



**Mackenzie**

**DISTRICT PLAN REVIEW**

TOMORROW'S MACKENZIE  
KA AWATEA HŌU

## **Plan Change 23**

# **Natural Character Natural Features and Landscapes General Rural Zone**

## **Decision Report**

**31 July 2024**

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- Appendix 1:** Amended Provisions including definitions for Plan Changes 23 - 27  
**Appendix 2:** Amended Planning Maps  
**Appendix 3:** Appearances and Tabled Evidence

**List of submitters addressed in this report:**

Submitter Ref	Further Submitter Ref	Submitter Name	Abbreviation
1		Ant Frith	
2	FS4	New Zealand Agricultural Aviation Association	NZAAA
3		Nic Zuppich	
4	FS7	Fire and Emergency New Zealand	FENZ
5		Wanaka Helicopters	
6		Hermann Frank	
7		Department of Conservation	DOC
8		Helios Energy Limited	Helios
9		Tekapo Landco Ltd & Godwit Leisure Ltd	TLGL
10		Michael Donnelly	
11		Murray Valentine	
12	FS21	Nova Energy	Nova
13	FS10	Transpower New Zealand Limited	Transpower
14	FS6	Pukaki Tourism Holdings Ltd Partnership & Pukaki Village Holdings Ltd	PTHL and PVHL
15	FS3	NZ Transport Agency Waka Kotahi	NZTA
16		Simpson Family Holdings Ltd	Simpson Family
17		Mackenzie Basin Wilding Tree Trust	MBWTT
18		Chris & Rachael Pudney	
19		Aviation New Zealand and NZ Helicopter Association	Aviation NZ
20		Environmental Defence Society	EDS
22		Helicopters South Canterbury - Richard Geary	
24		PF Olsen	PFO
25	FS26	Te Rūnanga o Ngāi Tahu	TRoNT
26	FS1	NZ Pork	
27	FS18	South Canterbury Province Federated Farmers of New Zealand	Fed Farmers
28		Lake Alexandrina Outlet Hut Holders Society	LAOHHS
29	FS2	Port Blakely	PB
30		John Evans	
32		Grampians Station Ltd	Grampians Station
34		Rodney Garth Hurst	
35*	FS20	Road Metals Company Limited	Road Metals
36		Forest and Bird	F&B
37	FS22	Lisburn Farms Limited	Lisburn Farms
38		Ministry of Education	MoE
39	FS31	Matthew & Victoria Simpson	
40	FS12	Genesis Energy Limited	Genesis
41		The Mackenzie Country Charitable Trust	
42		Neil Lyons, Colleen Lyons and Webb Farry Trustees 2014 Ltd	Lyons Webb
43	FS23	Opuha Water Limited	OWL
44	FS9	Meridian Energy Limited	Meridian
45	FS14	Canterbury Regional Council	CRC
46		Blue Lake Investment (NZ) Limited	Blue Lake
47		<i>Submission Withdrawn</i>	
48	FS15	Milward Finlay Lobb Ltd	MFL
49		Rooney Group Ltd	Rooney Group
50	FS24	Wolds Station Limited	Wolds Station
51		New Zealand Heavy Haulage Association Inc	NZHHA
52		Grampians Station Limited	Grampians Station
53		Fraser Ross	
54	FS17	New Zealand Defence Force	NZDF
55		Mitch Taylor	
	FS5	Stephen Kerr	
	FS8	Andrew & Rachel McGregor	
	FS11	Davis Ogilvie (Aoraki) Limited	

Submitter Ref	Further Submitter Ref	Submitter Name	Abbreviation
	FS13	Mackenzie Guardians Inc.	
	FS16	Ian Morrison	
	FS19	Richard Milner	
	FS25	Mt Gerald Station	
	FS27	Andy McNab	
	FS28	Guy Sutherland	
	FS29	Andrew & Rachel McGregor	
	FS30	Andrew & Rachel McGregor	
	FS32	Kane & Marie Murdoch	
	FS33	David Giddings	
	FS34	Celia Devenish	
	FS35	George Giddings	
	FS36	Glen Dararach Trust/Grant Chisholm	
	FS37	Raincliff Station Ltd/David Morgan	
	FS38	Ian Morrison	

