m distance;
2. The area of the *land disturbance* and *earthworks* (other than associated with *cultivation,* fencing, tracking or a building platform) shall not exceed 100m^2 in any 12 month period;
3. *Earthworks* and *land disturbance* (other than for *cultivation* or *farm track*s) are reinstated to blend in with the surrounding natural landform and sown in grass to achieve at least an 80% coverage by the end of the next growing season immediately following the completion of works; and
4. The works are undertaken in accordance with Earthworks Standards EW-S3, EW-S4 and EW-S6.

~~All zones~~ Higher Sensitivity Areas

Activity status: Permitted

Where:

5. ~~The depth of the earthworks shall not exceed 1m below the original surface of the ground; and~~ The depth of the *earthworks* cut and/or *earthworks* fill shall not exceed 3m below/above the original surface of the ground, except that for fencing and tracking, this height may be exceeded for a distance of no more than 30m within any one 150m distance;
6. ~~the depth of fill shall not exceed 1m above the original surface of the ground; and~~ The depth of *earthworks* cut or height of fill shall not exceed 1m within 30m of the mapped ridgelines;
7. the area of the earthworks (excluding earthworks for *cultivation,* fencing, tracking or a building platform) shall not exceed 100m^2 in any 12 month period;
8. ~~the width of land disturbance for fencing shall not exceed 1m; and~~ *Earthworks* and *land disturbance* (other than for *cultivation* or *farm tracks*) are reinstated to blend in with the surrounding natural landform and sown in grass to achieve at least an 80% coverage by the end of the next growing season immediately following the completion of works;
9. ~~the ground for fencing related land disturbance is reinstated to original levels within 48 hours of work being completed. and~~ Earthworks for new roads, farm tracks, walking and cycling tracks are not located within 30m of a mapped ridgeline area; and
10. The works are undertaken in accordance with Earthworks Standards EW-S3, EW-S4 and EW-S6.

Activity status where compliance is not achieved: NFL-R3 (1) – (4), (5) - (8) and (10):

Restricted Discretionary

Matters of discretion:

1. *Effects* on the values as listed in NFL-APP Appendix 5;
2. Impacts on Ngāi Tahu cultural values~~, including those~~ listed in MW-1.2.~~3~~;
3. The extent of any earthworks or land disturbance; and~~:~~

4. Whether the works are undertaken in accordance with Earthworks Standards ~~EW-S2,~~ EW-S3, EW-S4~~, EW-S5, EW-S6~~ and EW-S~~7~~6 and consideration of the matters of discretion for any infringed standard.

Activity status where compliance is not achieved: NFL-R3 (9)

Discretionary

Submitter (S) Further Submitter (FS)	Decision Requested
S112.074 Waka Kotahi NZ Transport Agency	Retain NFL-R4 as notified
S101.060 Transpower New Zealand Limited	Delete Rule NFL-R4 and relocate to the Infrastructure Chapter and including further direction in the Note 1.
FS21.076 Yrless Limited	Allow S101.060 Transpower New Zealand Limited
FS25.0100 Stoney Creek Station Ltd	Disallow S101.060 Transpower New Zealand Limited

6.5.25 The Panel acknowledges the support for the rule. As changes have been made to the provision submission S112.074 Waka Kotahi NZ Transport Agency is accepted in part.

6.5.26 The approach of the Panel in the Plan is for infrastructure to generally be situated in the Infrastructure chapter. However, where RMA s6 matters apply, as within outstanding natural features and landscapes, then the infrastructure rules may be located within the relevant Plan chapter. This is consistent with the requirements of the National Planning Standards. As a consequence, the Panel retains the infrastructure rule in this chapter, and submission S101.060 Transpower New Zealand Limited is rejected.

Submitter (S) Further Submitter (FS)	Decision Requested
S79.003 Andrew Welsh S53.002 Katherine Welsh	Machinery and equipment are getting bigger- important that safety comes first and if tracks, lanes, etc need to be widened for machinery, then critical infrastructure should be a permitted activity.
FS21.077 Yrless Limited	Allow S53.002 Katherine Welsh

6.5.27 The Panel agrees with Mishka Banhidi at paragraphs 288 of her s42A Report where she opined that any increase in scale of infrastructure, tracks and the other activities specified in the rule within a sensitive landscape such as a ONFL should be carefully considered. She noted that a Restricted Discretionary consenting pathway is provided and she considered this appropriate to assess the suitability for any increase in scale. The Panel agrees that permitted activity status as sought is not appropriate. Accordingly, submissions S79.003 Andrew Welsh and S53.002 Katherine Welsh are rejected.

Submitter (S) Further Submitter (FS)	Decision Requested
S115.107 Kevin Robertson S60.109 Ronald Crispin S148.119 Alistair & Bernadette Hunt S143.118 Rural Ratepayers Group S68.227 John Baynes S126.106 Southland Federated Farmers of New Zealand	Amendments are proposed to provide greater clarity on what is permitted. Amend NFL-R4 Maintenance, repair, replace or upgrade of buildings and structures (excluding farm fences) critical infrastructure, existing roads, farm tracks, walking and cycling trails, waterway crossings, or improved pasture within an identified ONF/L.
FS5.60 Hamish Weir FS25.101 Stoney Creek Station Ltd	Allow S126.106 Southland Federated Farmers of New Zealand
S3.023 Stoney Creek Station Limited S68.027 John Baynes S24.025 Helen McIntosh S20.025 Sarah and Peter Barclay S20.025 Sarah and Peter Barclay S19.025 Karen Temple S18.025 Reaby Downs Farm Ltd	Rule NFL-R4 too narrow, amend to read: Maintenance repair, replacement or upgrade of buildings and structures (excluding fences), critical infrastructure, existing roads, farm tracks, walking and cycling trails, waterway crossings, or improved pasture within an identified ONF/L Activity status: Permitted

S127.059 Peters Farm Ltd Karen Peters S117.023 Greg Bokser	Where: 1. The scale of the activity ~~critical infrastructure, road, farm or trail~~ is not increased. Activity status where compliance is not achieved: Restricted Discretionary Matters of discretion: 1. Effects on the values as listed within NFL-APP Appendix 5 resulting from an increase in the scale of the activity. 3. The operational or functional need for the activity to be undertaken within an Outstanding Natural Feature or Landscape.
S130.054 Mercury NZ Limited	In NFL-R4 Scope of critical infrastructure needs to encompass all critical infrastructure. Activity status: Permitted Where: Maintenance of critical infrastructure, including existing roads, farm tracks, walking and cycling trails within an identified ONF/L 1. The scale of the critical infrastructure, or road, farm or trail is not increased.
FS25.102 Stoney Creek Station Ltd	Disallow S130.054 Mercury NZ Limited, Farm tracks and other infrastructure are required within the ONL for purposes other than the maintenance of critical infrastructure

6.5.28 Kevin Robertson and others seek an expansion to the list of matters in the rule. In that regard buildings and structures (including waterway crossings) are subject to Rule NFL-R1 and in addition to existing use rights additional buildings and structures are provided for, while there are no restrictions preventing improvements to existing pasture. Accordingly, no changes are required and submissions S115.107 Kevin Robertson and others are rejected.

6.5.29 Stoney Creek Station Ltd and others seek similar outcomes to the submitters above and changes to the matters of discretion. Given the rule refers to existing infrastructure the additions sought to the matters of discretion are not required. Accordingly, submissions S3.023 Stoney Creek Station Limited and others are rejected.

6.5.30 The Panel considers the Mercury submission highlights an issue in the wording of the rule. The Panel notes that in addition to a definition of infrastructure, there is also critical infrastructure (which is a subset of infrastructure) and farm infrastructure which sits outside the other two definitions and is defined as:

> Farm Infrastructure means: Those structures reasonably necessary to enable primary production activities relating to irrigation, and the provision of stock water, but excludes fences, farm tracks, dams and reservoirs

6.5.31 The Panel also notes the definition of infrastructure includes:

> *g. structures* for transport on *land* by cycleways, rail, *roads*, walkways, or any other means:

6.5.32 The intent of the rule is to provide for maintenance of various existing matters reasonably anticipated to be located within the Outstanding Natural Features and Landscape areas. Consequential to the inclusion of the definition of farm infrastructure and taking into account the submission from Mercury the Panel agrees changes are required to the rule for clarity.

6.5.33 Submission S130.054 Mercury NZ Limited is accepted in part by amending Rule NFL-R4 as follows:

NFL-R4 **Maintenance of ~~*critical*~~ *existing infrastructure*, farm infrastructure, ~~existing *roads, farm tracks*~~, walking and cycling trails within an identified ONF~~/L~~ or ONL**

All ~~zones~~ NFL areas

Activity status: Permitted

Where:

1. The scale of the ~~*critical*~~ existing ~~*infrastructure*~~, farm infrastructure, ~~existing *roads*,~~ *farm track*, walking or cycling trail is not increased.

Submitter (S) Further Submitter (FS)	Decision Requested
S105.006 Farm Manager - Wantwood Station S127.006 Peters Farm Ltd Karen Peters S104.006 McLeod-Wantwood Trust/Wantwood Station	Amend NFL-R5 as follows: 1. The fence is required for the exclusion or control of stock or to delineate property boundaries. ~~a post and wire fence;~~
FS25.103 Stoney Creek Station Ltd	Allow S104.006 McLeod-Wantwood Trust/ Wantwood Station
S113.024 Trudy Bokser S18.026 Reaby Downs Farm Ltd S118.024 AW+ JA Johnston Family Trust S116.024 Nathan Bokser S127.060 Peters Farm Ltd Karen Peters S68.028 John Baynes S24.026 Helen McIntosh S20.026 Sarah and Peter Barclay S19.026 Karen Temple S117.024 Greg Bokser S115.108 Kevin Robertson S143.119 Rural Ratepayers Group S68.228 John Baynes S60.110 Ronald Crispin S148.120 Alistair & Bernadette Hunt S3.024 Stoney Creek Station Limited	Amend Rule NFL-R5 to read: 1. The fence is required for the exclusion or control of stock or to delineate property boundaries. ~~a post and wire fence;~~ ~~Activity status where compliance is not achieved:Restricted Discretionary Matters of discretion: 1. Effects on the values as listed within NFL APP Appendix 5.2. Impacts on Ngāi Tahu cultural values, including those listed in MW2.3.~~
FS11.039 Heritage New Zealand Pouhere Taonga	Disallow S3.024 Stoney Creek Station Limited as earthworks or ground disturbance to areas that have been previously undisturbed or go below the topsoil have the potential to uncover archaeology.
S126.107 Southland Federated Farmers of New Zealand	Amend NFL-R5: Activity status: Permitted Where: 1. The fence is a farm fence ~~Note: fences are a structure and therefore subject to the river setback rules. Activity Status where compliance is not achieved:Restricted discretionary Matters of discretion:1. Effects on the values listed within NFL-APP Appendix 5.2. Impacts on Ngāi Tahu cultural values, including those listed in MW - 2.3.~~
FS25.104 Stoney Creek Station Ltd	Allow S126.107 Southland Federated Farmers of New Zealand

6.5.34 Mishka Banhidi at paragraphs 300 - 301 of her s42A Report stated:

> The submissions requesting more permissibility and a greater variety of fencing types are acknowledged. This rule was drafting to purposely include all post and fire type fencing, including deer fencing, mesh and waratahs, however this intent clearly requires further clarification to make this evident. Post and rail had been purposely omitted due to the potential for this to result in greater visual dissection of the landscape, however it is acknowledged that post and rail fencing is sometimes required for stability near gates and for stockyards.
>
> The specific relief requested by the majority of submitters, either that the term farm fencing, or describing instances that fencing is utilised for is not supported, however through the proposed revisions through the working group I consider that the amended recommendation provides for the intent of the relief sought.

6.5.33 In the absence of any evidence or submissions contrary to the s42A Report of the expert witnesses, and on the Panel being satisfied that what has been recommended is appropriate and practicable, the Panel has adopted the recommendation for the reasons given.

6.5.36 Submissions S105.006 Farm Manager - Wantwood Station and others, S113.024 Trudy Bokser and others and S126.107 Southland Federated Farmers of New Zealand are accepted in part by revising Rule NFL-R5 as follows:

NFL-R5 Fences within an identified ON~~F~~/L

~~**All zones**~~ **ONL**

Activity status: Permitted

Where:

1. The fence is a post and wire fence; including deer fencing, waratahs and mesh fencing;
2. The fence is post and rail provided the distance does not exceed 6m either side of a gate for reinforcing purposes; or
3. In the Lower Sensitivity Area the fence is for stockyards.

Submitter (S) Further Submitter (FS)	Decision Requested
S3.025 Stoney Creek Station Limited S116.025 Nathan Bokser S105.007 Farm Manager - Wantwood Station S127.007 Peters Farm Ltd Karen Peters S117.025 Greg Bokser S104.007 McLeod-Wantwood Trust/Wantwood Station S18.027 Reaby Downs Farm Ltd S127.061 Peters Farm Ltd Karen Peters S118.025 AW+ JA Johnston Family Trust S113.025 Trudy Bokser S115.109 Kevin Robertson S68.029 John Baynes S24.027 Helen McIntosh S20.027 Sarah and Peter Barclay S19.027 Karen Temple S143.120 Rural Ratepayers Group S148.121 Alistair & Bernadette Hunt S60.111 Ronald Crispin S68.229 John Baynes S126.108 Southland Federated Farmers of NZ	Delete Rule NFL-R6 in its entirety as it duplicates ECO-R1(1) and creates confusion as to which standard applies.
FS5.64 Hamish Weir FS25.108 Stoney Creek Station Ltd	Allow S126.108 Southland Federated Farmers of New Zealand
FS21.078 Yrless Limited	Allow in part S104.007 McLeod-Wantwood Trust/Wantwood Station. It can also aid pest control and management within the active infrastructure area.
S79.004 Andrew Welsh S53.003 Katherine Welsh	NFL-R6 Allowance for control of gorse, broom and noxious weeds, irrespective of whether there are indigenous plants nearby. In order to control gorse in the region a small amount of collateral should be allowed. Gorse will grow faster and smother out the native plant eventually
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

6.5.37 Mishka Banhidi at paragraphs 314 - 315 of her s42A Report stated with regard to the request to delete the rule:

> The submissions requesting the NFL-R6 be deleted due to duplication with the ECO chapter is acknowledged, and it is agreed the provisions as notified do provide for unnecessary duplication and could result in confusion. However, vegetation clearance has

the potential to result in adverse landscape effects separate to any direct biodiversity effects that will be considered under the ECO chapter. As outlined within Appendix C small levels of indigenous vegetation clearance, aligning with the ECO chapter, set appropriate controls to ensure landscape values such as naturalness and landscape coherence are not adversely impacted.

Through the working group process Mike Moore had the opportunity to undertake more in-depth site visits throughout the Hokonui Hills and as outlined within Appendix C, considers the proposed settings within ECO R1 and ECO R2 to be fit for purpose in terms of landscape protection from indigenous vegetation clearance. Based on this it was considered unnecessary to have a bespoke indigenous vegetation clearance provision within the NFL Chapter and instead provide for a cross reference to the ECO Chapter. The reason NFL-R6 cross references through to the ECO Chapter, rather than deleting NFL-R6 and relying on the ECO chapter is the ability to provide for matters of discretion tailored to the NFL-Chapter, specifically consideration of the NFL-APP Appendix 5.

6.5.38 Having regard to other submissions to this rule Mishka Banhidi recommended that the rule be revised as follows:

Indigenous Vegetation Clearance within an identified ONF/L
Activity status: Permitted Where:
1. The clearance is within the ~~Hokonui Hills~~ ONL; and
2. The clearance is necessary for a permitted, consented or otherwise legally established activity; and
3. The clearance complies with ECO-R1 and R2.

~~3. Clearance does not exceed 20m^2 over a 12 month period; or~~
~~4. The clearance is for the construction of a fence associated with stock exclusion under national regulations or regional rules.~~

6.5.39 The Panel notes that the two expert landscape architects supported retention of this rule adopting the changes recommended. The Panel however holds a different view. The Panel considers the rule as notified and as amended in the recommendation does not take into account the significance of the vegetation being cleared. It is also of concern to the Panel that in the recommended rule there is no area limit specified and as drafted non-compliance with the rule is restricted discretionary. The recommended rule also refers to Rules ECO-R1 and ECO-R2 but does not take into account the implications and status of non-compliance with those rules. Having regard to the refined approach to the removal of indigenous vegetation as provided for in Decision 45 Ecosystems and Indigenous Biodiversity, the Panel considers Rule NFL-R6 is incompatible with the revised rule structure in the Ecosystems and Indigenous Biodiversity chapter. The Panel agrees with S3.025 Stoney Creek Station Limited and others that rule NFL-R6 should be deleted.

6.5.40 The Panel notes the intent of the rule was to provide for the consideration the “effects on the values as listed within NFL-APP Appendix 5” where consent was sought to clear indigenous vegetation exceeded more than 20m^2 over a 12 month period within the Hokonui Hills ONL and that was reinforced by the recommendation of Mishka Banhidi to link the rule in this chapter to the provisions in the Ecosystems and Indigenous Biodiversity chapter. The Panel agrees with Mishka Banhidi that vegetation clearance has the potential to result in adverse landscape effects and to ensure regard is had to potential effects on the values of Outstanding Natural Landscapes an additional assessment matter is necessary within the relevant rules of the Ecosystems and Indigenous Biodiversity chapter utilising the wording from Rule NFL-R6.

6.5.41 Submissions S3.025 Stoney Creek Station Limited and others are accepted in part by:

(a) deleting Rule NFL-R6 Indigenous Vegetation Clearance within an identified ONF/L; and

(b) adding the following assessment matter to revised Rules ECO-R1 and ECO-R2:

Effects on the values listed in NFL-APP Appendix 5 where the clearance is within an Outstanding Natural Landscape.

6.5.42 Andrew and Katherine Welsh refer to recognizing some indigenous vegetation is lost when removing pest plants. That has been provided for in the rules in the Ecosystems and Indigenous Biodiversity chapter. Accordingly, submissions S79.004 Andrew Welsh and S53.003 Katherine Welsh are accepted in part.

6.5.43 Nigel Cowburn seeks clarification on the removal of large trees. Where the tree is indigenous the rules in the Ecosystems and Indigenous Biodiversity chapter apply and the Panel seeks a clear separation between the that chapter and the Natural Features and Landscapes chapter. For that reason, Rule NFL-R6 Indigenous Vegetation Clearance is being deleted. The rules in the Ecosystem and Indigenous Biodiversity chapter consider the clearance of indigenous biodiversity while those in the Notable Trees chapter list trees of significance. Some of the larger trees within the District are subject to the provisions of these chapters. Changes over time to the RMA and case law has removed the ability for Councils to generally classify trees of a specified size as being subject to protection under district plans. As a consequence, the generic approach promoted by Nigel Cowburn cannot be adopted and submission S152.009 Nigel Cowburn is rejected.

Note: Rule NFL-R7 is incorrectly shown in the notified Plan as Rule NFL-R6.

Submitter (S) Further Submitter (FS)	Decision Requested
S105.008 Farm Manager - Wantwood Station S127.008 Peters Farm Ltd Karen Peters S104.008 McLeod-Wantwood Trust/Wantwood Station	Amend NFL-R6 as follows: New Roads, ~~farm tracks~~, walking and cycling tracks within an identified ONF/L. All zones Activity status: Restricted Discretionary New farm tracks within the Rural Zone. Activity Status: Permitted
FS25.105 Stoney Creek Station Ltd	Allow S104.008 McLeod-Wantwood Trust Wantwood Station
S115.110 Kevin Robertson S143.121 Rural Ratepayers Group S148.122 Alistair & Bernadette Hunt S68.230 John Baynes S60.112 Ronald Crispin S126.109 Southland Federated Farmers of New Zealand	It is important for farmers to be able to develop/erect farm fences, new roads/farm tracks when needed. Amend NFL-R~~6~~7: New Roads, farm fences, farm tracks, walking and cycling tracks within an identified ONF/L Activity status: ~~Restricted Discretionary~~ Permitted ~~Matters of discretion: 1. Effects on the values as listed within NFL-APP Appendix 5. 2. Impacts on Ngāi Tahu cultural values, including those listed in MW-2.3. 3. The necessity of what is proposed and any alternatives. 4. Mitigation measures proposed.~~
FS5.65 Hamish Weir FS25.109 Stoney Creek Station Ltd	Allow S126.109 Southland Federated Farmers of New Zealand
S112.071 Waka Kotahi NZ Transport Agency	NFL-R6 Correct the rule numbering as noted and make any consequential changes to other provisions as necessary to ensure the correct rule is referenced within them.
FS25.106 Stoney Creek Station Ltd	Allow S112.071 Waka Kotahi NZ Transport Agency
S113.026 Trudy Bokser S116.026 Nathan Bokser S118.026 AW+ JA Johnston Family Trust S24.028 Helen McIntosh S20.028 Sarah and Peter Barclay S19.028 Karen Temple S18.028 Reaby Downs Farm Ltd S127.062 Peters Farm Ltd Karen Peters S68.030 John Baynes S117.026 Greg Bokser S3.026 Stoney Creek Station Limited	Farm tracks are essential to pastoral farming and new tracks are sometimes required to avoid sensitive environments. Requiring consent for any new farm track is too restrictive to farming operations. Add a new rule NFL-R6A: New farm tracks within an identified ONF/L. Activity status: Permitted. Where: 1. Any new farm track is no greater than 7 metres in width. 2. Unretained cut and fill batters shall not:(a) be steeper than 2 horizontal to 1 vertical; (b) be