**Abbreviations used in this report:**

Abbreviation	Full Text
CON	Controlled
CRPS	Canterbury Regional Policy Statement
CRPMP	Canterbury Regional Pest Management Plan
DIS	Discretionary
District Plan	Mackenzie District Plan
EIB chapter	Section 19 - Ecosystems and Indigenous Biodiversity
EMLS	Eastern Mackenzie Landscape Study
FBA	Farm Base Area
FMA	Forestry Management Area
GRUZ	General Rural Zone
ha	Hectare
HPL	Highly Productive Land
INF	Infrastructure
LPA	Lakeside Protection Area
MDC	Mackenzie District Council
MDPR	Mackenzie District Plan Review
NATC	Natural Character chapter
NC	Non complying
NESCF	National Environmental Standards for Commercial Forestry
NESPF	National Environmental Standards for Plantation Forestry
NFL	Natural Features and Landscapes
NPSFM	National Policy Statement Freshwater Management
NPSHPL	National Policy Statement for Highly Productive Land
NPSIB	National Policy Statement for Indigenous Biodiversity
NPSREG	National Policy Statement for Renewable Electricity Generation
NP Standards	National Planning Standards
ONF	Outstanding Natural Feature

<b>Abbreviation</b>	<b>Full Text</b>
ONL	Outstanding Natural Landscape
PC13	Plan Change 13 – Rural Zone – Mackenzie Basin
PC18	Plan Change 18 – Indigenous Biodiversity
PC23	Plan Change 23 - General Rural Zone, Natural Features and Landscapes, Natural Character
PER	Permitted
PR	Prohibited
RDIS	Restricted Discretionary
REG chapter	Renewable Electricity Generation chapter
RMA	Resource Management Act 1991
SCA	Specific Control Area
VAL	Visual Amenity Landscape

## 1. Purpose of Report

1. Pursuant to section 43(1) of the Resource Management Act 1991 (RMA), the Mackenzie District Council (MDC) has appointed a combined Hearings Panel of four independent commissioners<sup>1</sup> to hear and decide the submissions and further submissions on “Plan Change 23 - Natural Character, Natural Features and Landscapes, General Rural Zone” which forms part of the Mackenzie District Plan Review (MDPR).
2. The content of PC23 was set out in the MDC’s Overview Report<sup>2</sup>, which was five pages long. We do not repeat that information here for the sake of brevity, but note that the Overview Report is available on the MDC webpage.
3. Importantly, the landscape management provisions previously introduced through PC13 currently sit within the Rural Section of the Mackenzie District Plan (District Plan). The provisions relating to an ONL are generally required<sup>3</sup> under the NP Standards to be included in a separate Natural Features and Landscapes chapter. Because PC23 includes a review of the remainder of the Rural Section of the District Plan, as well as introducing new ONLs and ONFs and provisions pertaining to them, the PC13 provisions have been “shifted” into the new NFL chapter (or where relevant, the REG and SUB chapters) to show them in context. However, the PC13 provisions themselves are not open to change as they fall outside the scope of PC23<sup>4</sup>.
4. This Decision Report sets out the Hearings Panel’s decisions on the submissions and further submissions received on Plan Change 23.
5. The initial Section 42A Report and the end of hearing Section 42A Report (Reply Report) for PC23 were:
  - Section 42A Report: Plan Change 23 – Natural Character, Natural Features and Landscapes, General Rural Zone, Report on submissions and further submissions, Author: Nick Boyes, Date: 19 April 2024.
  - Section 42A Report: Plan Change 23 – Natural Character, Natural Features and Landscapes, General Rural Zone, Reply Report, Author: Nick Boyes, Date: 14 June 2024.
6. In our Minute 8 dated 6 May 2024 we posed a number of questions to Mr Boyes (the Section 42A Report author). We received written answers to those questions<sup>5</sup>.
7. The Hearing Panel’s amendments to the notified provisions of PC23 are set out in Appendix 1. Appendix 1 includes the full definitions chapter for PCs23 – 27. Amendments recommended by Mr Boyes that have been adopted by the Hearing Panel are shown in ~~strike-out~~ and underlining. Further or different amendments made by the Hearing Panel are shown in **red font** as ~~strike-out~~ and underlining. Amendments to the District Plan planning maps are shown in Appendix 2.