	constructed using moisture content susceptible soils; (c) have a bench with a width of more than 1.8m. 3. Excess material from the construction of the farm track is reinstated to match the natural contour of the surrounding land. Activity status where compliance is not achieved: Restricted Discretionary Matters of discretion: 1. Effects on the values as listed within NFL-APP Appendix 5. 2. The necessity of what is proposed and any alternatives. 3. Mitigation measures proposed. 4. The operational or functional need for the activity to be undertaken within an Outstanding Natural Feature or Landscape 5. The benefits of the proposed activity.
FS5.68 Hamish Weir	Allow S3.026 Stoney Creek Station Limited
FS20.035 Hokonui Runanga Inc	Disallow in part S3.026 Stoney Creek Station Limited. The plan needs to address matters in s6 of the RMA to achieve the purpose of the Act and give effect to the Southland Regional Policy Statement. However, we agree that the approach in the proposed Gore DP needs refinement to ensure it is both comprehensive and workable.
FS31.019 Department of Conservation	Allow S3.026 Stoney Creek Station Limited. The D-G supports the proposal to include provisions recognising the High Natural Character of the Mataura River.
S113.027 Trudy Bokser S24.029 Helen McIntosh S20.029 Sarah and Peter Barclay S19.029 Karen Temple S18.029 Reaby Downs Farm Ltd S127.063 Peters Farm Ltd Karen Peters S118.027 AW+ JA Johnston Family Trust S116.027 Nathan Bokser S68.031 John Baynes S117.027 Greg Bokser S3.027 Stoney Creek Station Limited	Amend Rule NFL-R6 to read: New Roads, farm tracks greater than 7 metres in width**,** walking and cycling tracks within an identified ONF/L Activity status: Restricted Discretionary Matters of Discretion: ~~3. The necessity of what is proposed and any alternatives.~~ 5. The operational or functional need for the activity to be undertaken within an Outstanding Natural Feature or Landscape 6. The benefits of the proposed activity
FS5.63 Hamish Weir FS17.054 Federated Farmers	Allow S3.027 Stoney Creek Station Limited
FS11.040 Heritage New Zealand Pouhere Taonga	Disallow S3.027 Stoney Creek Station Limited as earthworks or ground disturbance to areas that have been previously undisturbed, or go below the topsoil have the potential to uncover archaeology.
S112.075 Waka Kotahi NZ Transport Agency	For clarity and consistency with the activities listed in NFL-R4 amend rule heading as follows, or wording of the same intent: New critical infrastructure, New Roads, farm tracks, walking and cycling tracks within an identified ONF/L
FS24.049 Contact Energy Ltd	Allow S112.075 Waka Kotahi NZ Transport Agency

6.5.44 NZTA highlight the error in numbering of rules in this chapter. That is noted by the Panel and given changes to the rules structure renumbering is required in any case. Submission S112.071 Waka Kotahi NZ Transport Agency is therefore accepted.

6.5.45 The Panel notes the remaining submissions to this rule generally seek a more permissive framework for farm tracks and other tracks within ONFs and ONLs. Mishka Banhidi in her s42A Report noted this rule was considered by the Hokonui Hills Working Party. At paragraph 326 she stated:

> The submissions seeking an amendment to NFL-R6 (New roads, farm tracks, walking and cycling trails) to provide greater permissibility for farm tracks are acknowledged and supported in intent. Through the working group process and upon further reflection it is

recommended to delete this provision, as the effects from new roads, farm tracks, walking and cycling tracks from a landscape perspective relate to the associated earthworks. These can be more appropriately managed through NFL-R3.

6.5.46 The Panel agrees and is satisfied that the redrafting of Rule NFL-R3 now includes the matters dealt with in Rule NFL-R6 (New roads etc). These other submissions as set out above are therefore accepted in part by deleting Rule NFL-R6 (New *Roads*, *farm tracks*, walking and cycling tracks within an identified ONF/L).

Submitter (S) Further Submitter (FS)	Decision Requested
S109.082 Department of Conservation	Retain NFL-R7 as notified
FS25.093 Stoney Creek Station Ltd	Disallow S109.082 Department of Conservation
S105.009 Farm Manager - Wantwood Station S127.009 Peters Farm Ltd Karen Peters S113.028 Trudy Bokser S116.028 Nathan Bokser S118.028 AW+ JA Johnston Family Trust S127.064 Peters Farm Ltd Karen Peters S18.030 Reaby Downs Farm Ltd S19.030 Karen Temple S20.030 Sarah and Peter Barclay S24.030 Helen McIntosh S68.032 John Baynes S117.028 Greg Bokser S104.009 McLeod-Wantwood Trust/Wantwood Station S3.028 Stoney Creek Station Limited	Amend NFL-R7 as follows: Mining and quarrying (excluding farm quarries) within an identified ONF/L Activity Status: Non complying.
FS25.110 Stoney Creek Station Ltd	Allow S104.009 McLeod-Wantwood Trust Wantwood Station
FS11.041 Heritage New Zealand Pouhere Taonga	Disallow S3.028 Stoney Creek Station Limited as earthworks or ground disturbance to areas that have been previously undisturbed or go below the topsoil have the potential to uncover archaeology
S115.111 Kevin Robertson S143.122 Rural Ratepayers Group S148.123 Alistair & Bernadette Hunt S60.113 Ronald Crispin S68.231 John Baynes S126.110 Southland Federated Farmers of NZ	NFL-R7 Change activity status: Mining and Quarrying within an identified ONF/L Activity status: ~~Non-complying~~ Discretionary ~~Activity status where compliance is not achieved: N/A~~
S113.029 Trudy Bokser S116.029 Nathan Bokser S118.029 AW+ JA Johnston Family Trust S127.065 Peters Farm Ltd Karen Peters S68.033 John Baynes S24.031 Helen McIntosh S20.031 Sarah and Peter Barclay S19.031 Karen Temple S18.031 Reaby Downs Farm Ltd S117.029 Greg Bokser S3.029 Stoney Creek Station Limited	Insert a new rule NFL-R7A: NFL-R7A Farm quarries that comply with GRUZ-R3. Activity status: Permitted
FS11.042 Heritage New Zealand Pouhere Taonga	Disallow 3.029 Stoney Creek Station Limited. , The effects on archaeology require assessment and a permitted activity status is not appropriate.

6.5.47 The Panel acknowledges the support for the rule. As changes have been made to the provision submission S109.082 Department of Conservation is accepted in part.

6.5.48 The Panel notes the remaining submissions in effect seek a more permissive framework for farm quarries and the Panel agrees that is appropriate. Mishka Banhidi at paragraphs 338 - 339 in her s42A Report stated:

> Through the working group process further scrutiny of the scale and likely locations needed for farm quarry were considered. As outlined within Appendix C, it was considered that broad alignment with the rural zone within the LSA could be appropriate, with the caveat

that the activity was not visible from a formed public road or other public viewpoint. A non-complying activity within all other areas of the ONFL is still proposed. The amendment has been proposed as in essence a new rule replacing NFL-R7 with Mining and Quarrying generally mainlining a non-complying activity status as NFL-R8.

This proposed amendment should provide for sufficient flexibility for farming operations, whilst ensuring that landscape values are protected, specifically be the constrained locations provided for and the rehabilitation requirements upon completion.

6.5.49 The Panel agrees with the recommendation and notes that farm quarries are an accepted part of the rural amenity, a necessary adjunct to facilitate the efficient operation of farms and should be provided for as a permitted activity. Within the ONL and ONF areas however, the Panel recognises that it is appropriate to provide some restrictions to protect the visual amenity of these outstanding areas. The Panel considers the effects of commercially orientated quarries a step scale above farm quarries. They are at a larger scale and give rise to ongoing traffic generation. This requires a different approach and creating a separate rule differentiating farm quarries from other quarries and mining with a different status is supported by the Panel.

6.5.50 Submissions S105.009 Farm Manager - Wantwood Station and others and S115.111 Kevin Robertson and others and S113.029 Trudy Bokser and others are accepted in part by:

(a) Amending Rule NFL-R7 as follows:

NFL-R~~7~~6 ~~Mining and~~ *Farm Quarry~~ing~~* within an identified ONF /~~L~~

Lower Sensitivity Areas

Activity status: Permitted

Where:

1. the total area of extraction open at any one time does not exceed 1,500 m^2; and
2. the quarrying activity is set back 100m from any side or rear property boundary; and
3. the quarrying and associated activities is not visible from a formed public road or other public viewpoint; and
4. the disturbed area is progressively stabilised, filled or recontoured when exhausted of material.
5. the works are undertaken in accordance with Earthworks Standard EW-S6.

Activity status where compliance is not achieved: NFL-R7 (1) – (4):

Restricted Discretionary

Matters of discretion:

1. Effects on the values as listed within NFL-APP Appendix 5;
2. Impacts on Ngāi Tahu cultural values listed in MW-1.2;
3. Any alternatives to the location; and
4. Mitigation measures proposed.

Activity status where compliance is not achieved: NFL-R7 (5):

Non-Complying

Higher Sensitivity Areas

Activity status: Non-complying

(b) Including a new rule as follows:

NFL-R8 Mining and *Quarrying within an identified ONL*

ONL

Activity status: Non-complying

Submitter (S) Further Submitter (FS)	Decision Requested
S85.039 Environment Southland	NFL-R8 Retain non-complying status for plantation forestry.
FS5.66 Hamish Weir	Allow S85.039 Environment Southland
S109.083 Department of Conservation	Retain NFL-R8 as notified
FS25.111 Stoney Creek Station Ltd	Disallow S109.083 Department of Conservation
S79.005 Andrew Welsh S53.004 Katherine Welsh	Section NFL-R8 removed. Those who already have forestry in place need the right to replant it after harvest. Those who already had a rolling plantation plan in place should not be forced to stop by the Council. The prohibition of forestry planting will negatively affect land prices.

6.5.51 The Panel acknowledges the support for the rule. As no changes have been made to the provision submissions S85.039 Environment Southland and S109.083 Department of Conservation are accepted.

6.5.52 Mishka Banhidi at paragraphs 338 - 339 in her s42A Report responded to the submissions of Andrew and Katherine Welsh as follows:

> As outlined within Appendix C, Mr Moore considered that plantation forestry as a land use typically results in significant adverse effects on the qualities of naturalness, land form legibility and landscape coherence. Based on this advice plantation forestry within the ONFL is an activity that I consider to be incompatible with the values and characteristics of the ONFL, and a non-comply activity status is recommended. If existing use rights apply those rights will not be impacted by the proposed rule. It is however considered appropriate to consider woodlots as separate to plantation forestry. A new rule has been proposed through the working group process to provide for Woodlots within the LSA, as restricted discretionary activities, with a non-complying activity status for all other areas

6.5.53 The Panel agrees with that assessment. Accordingly, submissions S79.005 Andrew Welsh and S53.004 Katherine Welsh are rejected.

6.5.54 Consequential to the inclusion and differentiation of the Lower and Higher Sensitivity Areas an additional rule is required, separate from the provisions in the General Rural Zone outlined in Decision 16, applying to woodlots, as follows:

NFL-R7 ***Woodlots*** **within an identified ONL**

Lower Sensitivity Areas

Activity status: Restricted Discretionary

Where:

1. The area of planting does not exceed 1 ha

Matters of discretion:

1. Effects on the values as listed within NFL-APP Appendix 5.
2. Impacts on Ngāi Tahu cultural values listed in MW-1.2.
3. Any alternatives to the location
4. Mitigation measures proposed.

Activity status where compliance is not achieved:

Non-Complying

Higher Sensitivity Areas

Activity status: Non-complying

6.6 Natural Features and Landscapes: Appendix 5

Submitter (S)	Decision Requested
S109.084 Department of Conservation	Retain APP5-NFL-APP as notified
S152.016 Nigel Cowburn	Clarify what organisation "Birdlife International" is

6.6.1 The Panel acknowledges the support for Appendix 5. As changes have been made to the provision submission S109.084 Department of Conservation is accepted in part.

6.6.2 The Panel notes that Birdlife International is referred in the Landscape assessment provided by Mr Moore. However, with the redrafting of the Appendix, and inclusion of a new Appendix 6 Natural Character this reference has been deleted. Submission S152.016 Nigel Cowburn is therefore accepted in part.

Submitter (S)	Decision Requested
S112.184 Waka Kotahi NZ Transport Agency	Reassess for accuracy and amend the Appendix 5 text to accurately identify and name the specific outstanding natural features and landscapes within the Gore District and make any necessary consequential changes to the 'Natural Features and Landscapes' map and provisions in the NFL chapter. None of the objectives, policies or rules in the associated NFL chapter, nor the associated Natural Features and Landscapes Map, refer to the Mataura River 'High Natural Character Feature' (HNCF). We suggest that either the reference to the Mataura River HNCF in Appendix 5 needs to be amended or deleted, or alternatively, that the provisions within the NFL chapter and map need to be amended to also refer to this HNCF.
S121.107 Alliance Group Limited	Clarification about the purpose of the Mata-Ura / Mataura River HNCF within Appendix 5, so that Alliance can consider any implications of this as the HNCF doesn't appear to be operationalised within the Proposed Plan.

6.6.3 Mishka Banhidi at paragraph 154 of her s42A Report stated with regard to this submission:

> NZTAs submission is acknowledged and accepted. It is recommended to amend the title of Appendix 5 to refer to the NFL chapter, consistent with the naming of other appendices across the PDP. It is noted that as a consequence of the addition of a specific Natural Character Chapter and associated s32AA, reference to the Mataura River as a High Natural Character Feature has been removed from Appendix 5 with a consequential new Appendix 6.

6.6.4 Subject to minor changes, the Panel has accepted the recommended changes to Appendix 5 and the text of the recommended Appendix 6, a copy of which is attached to this Decision. As a consequence of these changes, submission S112.184 Waka Kotahi NZ Transport Agency is accepted.

6.6.5 The Panel acknowledges the submission by Alliance. A separate Natural Character Chapter has been developed and as a consequence natural character values have been moved from Appendix 5 into a new Appendix 6. In that regard submission S121.107 Alliance Group Limited is accepted.

Submitter (S) Further Submitter (FS)	Decision Requested
S105.033 Farm Manager - Wantwood Station S127.033 Peters Farm Ltd Karen Peters S104.033 McLeod-Wantwood Trust/Wantwood Station	Correct the description of the ONL. Otamita Stream does not originate in the Waterfall range, creeks come from this into the Otamita but its origin is further up in the Otamita Gorge/Valley, part of the Southland District. The ONL covers a large area of actual pastoral farmland, concerned this hasn't been considered when deciding what area should fall under the ONL.
FS25.137 Stoney Creek Station Ltd	Allow S104.033 McLeod-Wantwood Trust Wantwood Station

S104.010 McLeod-Wantwood Trust/Wantwood Station S105.010 Farm Manager - Wantwood Station S127.010 Peters Farm Ltd Karen Peters	Amend the ONL layer to reflect the area of outstanding natural values. The ONL covers 60% of the submitters farm, which is 30% of the ONL overlay and SNA map. The ONL overlay area covers a large area of pastoral farmland. The submitter is unsure whether this has been considered when determining what area shall fall under the ONL.
S113.110 Trudy Bokser S116.110 Nathan Bokser S118.110 AW+ JA Johnston Family Trust S127.146 Peters Farm Ltd Karen Peters S18.112 Reaby Downs Farm Ltd S19.112 Karen Temple S20.112 Sarah and Peter Barclay S24.112 Helen McIntosh S68.114 John Baynes S117.110 Greg Bokser S3.110 Stoney Creek Station Limited	Amend the Hokonui Hills ONL boundaries to accurately reflect the area of Outstanding Natural Landscape values. Figure 10 of Appendix B [refer to original submission] provides a suggestion of the extent of the ONL area within Stoney Creek station which can be discussed further with the Council, including incorporating evidence provided by a landscape expert at the hearing stage.
FS17.093 Federated Farmers	Allow S3.110 Stoney Creek Station Limited

6.6.6 The Panel notes the recommended revision of Appendix 5 corrects the details of the Otamita Stream. Subject to minor changes the Panel has accepted that revision and a copy of the updated Appendix 5 is appended to this Decision.

6.6.7 The Panel is aware that the area of Outstanding Natural Landscape of the Hokonui Hills shown in the notified Proposed Plan is the same as that in the Operative District Plan. Expert landscape architects Mike Moore on behalf on the Council and Ben Espie, engaged by Stoney Creek Station Ltd, undertook an assessment of the extent of Outstanding Natural Landscape agreeing on changes to the area covered. That included consideration of the current farming activities and Mike Moore in response to questions asked of him at the hearing by the Panel affirmed that the current farming use is a significant contributor to the natural character values of the Hokonui Hills. He stressed that land does not need to be retained in its undeveloped state to have high landscape values.

6.6.8 The conclusions of the assessment of the two landscape architects were endorsed by the Hokonui Hills Working Party and described by Mike Moore in his statement of evidence. The Panel accepts Mike Moor's recommendation to adjust the extent of the ONL as shown on the plan attached to this decision.

6.6.9 Having regard to the matters above, submissions S105.033 Farm Manager - Wantwood Station and others, S104.010 McLeod-Wantwood Trust/Wantwood Station and others and S113.110 Trudy Bokser and others are accepted in part, and Appendix 5 is amended as follows:

Hokonui / Waterfall Range Outstanding Natural Landscape (ONL)

Description

This area includes that part of the Hokonui Hills within the boundaries of the Gore District including the Waterfall Range, East Peak/Hokanui, Dolamore Park and Croydon Bush/Haumuri.

Alternating harder sandstone and softer mudstone have been eroded to form strike ridges, which define the northern limb of the syncline. This ends abruptly at the Murihiku Escarpment, the geomorphic expression of the Hillfoot Fault. The mapped area is generally consistent with the site mapped in the New Zealand Geopreservation Inventory, described as 'some of New Zealand's most distinctive strike ridges' and ~~has a~~ 'trellised' drainage pattern along the Southland Syncline. The Range is a very legible part of the broader Southland Syncline and a distinctive and memorable landform with its pattern of repeated pyramidal peaks and ridge forms.

~~It~~ The area contains several significant ecological and scenic areas. Croydon Bush is a particularly significant area of remnant vegetation, and the only substantial area of indigenous forest remaining near Gore. It supports a range of successional communities that show recovery from fire and logging, including kahikatea and mataī, and contains several nationally threatened and locally uncommon species. At least 35 indigenous birds breed within the forest remnants, including the korimako / bellbird, pīwakawaka / fantail, pīpipi / brown creeper and kererū. Red tussock is found on the summit areas, often with mānuka.

~~The Range is a very legible part of the broader Southern Syncline and a distinctive and memorable landform with its pattern of repeated pyramidal peaks and ridge forms.~~

The southernmost part of the ONL is public land that takes the form of Croydon Bush and Dolamore Park. The vegetative cover of this public reserve land is dominated by regenerating native systems. ~~Naturalness is reduced where the land is under pasture but is high in areas with indigenous bush cover. The area is largely free of structures and has naturalness and wilderness qualities as experienced from within and is a scenic feature of the district.~~ Croydon Bush / Haumuri is managed as a Scenic Reserve and used for recreation including walking and tramping and there is a mountain bike track in Dolamore Park. The remainder of the ONL is managed under a predominantly pastoral farming land use regime and has been for many decades. The resultant grassland cover contributes to landform legibility. The patterns of indigenous forest and scrub on steeper, rockier terrain with pasture on the more amenable slopes, contributes to a high degree of landscape coherence. Naturalness is reduced where the land is under pasture but is high in areas with indigenous bush cover. The area is largely free of structures and has naturalness and wilderness qualities as experienced from within the public parts of the ONL, and, as a whole, is a scenic feature of the district. The Southland Murihiku Regional Landscape Study (Boffa Miskell, 2019) identifies this area as an ONF and the Waterfall Range is a well-recognised and valued feature of the Gore area (often referred to in promotional material).

Strong cultural values are present in this landscape from mana whenua. Many of the peaks within this landform link to Ngāi Tahu cultural histories – specifically pūrākau ~~&~~ and creation stories related to the Tākitimu waka, and Matamata ~~&~~ and Te Rakitauneke. These pūrākau connect this area with the wider Otago/Southland region both geographically ~~&~~ and via whakapapa links. Hokanui (East Peak) is of particular importance to Hokonui Rūnanga as it is considered an ancestral mountain for whānau who whakapapa to this area. Mana whenua also have strong cultural associations with the various waterways originating within the Hokonui/Waterfall Range, such as the tributaries of the Ōtamatea (Otamita) Stream, Mānuka (Charlton Stream), and Waimumu. Haumuri in its entirety is also an area with strong connections to Ngāi Tahu mahinga kai practices, which are a key vehicle for expressing and perpetuating Ngāi Tahu culture and identity. Finally, the Hokonui/Waterfall ~~r~~Range is near a number of historic Māori reserves, including a range of SILNA reserves, which have historic and contemporary significance for Ngāi Tahu.

The area identified as ONL has a complex landform and vegetation cover, and variable degrees of visibility and natural character. Given the majority of the ONL is private farmland, the community's appreciation of it is largely visual and from an external perspective. Reflecting this, two management areas are identified (termed low and high sensitivity areas) with some differences in management provisions, so as not to unduly constrain rural land use activities, whilst still protecting landscape values. Both areas are included within the ONL and are mapped as part of the ONL, as well as mapped ridgelines that are part of the high sensitivity area.

Management Areas

A High Sensitivity Area has been identified to include:

- The peaks and ridgelines along with associated upper slope areas. These are a primary feature underpinning ONL identification and major character defining elements of the ONL. These are generally more visually dominant than lower elevation valley areas, and at least some of these have Kai Tahu cultural landscape significance.
- All areas assessed as containing significant indigenous vegetation.
- Along with upper slope areas, mid and lower slope / valley areas with high visibility from surrounding areas and public viewpoints.

Low Sensitivity Areas have been identified to include:

- Mid – low slope, low visibility areas from surrounding areas and public viewpoints.
- Areas with more modified rural character.

Mapped Ridgelines have been identified to include:

- Strike ridge features.
- Highlighted with rocky outcrops and indigenous vegetation.