## 2. Hearing and Submitters Heard

8. There were 52 primary submissions and 38 further submissions<sup>6</sup> on PC23. Further submissions are generally not discussed in this Decision, because they are either accepted or rejected in conformance with our decisions on the original submissions to which they relate. The exception to this is the further submissions received from affected landowners in relation to the additional ONF and ONL areas sought in the original submissions from Hermann Frank (23.06) and Fraser Ross (23.53). Those further submissions are specifically referred to and a decision is made on them.
9. The Hearing for PC23 was held in Fairlie over the period Wednesday 22 to Friday 24 May 2024. The 34 submitters and further submitters set out below were heard:

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<sup>1</sup> Andrew Willis, Megen McKay, Rob van Voorthuysen and Ros Day-Cleavin.

<sup>2</sup> Mackenzie District Plan, Plan Change 23 – General Rural Zone, Natural Features and Landscapes, and Natural Character, Final for Notification, 4 November 2023.

<sup>3</sup> “Generally required” takes into account that the National Planning Standards allows for some provisions relating to ONLs can be included in other chapters such as subdivision, energy and infrastructure.

<sup>4</sup> Statement of evidence of Rachael Lorraine Willox, 1 May 2024

<sup>5</sup> PC23 Section 42A Report Author’s Response to Hearings Panel Questions.

<sup>6</sup> Twenty of the further submissions were lodged by primary submitters.



Submitter Ref	Submitter Name
2	New Zealand Agricultural Aviation Association
6	Hermann Frank
7	Department of Conservation
11	Murray Valentine
13	Transpower New Zealand Limited
16	Simpson Family Holdings Ltd
18	Chris & Rachael Pudney
19	Aviation New Zealand and NZ Helicopter Association
20	Environmental Defence Society
26	NZ Pork
27	South Canterbury Province Federated Farmers of New Zealand
28	Lake Alexandrina Outlet Hut Holders Society
35	Road Metals Company Limited
36	Forest and Bird
37	Lisburn Farms Limited
39	Matthew & Victoria Simpson
40	Genesis Energy Limited
42	Neil Joseph Lyons, Colleen Janice Lyons and Webb Farry Trustees 2014 Limited
43	Opuha Water Limited
44	Meridian Energy Limited
45	Canterbury Regional Council
46	Blue Lake Investment (NZ) Limited
48	Milward Finlay Lobb Ltd
49	Rooney Group Ltd
50	Wolds Station Limited
51	New Zealand Heavy Haulage Association Inc
55	Mitch Taylor
FS5	Steve and Sue Kerr
FS6	Andrew & Rachel McGregor
FS16	Ian Morrison
FS27	Andy McNab
FS28	Guy Sutherland
FS36	Glen Dararach Trust
FS37	Raincliff Station Ltd

10. The individuals we heard from are listed in Appendix 3. Seven submitters tabled evidence but did not appear at the Hearing and they are also listed in Appendix 3.
11. Copies of all legal submissions and evidence (either pre-circulated or tabled at the Hearing) are held by the MDC. We do not separately summarise that material here, but we refer to or quote from some of it in the remainder of this Decision. We record that we considered all submissions and further submissions, regardless of whether the submitter or further submitter appeared at the Hearing.
12. We received opening legal submissions from MDC's legal counsel Michael Garbett who addressed the statutory framework, moving provisions from operative PC13 into the PC23 format; the process for identification of SASM; the scope of changes to definitions; the relationships between District Plan chapters; DOC's submission relating to the status of Section 19 of the District Plan (the post- mediation version of the EIB chapter); the PF Olsen/Port Blakely submissions relating to afforestation and the relationship of PC23 to the NESCF 2017; the activity status of Wilding Conifers and the relationship of PC23 provisions with the Canterbury Regional Pest Management Plan; and minor changes made under Clause 16 of Schedule 1 of the RMA.
13. We also received 'overview' evidence from Rachael Willox regarding the current stage of the MDPR, the PCs notified as part of Stage 3 of the MDPR and their integration with existing operative District Plan provisions. Michael McMillan gave evidence on behalf of Kati Huirapa (mana whenua) and AECL and their

involvement in the drafting of the PCs, particularly the Mana Whenua and SASM chapters that are addressed in PC24.

14. We note the tabled evidence from TRoNT signed by Hemi Bedggood<sup>7</sup> dated 2 May 2024 stated that having considered the recommendations in the Section 42A Report relating to PC25, it accepted the position of the Section 42A Report author and provided no further evidence to the Panel.

### **3. Our Approach**

15. We have decided to structure this Decision in the following manner.
16. Mr Boyes' Section 42A Report sequentially addressed the provisions in the District Plan's proposed Natural Character, Natural Features and Landscapes, and General Rural Zone chapters. For the ease of readers of this Decision, we have adopted the same approach here and mimic the headings used in the Section 42A Report.
17. The submissions received on the provisions covered by each of these headings were summarised in the Section 42A Report. We adopt those summaries, but do not repeat them here for the sake of brevity.
18. Where, having considered the submissions and the submitters' evidence and legal submissions, we nevertheless accept Mr Boyes' final recommendations, we state that we adopt his analysis and recommendations as our reasons and decisions. Where we disagree with Mr Boyes' final recommendations, we set out our own reasons based on the evidence received and state our decisions on the relevant submissions.
19. The consequence of our approach is that readers of this Decision should also avail themselves of the Section 42A Reports listed in paragraph 5 above.

#### **3.1 Statutory Framework**

20. We adopt the statutory framework assessment set out in section 6 of the Section 42A Report. We note that to be consistent with the framework described by Mr Garbett in paragraphs 4 to 14 of his opening legal submissions.

#### **3.2 Out of Scope Submissions**

21. We adopt the 'Scope Assessment' set out in section 10 of the Section 42A Report and more specifically the submitters listed in Table 4 of that Report. The consequence of that is that we decline to consider the submissions listed in Table 4 of the Section 42A Report.

#### **3.3 Uncontested Provisions**

22. Tables 1 and 2<sup>8</sup> of the Section 42A Report listed provisions within PC23 which were either not submitted on, or where submitters sought their retention. Table 1 also listed the relevant submissions. We have decided to accept the submissions listed in Table 1 of the Section 42A Report and we do not discuss them further in this Decision. Consequently, the provisions listed in Table 1 of the Section 42A Report are retained as notified (unless a clause 10(2)(b) or clause 16(2) change has been made to them).

#### **3.4 Section 32AA Assessments**

23. Where we adopt Mr Boyes' recommendations, we also adopt his s32AA assessments. For those submissions we are satisfied that Mr Boyes' recommendations are the most appropriate option for achieving the purpose of the RMA, the relevant objectives of the District Plan and for giving effect to other relevant statutory instruments.
24. Where we differ from Mr Boyes' recommendations, we are required to undertake our own s32AA assessment at a level of detail that corresponds to the scale and significance of any changes we

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<sup>7</sup> Senior Environmental Advisor – Planning.

<sup>8</sup> Outlining definitions that submitters requested be retained.

recommend to the notified District Plan provisions. In that regard we are satisfied that any such amendments are a more efficient and effective means of giving effect to the purpose and principles of the RMA and the higher order statutory instruments, for the reasons we set out in this Decision.