Values to be protected

- The geo-heritage values of the distinctive and memorable landform, including the strike ridges and trellised drainage pattern.
- Perceptual values based on high ~~N~~natural landform ~~and its~~ legibility and landscape coherence (i.e. patterns of vegetation cover that reflect the natural landform and / or stature, uniform grassland providing for landform legibility).
- The ~~quantity and quality~~ ecological / biodiversity values associated with significant presence of indigenous vegetation cover.
- ~~Where possible this should be managed to enhance its natural and~~ Ngāi Tahu cultural landscape values~~, including habitat value for~~ associated with indigenous ~~fauna~~ vegetation~~, and Ngāi Tahu~~ (habitat for indigenous fauna, mahinga kai, ~~and/or~~ taonga species), waterways, and peaks (links with cultural histories and creation stories).
- ~~Coherence of the landscape created by the vegetation patterns reflecting the natural landform.~~
- Landmark values for Gore generally – the Hokonui Hills are a significant contributor to the identity of the district and have value for recreational opportunities in a natural setting.
- Aesthetic values associated with the memorable hill forms (including the distinctive pattern of pyramidal peaks and ridges) and natural or rural character.
- The natural character of the area generally and in particular, of the visually prominent skylines and hillslopes.
- Naturalness values based on the significant dominance of natural elements and patterns in the landscape and low influence of built form, human modification of landforms or lineal block or lines of exotic trees.
- Qualities of naturalness and wilderness as experienced from within the area.
- ~~Qualities that contribute to Ngāi Tahu cultural associations, including the naturalness of the hill profiles, the natural character of waterways, and the ability to practice mahinga kai.~~

Potential threats to landscape values

- Quarrying / Earthworks that significantly erode the legibility of the natural landforms and the landscape coherence.
- Clearance of or damage to areas of indigenous vegetation.
- Visually prominent buildings and structures.
- Visually prominent exotic forestry and shelter plantings.
- Lighting.
- Alterations to the naturalness of waterways.
- Pest plant and animal infestation.

~~**Mata-Ura / Mataura River High Natural Character Feature (HNCF)**~~
~~Description~~

~~The feature identified includes the entire main stem of the Mataura River within the Gore District, including the *river* margins. The *river* and its margins are defined as including the active *river* floodplain to the top of the defining terraces.~~

~~The Mataura River is clearly a major natural hydrological feature of the district, responsible for the creation of many of the adjacent landforms and subject to powerful natural processes. The~~

~~*river* corridor morphology strongly expresses the natural fluvial processes in features such as gravel beds and channels, *river* terraces and meander loops. The natural character of the *river* margins are now generally highly modified by farming, and the presence of stop banks, exotic trees, scrub and grass species. Whilst natural character attributes are modified, they are still present, and the river has been designated an 'important bird area' by Birdlife International because it supports breeding colonies of endangered tarāpuka/Black Billed Gulls. The *mahinga kai* values of the *river* have also been recognised through the establishment of the Mataura River Mātaitai Reserve in 2006, which recognises its importance as a habitat for a range of *mahinga kai* species – most notably kanakana/lamprey. Additionally, the river is famous for its Brown Trout fishery and is covered by a Water Conservation Order (1997). Under this, the recognized outstanding values relate to fisheries and angling amenity.~~

~~The river is a memorable natural feature for its scale and power, but memorability is reduced by its modified natural character. Perceptual natural character remains due to the flowing water and *river* landforms but has been significantly modified by agricultural land use on the floodplain. *Indigenous vegetation* presence is minimal. There are transient values associated with various flow regimes, and the presence of bird and fish life. The river has some wildness qualities due to its scale and power but these, and its scenic values are modified by the exotic character of the vegetation along its margins and by the presence of urban development in the vicinity of the towns of Gore and Mataura.~~

~~The Mata-ura (Mataura River) has significant cultural values for mana whenua. It is considered an ancestral river for local whānau, and has fed and guided generations of Waitaha, Ngāti Māmoe and Ngāi Tahu as they have traversed the Murihiku region. A number of ara tawhito (historic trails) follow the Mata-ura linking coastal Murihiku and its offshore islands (such as Ruapuke) to the Central Lakes area, connecting a number of kāiks (settlements), nohoanga (seasonal settlements), mahinga kai resources, and communities along its length. The presence of these trails has also seen a number of tribally significant historic events occur along the length of the Mata-ura. This importance is formally recognised through a Statutory Acknowledgement within the Ngāi Tahu Claims Settlement Act 1996. The Mata-ura and its tributaries are also areas with strong connections to Ngāi Tahu mahinga kai practices, which are a key vehicle for expressing and perpetuating Ngāi Tahu culture and identity. Finally, the intrinsic value of wai and its mauri are key cultural values for the Mata-ura.~~

~~Values to be protected.~~

- ~~Remaining natural characteristics including natural riverbed, floodplain and terrace landforms, and any remaining *indigenous vegetation* and areas of *wetland.*~~
- ~~Attributes that contribute to its habitat value for birds and aquatic fauna, particularly *indigenous species* and Ngāi Tahu *taonga species* and *mahinga kai* species.~~
- ~~Low visual impact of built elements.~~
- ~~Qualities of naturalness and wilderness as experienced from within the area.~~
- ~~Qualities that contribute to Ngāi Tahu cultural associations, including mauri, river access, and the ability to practice mahinga kai.~~

~~Potential threats to natural character values~~

- ~~*Quarrying activities* / *Earthworks* that significantly erode the legibility of the natural landforms and the landscape coherence.~~
- ~~Clearance of or damage to, areas of *indigenous vegetation.*~~
- ~~Visually prominent *buildings* and *structures.*~~
- ~~Exotic tree planting that obscures the legibility of the natural *river* landforms.~~
- ~~Alterations to the naturalness of the waterbody.~~
- ~~Activities resulting in inappropriate discharges to the waterway.~~
- ~~Structures and land-uses that restrict access to the Mata-ura for Ngāi Tahu cultural activities (including mahinga kai practices).~~

Te Au Nui Pihapiha Kanakana / Mataura Falls Outstanding Natural Feature (ONF)

Description

The Mataura Falls are a natural feature of the Mataura River located adjacent to the town of Mataura, just north of the State Highway 93 bridge. The falls are natural insofar as they are the result of natural geological and hydrological processes, however, they have been much modified by human activity –including intentional destruction to create hydroelectric infrastructure - and their setting is now industrial. Despite this, Te Au Nui Pihapiha Kanakana/Mataura Falls is still appropriately afforded ONF status due to its geo-heritage, cultural, historic, and remaining landscape values.

The falls are the result of the Mataura River flowing over a bed of resistant sandstone. They also represent an outstanding outcrop of the Late Permian to Early Cretaceous Murihiku Terrane, composed of gently dipping interbedded sandstones, conglomerates, and mudstones, representing the fore-arc or back-arc basin of the eastern Gondwana margin. Discontinuous lignite/coal lenses exposed in the surrounding could reveal important insights into the paleoenvironmental history of the Murihiku Terrane, including at the Cretaceous-Tertiary (K-T or K-Pg) extinction event. Their natural form is now much modified due to blasting by adjacent landowners, however, they are a hydrological feature, with natural processes still operating, albeit in a modified context. The river margins are highly modified with little indigenous vegetation character remaining, and bank forms modified by weirs and water races upstream.

The falls are identified in the New Zealand Geo-preservation Inventory as a feature of national importance. The Mataura Falls and gorge are described as 'eroded over and into nearly flat-lying Jurassic sedimentary rocks of the Murihiku Supergroup. These rocks contain rich plant debris and fossils.

The Falls have an austere memorability based on the juxtaposition of powerful natural hydrological processes with grim industrial buildings. There are naturalness qualities associated with the river flow but the natural river forms are now much modified and the setting is highly modified. There are transient values (varying moods) associated with the various flow regimes of the river. The river in this area retains some wildness values associated with its powerful flow in a constrained channel. Scenic values are low from publicly accessible areas due to the industrial setting, however they retain some values when viewed from a close proximity.

The falls were once a spectacular tourist attraction for early European settlers prior to blasting to minimize spray for a pedestrian bridge and works associated with hydro-electricity schemes for industrial uses (paper mill and freezing works) on the adjacent banks. The importance of the Falls is still recognised, however, through the Statutory Acknowledgement of the Mataura River within the Ngāi Tahu Claims Settlement Act 1996 (in part due to the presence of the Falls), and the Mataura River Mātaitai Reserve – the latter having historic value as the first freshwater mātaitai in New Zealand.

Whilst the Mata-ura (Mataura River) in its entirety has significant cultural value for mana whenua, Te Au Nui Pihapiha Kanakana / Mataura Falls has specific value due to its intrinsic mana and mauri, its mahinga kai values and histories, and its connections to Ngāi Tahu historical events. The Falls elicit a strong sense of identity for local mana whenua, and accounts of its discovery by the Ngāti Mamoe tipuna Paroparo Te Whenua create linkages between today and the ancient world. The historic abundance of mahinga kai species – particularly kanakana/lamprey – supported by the Falls is also of historic and cultural significance to Ngāi Tahu and a point of local pride and identity. Mana whenua also have an ongoing relationship with this feature that supports the revitalization and intergenerational transfer of cultural knowledge, particularly through practical environmental projects and mahinga kai activities.

Values to be protected~~.~~

- Geo-heritage values.
- Remaining natural characteristics associated with rocky banks and outcrops and powerful river flow.
- Attributes that contribute to its habitat value for kanakana and other fauna, particularly indigenous and Ngāi Tahu taonga and/or mahinga kai species.
- Qualities of wildness.
- Qualities that contribute to Ngāi Tahu associations, including mauri, river access, and the ability to practice mahinga kai and kaitiaki responsibilities.

Potential threats to ~~landscape~~ values

- Further blasting and modification to the riverbed and banks.
- Built development and / or exotic plantings on the adjacent banks that further modifies the natural character of the area.
- Further reductions to access for Ngāi Tahu cultural activities
- Activities resulting in inappropriate discharges to water, including dumping

Submitter (S) Further Submitter (FS)	Decision Requested
S113.109 Trudy Bokser S116.109 Nathan Bokser S118.109 AW+ JA Johnston Family Trust S127.145 Peters Farm Ltd Karen Peters S18.111 Reaby Downs Farm Ltd S19.111 Karen Temple S20.111 Sarah and Peter Barclay S24.111 Helen McIntosh S68.113 John Baynes S117.109 Greg Bokser S3.109 Stoney Creek Station Limited	Stoney Creek considers that the values listed to be protected are not present over much of the ONL area, which is working farmland and that the ONL area should be reduced. Amend Appendix 5 in a way that accurately: • reflects the significant presence of pastoral farming within the ONL; • Recognises the benefits provided by pastoral farming in terms of maintaining a sense of openness, landscape legibility and pest control, within the ONL; • Recognises that the patterns and values of indigenous biodiversity vary significantly across the extent of the ONL and the highest value area is concentrated within the Croydon Bush SNA; • Corrects the statement that the ONL is free of structures; • Recognises the historical and cultural significance of the area to the rural community; and Make available all documents referred to within Appendix 5, the s32 Report and the Landscape Assessment prepared by Mike Moore publicly available on the Gore District Council website.
FS17.092 Federated Farmers	Allow S3.109 Stoney Creek Station Limited

6.6.10 The Panel notes that arising from these submissions, and through the Hokonui Hills Working Party a revision of Appendix 5 has been recommended to the Panel. These changes give effect to the relief sought in the submissions and subject to minor changes are accepted by the Panel. The revised Appendix 5 is attached to this Decision. Accordingly, submissions S113.109 Trudy Bokser and others are accepted.

6.7 Maps

Submitter (S)	Decision Requested
S146.105, S146.110 Southland District Council	MAP Streams and Rivers Request to review the course of the esplanade strip along the Mataura River as it no longer follows the current course.
S146.103 Southland District Council	Update the course of the Mataura River. The Mataura esplanade strip does not follow the course of the Mataura River.
S146.102 Southland District Council	Review cross-boundary issues with SDC as Hokonui Hills borders Southland District

6.7.1 Mishka Banhidi at paragraph 112 in her s42A Report advised the Panel discussions were held with Southland District Council and it advised this matter is no longer of concern to them. For completeness Mishka Banhidi listed reasons why the changes sought were not appropriate. One key reason is that rivers move, so any work undertaken to identify the current location of the river would likely be out of date by the time the next review or when aerial imaging is next undertaken, arising from seasonal changes in river courses. Having regard to these matters, submissions S146.105, S146.110, S146.103 and S146.102 Southland District Council are rejected.

Submitter (S)	Decision Requested
S112.185 Waka Kotahi NZ Transport Agency	Check the accuracy of the location of the "Mataura ONF" as shown on the map, and in particular, where it is shown to transect State highway 93 and

	correct any inaccuracies in the notified map as necessary

6.7.2 The Panel was advised by Mishka Banhidi at paragraph 113 of her s42A Report that inclusion of part of State Highway 93 was intentional so as to capture the Waikaka Stream, recognising it is part of the Mataura catchment and shares the values associated with the River. As a consequence, the Panel is satisfied that no change is required to the map and submission S112.185 Waka Kotahi NZ Transport Agency is rejected. The Panel notes NZTA advised its acceptance of that outcome.

7 Natural Character

7.1 Submissions

Submitter (S) Further Submitter (FS)	Decision Requested
S146.052 Southland District Council	Provisions related to this Mataura River area should be addressed in a Natural Character section. Appendix 5 identifies the Mataura River and its river margins and an active flood plain as a High Natural Character Feature. If these are the values of the Mataura River, then provisions related to this area within the Gore District should be addressed in a Natural Character section.
S146.057 Southland District Council	Some provisions dealing with natural character and waterbody margins may be better placed in a NATC - Natural Character chapter or supported in such a chapter. In order for migratory fish species populations to be healthy in the Mataura River, Southland District Council may need to align policies specific to the Mataura River with those of GDC.
S146.096 Southland District Council	Incorporate into the Proposed District Plan an objective that would protect ONFL areas from adverse effects outside of direct use. The Proposed District Plan does not have an objective that would protect ONFL areas from adverse effects outside of direct use. This could result in activities Within Appendix 5, the Mataura River is identified as a High Natural Character Feature, including its river margins and an active flood plain. If these are the values of the Mataura River, then provisions related to this area within the Gore District should be addressed in a Natural Character section occurring on an adjoining property that could have an adverse effect on the Hokonui Hills ONFL area, such as Wilding Trees reducing the biotic/abiotic values highlighted in Appendix 5.
S146.051 Southland District Council	NFL-P2 is unique compared to the rest as it does not have a larger Outstanding Natural Feature or Landscape clause, which may require it to be located in the NFL chapter. Move this Policy to the Natural Character chapter and should have a specific objective for restoration and/ or enhancement to fully support the policy.
FS27.016 Alliance Group Limited	Disallow S146.051 Southland District Council

7.2 Process Issues

7.2.1 The s42A Report for the first hearing held in June 2024 to consider submissions to the PDP included an assessment of submission S146.057 by Southland District Council seeking that provisions dealing with natural character and water body margins be placed in a Natural Character Chapter. The report author, Matt Heale did not consider a standalone chapter was required, primarily because numerous provisions referring to natural character were included throughout the PDP.

7.2.2 The Hearings Panel did not agree with the recommendation of Matt Heale, concluding that a standalone chapter was warranted to provide a strategic overview and link to the various provisions in the PDP. The Panel also noted that as natural character was an issue relevant to the Gore District then the National Planning Standards also require a Natural Character chapter to be included in Part 2 of the Plan, in accordance with Section 7: District-wide Matters Standard, mandatory direction 20. Arising from that

the Panel on 10 September 2024 issued Minute 18 directing the preparation of a draft Natural Character chapter to be circulated to relevant submitters providing an opportunity for feedback prior to preparation of the s42A Report for the Natural Features and Landscape Hearing. The Minute provided some guidance as to the potential content of the chapter.

7.2.3 On 29 November 2024 the Hearings Panel received a draft of a Natural Character Chapter from Mishka Banhidi, together with an associated draft Appendix 6 to be included in the Proposed District Plan, a statement of evidence from Mike Moore, Landscape Architect, and a Section 32AA Report. In a memorandum dated 29 November 2024, Shelley Chadwick, Counsel for the Council sought direction from the Panel to confirm the process that should be followed in relation to service on submitters and their potential further involvement with this natural character topic.

7.2.4 On 9 December 2024 the Panel issued Minute 30 providing directions as to service on:

(a) Southland District Council, being the submitter initially raising the manner in which natural character is dealt with in the proposed Plan;

(b) All submitters who submitted on one or more of the provisions listed in Appendix A of Minute 18; and

(c) All submitters involved in Hearing Stream 1.

7.2.5 The Panel also set out a timetable for the lodging of feedback and the preparation of a s42A Report assessing the feedback to be considered at the Natural Features and Landscape hearing on 12 February 2025.

7.3 Minute 18

7.3.1 Minute 18 set out the position of the Hearings Panel as follows:

> 9. The Hearings Panel has concluded Natural Character is a relevant issue within the Gore District, and therefore, as mandated by the National Planning Standard, should be provided for within a Natural Character chapter.
>
> 10. The Hearings Panel considers that the primary objective of the Natural Character chapter is to provide an overview of the approach to and outcomes for natural character within the PDP and an integrated approach to the various provisions. Such an approach does not require a restructuring of the PDP, but rather the inclusion of a new chapter while retaining the existing provisions in their current location. That will at the very least require objectives describing the overall outcomes to be achieved, and potentially policies of both principle and process.
>
> 11. The Hearings Panel recognises the high order provision of section 6(a) of the RMA and that this would be the focus of a Natural Character chapter. The Panel also considers that natural character is a relevant factor in considering the management of environmental effects in other areas, including those environments that are modified, and it would expect some consideration of this issue in a Natural Character chapter.

7.3.2 The Hearings Panel therefore directed the Council's Reporting Officers to prepare a draft Natural Character chapter to reflect the position of the Hearings Panel.

7.4 Section 32AA Report

7.4.1 The Council's response to Minute 18 was provided in a document dated 29 November 2024 entitled "Hearing Panel Minute 18 – Section 32AA Report of Mishka Banhidi on behalf of Gore District Council". The Report relied upon a statement of evidence included as an appendix to the Report by Mike Moore landscape architect in which he outlined what natural character is, which waterbodies the provisions should relate to, and what activities need to be managed.

7.4.2 Mishka Banhidi advised that the Natural Character chapter was drafted on the basis of the recommendations of Mike Moore as to content. This included a new Appendix 6 describing the natural character values of rivers and streams, and including the example of Mataura River, which was previously part of Appendix 5 in the notified Plan. In her view the revised provisions better reflected the direction of RMA s6(a). She also stated, in essence the proposed NATC policies are the same as the notified NFL policies, with the exception that direction not relevant to natural character has been removed, which has narrowed the scope of the policies.

7.4.3 Mishka Banhidi specifically referred to the Mataura River being described as a High Natural Character Feature in the PDP, noting Mike Moore highlights RMA s6(a) requires protection of natural character of waterbodies in general, not only those with pre-existing high natural character values. Arising from that she recommended removing the reference to the Mataura River HNCF from the Plan and adopting an approach that applies to all waterways in the District.

7.4.4 Mike Moore recommended rules to control activities that threaten the preservation of natural character of waterbodies, such as buildings and structures, earthworks, indigenous vegetation removal and activities on the surface of the water. Mishka Banhidi considered these recommendations align with the rules and river and stream setback standards included in the notified PDP.

7.4.5 Mike Moore also recommended rules related to quarrying, mining and woodlots near waterbodies. Mishka Banhidi noted these activities are only permitted in the General Rural Zone (GRZ) and any rules controlling these activities will be best placed within that zone chapter. She indicated this would be considered further in preparing the S42A Report prepared for the Natural Features and Landscape hearing.

7.4.6 With regard to the direction of the Panel in Minute 18 to consider the management of environmental effects on natural character in areas that are modified Mishka Banhidi stated:

> Mr Moore's evidence identifies that natural character exists on a continuum, whether outstanding, high or significantly modified, and that section 6(a) of the RMA directs the preservation of natural character, not just the preservation of natural character that is already of outstanding or high value. This advice is reflected in the overview section of the natural character chapter, policy NATC-P2 which encourages restoration and/or enhancement of natural character and in the proposed Appendix 6 guidance on natural character values.
>
> When considering highly modified or degraded waterbodies, I understand that the duty to preserve the natural character that exists should be interpreted as keeping the natural character of the waterbody safe from further degradation, which does not preclude restoration or enhancement where this is proposed. This interpretation is based on the plain language meaning of the word preserve, and the context of Part 6(a)of the RMA which also specifies protection of natural character from inappropriate use.

7.4.7 With regard to the assessment required by s32AA, Mishka Banhidi concluded the proposed NATC chapter and Appendix are considered to be a more appropriate way to achieve the purpose of the Act and alignment with national direction than the notified version of the PDP.

7.5 Section 42A Report

7.5.1 Mishka Banhidi was the author of the s42A Report prepared for the Natural Features and Landscape hearing. In that report she briefly made reference to the s32AA Report referred to above.

7.5.2 With regard to the recommendations of Mike Moore to include rules in the Plan to protect natural character she acknowledged there were no submissions that could be

relied upon to include any such rules. In other respects, she reaffirmed her recommendations from the s32AA Report as to the provisions to be included in the Plan.

7.6 Evidence to HS9

Transpower

7.6.3 Ainsley McLeod on behalf of Transpower referred to her earlier evidence that the PDP must give effect to the NPSET and the RPS, in particular Policy 8 of NPSET, and RPS Objective BRL.1 and Policy INF.2. With regard to the specific provisions of the NATC chapter she stated:

- Objective NATC-O1 replicates RMA s6(a) and is effective and appropriate.
- Policy NATC-P1 mirrors NFL-P1 and does not give effect to NPSET and SRPS and requires revision together with a consequential change to the definition of sensitive environments.
- Policy NATC-P2 is not opposed.
- Policy NATC-P3 mirrors Policy NFL-P3, however, Policy NATC-P3 does not replicate amendments recommended in the Section 42A Report in relation to Policy NFL-P3, with the same applying to NATC-P4.

7.6.4 Ainsley McLeod included changes to these provisions she considered appropriate. These included deletion of NATC-P3.

Federated Farmers

7.6.5 Jo-Anne Cook-Munro, Legal Counsel for Federated Farmers, submitted there is no scope to introduce the NATC chapter without undertaking a Variation to the PDP on the basis that SDC did not seek any specific relief in their submission, nor did any other submitter. She further submitted:

- If a submission is found not to be on a plan change or variation, the Council has no jurisdiction to consider it. [*Paterson Pitts Limited Partnership v Dunedin City Council [2022] NZEnvC 234*]
- The High Court [*Countdown Properties (Northlands) Ltd v Dunedin City Council (1994) 1B ELRNZ 150 (HC)*] has also concluded that the local authority must consider whether any amendment made to the plan change as notified goes beyond what is reasonably and fairly raised in submissions on the plan change.
- Those who are potentially affected have not had the opportunity to participate.
- It is irrelevant that no new rules have been introduced and that the proposed objectives and policies are largely similar to the objective and policies in the NFL chapter.
- Unless there is a submission that directly asked for the inclusion of a natural character chapter, the Council considered that the notified natural features and landscapes chapter was sufficient to address any natural character matters.
- The amendments go beyond what was reasonably and fairly raised in submissions on the PDP. [*Countdown Properties (Northlands) Ltd v Dunedin City Council (1994) 1B ELRNZ 150 (HC)*]

7.6.6 Kate Sannazzaro has over twenty years' experience in the field of environmental policy and planning. In a statement of evidence dated 27 January 2025 she stated that the development of an entire new chapter through submissions, where the proposed content has wider effect than the plan provisions as notified, namely applying it to every waterbody and margin within the district, is poor planning practice. It was also her evidence that:

- The Panel should recommend that the Council adopt the Variation process.
- In notifying its PDP without an NATC, it appears the Council has either previously concluded it is not relevant or has failed to give it due consideration in consultation with other local authorities.
- The most relevant RPS provision for natural character outside of the coastal and instream freshwater environments is Method LNF.9 which states that local authorities will be encouraged to address locally distinctive and valued natural features and landscapes, which may include natural character (along with other values). However, the RPS does not identify adverse effects on natural character due to activities in riparian margins or on the surface of water as a regionally significant issue nor did ES lodge a submission related to natural character.
- The S32AA report identifies submissions from the New Zealand Transport Agency Waka Kotahi and Alliance Group relating "to natural character and providing additional scope for this chapter" but both submission points were specifically in relation to 'Appendix 5 – Landscape Values-ONL-APP'.
- If the proposed NATC was notified in the PDP, it is likely that Federated Farmers would have submitted on it. However, it was not notified so we did not have the opportunity do so.

7.6.7 With regard to the Natural Character chapter itself Kate Sannazzaro stated in an Appendix attached to her evidence:

- It would be preferable to amend the Overview to limit natural character as applying to the waterbody and its margins, and not an 'area' of land in general, as currently drafted.
- The RPS definition of Natural Character should be included in the PDP and be consistent with that focusing only on natural characteristics and qualities.
- The extent of the riparian margin should be defined preferably as a policy, noting the PDP identifies limits for high, medium and low order rivers (20m, 10m and 5m) whereas the policies refer to "in close proximity".
- The Overview omits some of the activities Mike Moore identified that can affect natural character, being exotic tree planting and discharges impacting water quality (noting the latter is a regional council matter).
- Include a paragraph that describes the different roles and responsibilities of the Council and the regional council in managing natural character.
- Natural character as it applies to landscapes has been applied to waterbodies and their margins without careful consideration of the Council's objective in creating a NATC, the matters unique to waterbody management, and how the PDP currently addresses natural character, including beyond the NFL chapter.
- The provisions are written to apply to every waterbody no matter the size, prominence, priority or existing degree or form of natural character.
- The preservation of the natural character of waterbodies and their margins, is a matter of national importance, and the Council has duty to protect them from inappropriate subdivision, use and development but the provisions do not clearly identify what is inappropriate subdivision, land use or development.
- The value of imposing natural character requirements on all waterbodies, and in particular 'low order rivers' requires in-depth consideration and data gathering.
- The proposed provisions refer to 'rivers' and 'streams', and some provisions only include 'rivers' and not 'streams'.

7.6.8 With regard to NATC-P1 Kate Sannazzaro stated:

- The policy refers to the avoidance of adverse effects on natural character, but the PDP provisions only seek management.
- It is unclear which types of adverse effects must be avoided, and when mitigation might be appropriate. Nor does the policy consider subdivision.
- Clause (2) of the policy expressly refers to the activities of mineral extraction and indigenous vegetation removal but there is currently no provision for natural character in the notified PDP in relation to these activities.

7.6.9 With regard to NATC-P1 Kate Sannazzaro stated:

- This policy would be more helpful if it provided some context as to what 'natural character' is in relation to Council functions, and what might be restored or enhanced.
- If the Hearings Panel consider sport fishing to be relevant to natural character and intends to retain clause (2), amend the 'restoration of… angling fisheries species' to focus on habitat, consistent with RMA s7(h), and limit its application to the protected waters under the Water Conservation Order.
- It is unclear how the plan otherwise gives effect to NATC-P2.
- Simplify the policy to read:

  "To encourage the restoration and/or enhancement of the natural character of rivers, streams and their margins"

7.6.10 With regard to NATC-P3 Kate Sannazzaro stated:

- Instream structures are controlled by the regional council, and policy should be limited to the margins of rivers.
- There are no rules in the PDP as notified that prohibit infrastructure in river margins.
- NATC-P3 should be deleted and an addition made to NATC-P1.

7.6.11 With regard to NATC-P3 Kate Sannazzaro stated:

- This policy should be deleted as it does not assist those processing consents, beyond the requirements of the RMA, although it does provide a use for new Appendix 6.

7.6.12 With regard to Appendix 6 – NATC-APP Kate Sannazzaro stated:

- Appendix 6 is unnecessary. While it is helpful to identify both characteristics and qualities that contribute to natural character, and the natural character attributes that should be preserved, these should be stated as policy.

7.7 Evaluation

7.7.1 The Panel has considered all the advice and evidence received from Mishka Banhidi, Transpower and Federated Farmers.

7.7.2 On the matter of scope, the Panel is satisfied that the relevant submissions of SDC provide scope to address the matter through introduction of a Natural Character chapter in the Plan. Significantly, as identified in Minute 18, the National Planning Standards require such a chapter to be included in the Plan if the plan includes provisions to protect the natural character of wetlands, lakes and rivers and their margins. Clearly, as recorded in Minute 18, the notified Plan did include such provisions and decisions on other chapters of the Plan have retained them.

7.7.3 The Panel has paid close attention to the challenges raised by Transpower and Federated Farmers to the proposed content of the chapter. Mishka Banhidi, with the assistance of Mike Moore, provided useful contributions to the formation of a Natural Character chapter, having first accepted the basis of SDC submissions and acknowledged mandatory direction in the National Planning Standards that the Panel must give effect to in decision.

7.7.4 The Panel agrees with Transpower and Federated Farmers that there are difficulties presented by relying on replication of the policies in the notified Natural Features and Landscapes chapter, and by addition of new detail in Appendix 6 that would apply to the natural character of waterbodies generally. The Panel's approach is to meet mandatory direction and remain within the bounds of the Plan as notified in terms of provisions linked to management of effects on the natural character of waterbodies and their margins. The table included in Minute 18 collected references to natural character across the notified Plan, which indicated the extent to which the Plan included provisions to protect the natural character of waterbodies and their margins. The Panel considers this to be appropriate bounds for the decisions on the Natural Character chapter, particularly in relation to policy. In addition, advice to the Panel during the hearing, across multiple hearing streams, was that protection of waterbodies and their margins relied heavily on river and stream setbacks for activities, with reference to Appendix 3. The is reflected in the Panel decision on policy in the chapter.

7.7.5 Advice received throughout the hearing process also emphasised particular activities expected to be located within the margins of waterbodies, including: critical infrastructure with a functional need or operational need to be in a particular location and where there are no practicable alternative locations (e.g. footings of the rail bridge over the Mataura River, as identified by Kiwirail in evidence for HS11); natural hazard mitigation structures (e.g. stopbanks adjacent to the Mataura River, as identified by ES in evidence for HS11); and farm fences, as identified in the evidence of Stoney Creek Station and Federated Farmers in HS3, HS9 and HS10. Policy specific to these identified activities is also included.

7.7.6 The Panel is satisfied that the evidence provided by Mike Moore, which informed the draft of Appendix 6 recommended by Mishka Banhidi, appropriately represents current professional practice when assessing natural character values and characteristics of waterbodies in order to give effect to s6(a). However, the Panel agrees with the evidence of Federated Farmers that the suite of new material extends beyond the bounds of the notified Plan and would be better accommodated in a future plan change process. The Panel does not consider that this will affect the effectiveness of the Plan in the meantime because it is expected that when professional expertise is brought to bear to assess natural character in the context of a resource consent process, standard professional practice will apply, although in the future the material would be a helpful addition to the Plan. The Panel reserve Appendix 6 for amended text associated with the natural character of the Mataura River, which was part of Appendix 5 in the notified Plan.

7.7.7 The Panel is satisfied that the combination of one objective, two policies and Appendix 6 are within the bounds of the Plan as notified and appropriately within the scope of submissions, while also necessarily giving effect to mandatory national direction and s6(a). While the Panel has made minor changes to the recommended provisions it considers the s32AA assessment of Mishka Banhidi that accompanied her recommended draft chapter is still valid and no further assessment is required. In summary, the Panel considers the content of the chapter improves the efficiency and effectiveness of the Plan, and does not introduce any new costs to resource users, over and above what was already present in the Plan as notified. Further, it is the Panel's view that the additional provisions provide clarity around how the natural character of waterbodies and their margins is managed in the Plan.

7.7.8 In relation to Appendix 6, the Panel has made some amendment to the recommended text for the natural character of the Mataura River and does not refer to "high natural character feature" in the heading. Particularly, the Panel is satisfied that there is a

relationship between the natural character of the river, including its tributaries and associated margins, and Ngāi Tahu values, including mauri, such that some text recommended to be deleted has been reinstated. However, the Panel also relies on the content of the Mana Whenua chapter to elaborate on aspects of Ngāi Tahu relationship with the river.

7.7.9 Given the Panel decision to introduce a Natural Character chapter minor consequential amendments are required to the Overview of the Natural Features and Landscapes Chapter and Policy NFL-P2 as follows:

Overview

The Natural Features and Landscapes chapter contains provisions in response to section 6(b) of the RMA, which requires that outstanding natural features and landscapes be protected from inappropriate *subdivision*, use and development. ~~In relation to Natural Character, section 6(a) of the RMA, this is addressed within the provisions relating to stream *setbacks* included within the zones.~~ Part of the protection of these areas requires the identification and management of these areas as a matter of national importance.

NFL-P2 Provide for and encourage the restoration and/or enhancement of the ~~natural character~~ values ~~described within Appendix 5,~~ of the Te Au Nui Pihapiha Kanakana Mataura Falls described within Appendix 5, where …

7.7.10 The Panel accepts in part submissions S146.051, S146.052, S146.057 and S146.096 Southland District Council and includes a Natural Character chapter, with accompanying Appendix 6, as follows:

NATURAL CHARACTER - NATC

Overview

The Natural Character chapter sets out the overarching directions in response to section 6(a) of the RMA, which requires preservation of the natural character of waterbodies and their margins, and their protection from inappropriate subdivision, use and development.

Natural character is generally described as a combination of natural characteristics and qualities of a waterbody, including its degree of naturalness, abiotic and biotic aspects, and how it is perceived, experienced and appreciated by humans. The duty to preserve natural character entails a broad obligation to preserve the existing characteristics and qualities of a waterbody, whether outstanding, high, or significantly modified, and may include actions to restore or enhance those characteristics and qualities.

The *rivers* and *streams* of the Gore District range in size, with the Mataura River being the largest and most prominent. The Mataura River is subject to a Water Conservation Order, which identifies the Mataura River as having outstanding fisheries and angling amenity features. It is also a Statutory Acknowledgement Area under the Ngāi Tahu Claims Settlement Act 1998, which recognises Ngāi Tahu cultural, spiritual, historic and traditional associations with the river. The tributaries of the Mataura River, including Waikaka River, Otamita Stream, Mimihau Stream and each of their tributaries, are an integral part of the Mataura River system and its functioning and health. The natural character of particular streams and rivers vary along their different reaches and between each other.

Riparian margins contribute significantly to the natural character of a waterbody. Activities that can impact on the natural character of waterbodies and their margins include buildings and structures, earthworks and mineral extraction, and indigenous vegetation clearance. For the purposes of this Plan, the river and stream order outlined in Appendix 3 has been used to determine setback distances for activities that may impact on the natural character of waterbodies and their margins.

This chapter contains a single objective with supporting policy, and is given effect throughout the chapters of the Plan. Provisions relating to the preservation of the natural character of

waterbodies and their margins are contained within zone and district-wide chapters, including within stream setback rules and standards, and matters of control or discretion. Appendix 6 contains a description of the natural character of Mataura River and its margins, including values to be protected and potential threats to those values. Appendix 6 is included to assist plan users due to the dominance of the Mataura River in the district, but it should be noted that the natural character of other rivers and streams and their margins must also be preserved and protected from inappropriate subdivision, use and development.

Objective

NATC-O1 The natural character of each waterbody and its margin is preserved, and protected from inappropriate subdivision, use and development.

Policies

NATC-P1 Manage effects on waterbodies and their margins to preserve natural character by:

1. using the River and Stream Order in Appendix 3 to guide setback distances for activities that can adversely affect natural character;
2. ensuring public access is consistent with maintaining natural character;
3. limiting development of infrastructure on or over waterbodies and in their margins;
4. controlling activities on waterbodies;
5. controlling indigenous vegetation clearance within the margins of waterbodies;
6. encouraging restoration and enhancement, including indigenous vegetation, within the margins of waterbodies;
7. encouraging subdivision design that maintains, enhances or restores the characteristics and qualities of waterbodies.

NATC-P2 Recognise that there are activities appropriately located within the margins of waterbodies because of their function and purpose, including:

1. natural hazard mitigation structures;
2. farm fencing; and
3. critical infrastructure where there is a functional need or operational need and no practicable alternative location.

Appendix 6 – Mataura River Natural Character – NATC APP

Description

The Mata-ura (Mataura River) includes the entire main stem of the Mataura River within the Gore District, including the *river* margins. The *river* and its margins are defined as including the active *river* floodplain to the top of the defining terraces.

The Mataura River is clearly a major natural hydrological feature of the district, responsible for the creation of many of the adjacent landforms and subject to powerful natural processes. The *river* corridor morphology strongly expresses the natural fluvial processes in features such as gravel beds and channels, *river* terraces and meander loops. The natural character of the *river* margins are now generally highly modified by farming, and the presence of stop banks, exotic trees, scrub and grass species. Whilst natural character attributes are modified, they are still present, and the river is an important bird habitat because it supports breeding colonies of endangered tarāpuka/Black Billed Gulls. The *mahinga kai* values of the *river* have also been recognised through the establishment of the Mataura River Mātaitai Reserve in 2006, which recognises its importance as a habitat for a range of *mahinga kai* species – most notably

kanakana/lamprey. Additionally, the river is famous for its ~~B~~brown ~~T~~trout fishery and is covered by a Water Conservation Order (1997). Under this, the recogni~~z~~sed outstanding values relate to fisheries and angling amenity.

Perceptual natural character remains due to the flowing water and *river* landforms but has been significantly modified by agricultural land use on the floodplain. *Indigenous vegetation* presence is minimal. There are transient values associated with various flow regimes, and the presence of bird and fish life. The river has some wildness qualities due to its scale and power but these, and its scenic values, are modified by the exotic character of the vegetation along its margins and by the presence of urban development in the vicinity of the towns of Gore and Mataura.

The Mata-ura (Mataura River) has significant cultural values for mana whenua. This importance is formally recognised through a Statutory Acknowledgement within the Ngāi Tahu Claims Settlement Act 1998. The Mata-ura and its tributaries are also areas with strong connections to Ngāi Tahu mahinga kai practices, which are a key vehicle for expressing and perpetuating Ngāi Tahu culture and identity. The intrinsic value of wai and it mauri are key cultural values for Mata-ura, connected to its natural character. The Mana Whenua chapter provides more information on these Ngāi Tahu cultural values and association of mana whenua with the river and its margins.

Values to be protected.

Remaining natural characteristics including natural riverbed, floodplain and terrace landforms, and any remaining *indigenous vegetation* and areas of *wetland.*

- Attributes that contribute to its habitat value for birds and aquatic fauna, particularly *indigenous species* and Ngāi Tahu *taonga species* and *mahinga kai* species.
- Low visual impact of built elements.
- Qualities of naturalness and wilderness as experienced from within the area.
- Qualities that contribute to Ngāi Tahu cultural associations, including mauri, river access, and the ability to practice mahinga kai.

Potential threats to natural character values

- *Quarrying activities* / *Earthworks* that significantly erode the legibility of the natural landforms and the landscape coherence.
- Clearance of or damage to, areas of *indigenous vegetation*.
- Visually prominent *buildings* and *structures*
- Exotic tree planting that obscures the legibility of the natural river landforms.
- Alterations to the naturalness of the waterbody.
- Activities resulting in inappropriate discharges to the waterbody.
- Structures and land use that restrict access to Mata-ura for Ngāi Tahu cultural activities (including mahinga kai practices).

8 Other Matters

8.1 Whole of Plan Submissions

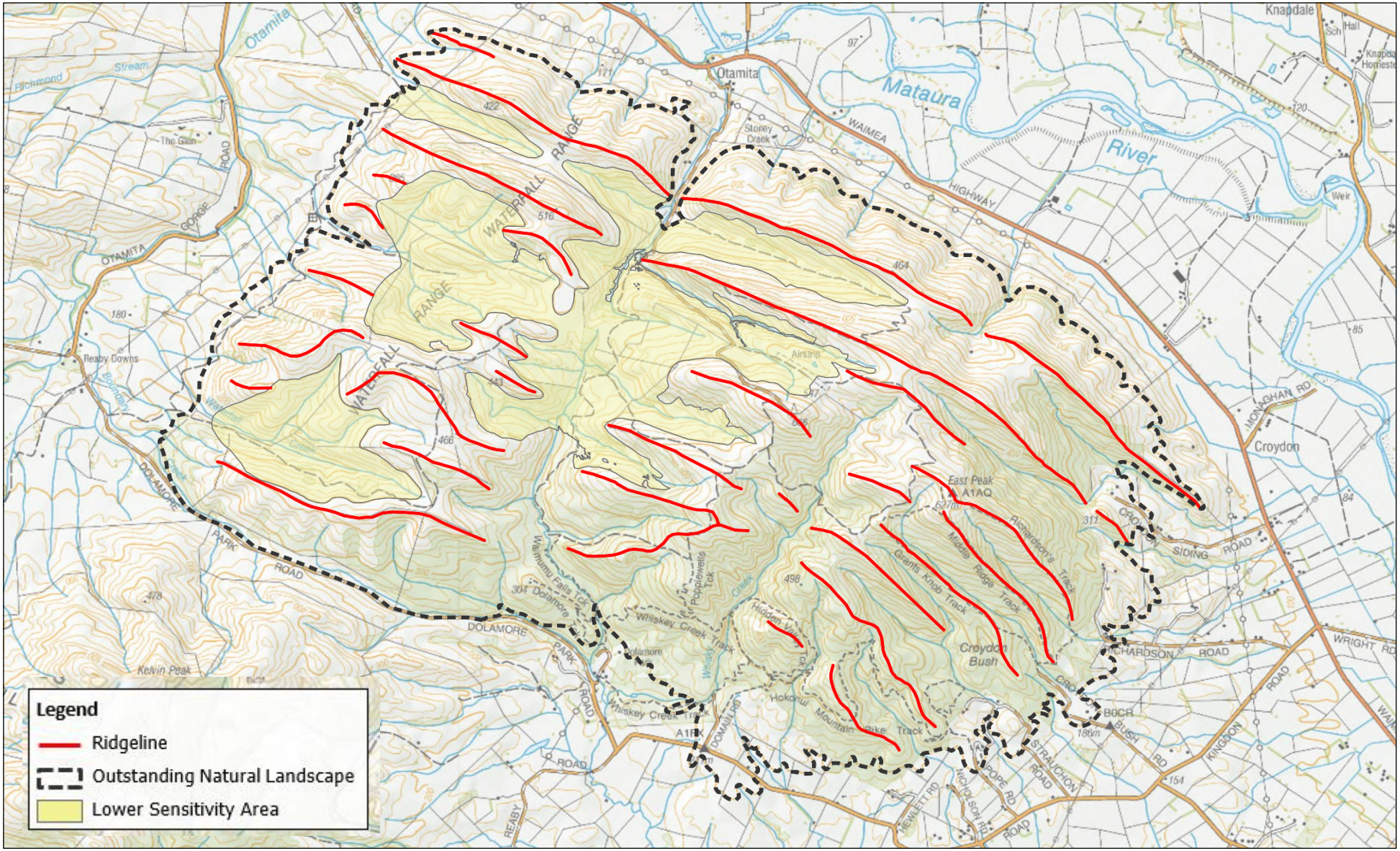
Submitter (S)	Decision Requested
S139.040 Hokonui Rūnanga Inc	Wherever possible the plan provisions should specify the particular effects of concern to mana whenua to ensure the plan provisions are clear and that appropriate effects are identified and assessed, including when Hokonui Rūnanga Inc may be an affected party.

	Amend references to 'Ngāi Tahu values' with more detailed description of particular effects to be avoided, remedied or mitigated.
S139.091 Hokonui Rūnanga Inc	Make consequential amendments to rules that refer to 'Ngai Tahu cultural values' by adding the words: "as identified in the objectives and policies for this zone and listed in MW2.3"

8.1.1 Courtney Bennett and Amy Beran in their joint response to Minute 15 drew attention to various provisions in the Plan that they consider could be reviewed having regard to the submissions of Hokonui Rūnanga. The only matters raised with regard to the Natural Features and Landscape chapter was reference to MW-2.3 in several standards. These have been amended to MW-1.2 as a consequential change to the Panel's Decision 14 Mana Whenua and Decision 43 Sites and Areas of Significance to Māori.

Attachments:

- Natural Features and Landscapes Chapter (attached separately)
- Hokonui Hills Overlay (below)
- Appendix 5 - Natural Feature and Landscape Values – NFL-APP (attached separately)
- Appendix 6 **–** Mataura River Natural Character – NATC APP (attached separately)
- Submissions (attached separately)


Legend
Ridgeline
Outstanding Natural Landscape
Lower Sensitivity Area
Otamita
Mataura River
Knapdale
Croydon
Croydon Bush
Dolamore Park Road
Whiskey Creek Track
Hokonui Mountain Lake Track
Grants Knob Track
Middle Ridge Track
Richardson's Track
Waimea Highway
Monaghan Rd
Richardson Road
Strauchon Road
Hewlett Rd
Nicholson Rd
Pope Rd
Kingdon Rd
Wright Rd
Reaby Downs
Kelvin Peak
East Peak A1AQ
B0CR
A1BK
Waterfall Range
Otamita Gorge Road