#### **4. NATC Introduction and Relationship with Other Chapters**

##### **4.1 Assessment**

25. Having considered the submissions received, we accept Mr Boyes' analysis and recommendations that the Introduction to the NATC chapter is retained as notified and no other changes are made to the NATC policies and rules to add references to Infrastructure.
26. Having said that, we record our finding that the approach taken to the MDPR is consistent with the NP Standards; namely the INF and REG chapters are standalone, with provisions across the remainder of the District Plan not applying to the activities addressed therein unless explicitly stated.
27. However, we note that the Section 42A Report author for PC26 has helpfully recommended the insertion of a Table into the Introduction sections of the INF and REG chapters that lists the provisions in other chapters that apply to infrastructure and renewable energy activities in addition to the INF and REG chapter provisions themselves.

##### **4.2 Decision**

28. We adopt Mr Boyes' analysis and recommendations as our reasons and decisions on the NATC Introduction.

#### **5. NATC Policies NATC-P1 and NATC-P2**

##### **5.1 Assessment**

29. Having considered the submissions received, we accept Mr Boyes' analysis and recommendations on policies NATC-P1 and NATC-P2. In particular, we concur with his advice that even though the NPSFM does not stipulate a setback from lakes, the MDC can nevertheless establish such a setback if it so wishes. We do not consider the proposed waterbody setback will make farmland unusable as was suggested by Wolds Station.

##### **5.2 Decision**

30. We adopt Mr Boyes' analysis and recommendations as our reasons and decisions on policies NATC-P1 and NATC-P2.

#### **6. NATC Rules and Standards NATC-R1 to NATC-R4, NATC-S1, Table NATC-1 and Definition of Conservation Activity**

##### **6.1 Assessment**

31. Having considered the submissions received and any evidence presented at the Hearing, we generally concur with the intent of Mr Boyes' analysis and recommendations on the "NATC Rules and Standards".
32. Regarding Mr Boyes' recommendation (in response to the submission of TLGL (9.03)) to reduce the 50m lake setback in Table NATC-1 to 25m, his answers to our written questions confirmed that the 25m setback will not impinge on the Lakes Edge Holiday Park and the wider Station Bay residential development. We are consequently satisfied with his recommendation.
33. However, we agree with Ms Tutty (CRC) that it is not obvious that all planting of indigenous species, and the removal of non-indigenous species, would meet the proposed definition of "Conservation Activity". We consider that the minor amendments she suggests<sup>9</sup> to that definition would be an improvement. In his Reply Report Mr Boyes advised<sup>10</sup> that he agreed with the inclusion of an updated definition of "conservation activity" which addressed CRC's concerns regarding the NATC provisions.

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<sup>9</sup> SOE, Rachel Tutty, Appendix 1, page 1.

<sup>10</sup> Paragraph 70.

34. We consider scope to amend the definition of 'Conservation Activity' is provided by the submissions of NZAAA, DOC, Aviation NZ and OWL. Consequently, submissions from NZAAA (2.04), DOC (7.02), Aviation NZ (19.04) and OWL (43.20) are accepted in part.

## **6.2 Decisions**

35. We adopt Mr Boyes' analysis and recommendations on "NATC Rules and Standards" as our reasons and decisions.
36. We have amended the definition of "Conservation Activity".

## **7. Definition of Riparian Margin**

### **7.1 Assessment**

37. Having considered the submissions, we consider that the concept of a riparian margin is generally well understood by both members of the public and planning practitioners. On that basis we accept Mr Boyes' analysis and recommendation to delete the definition of "Riparian Margin".

### **7.2 Decision**

38. We adopt Mr Boyes' analysis and recommendation to delete the definition of "Riparian Margin" as our reason and decision.

## **8. NATC New Rule**

### **8.1 Assessment**

39. Having considered the submission of CRC and the evidence of Ms Tutty, we accept Mr Boyes' analysis and recommendation to not insert a new NATC rule relating to the "Restoration of surface waterbodies and their margins" as sought by CRC.
40. In our view the rule proposed by Ms Tutty would have the effect of requiring all riparian restoration work that did not involve vegetation planting or removal to require a discretionary activity consent. We do not find that to be desirable. In saying that, we note Mr Boyes' advice that there are no NATC rules that would otherwise prevent vegetation planting or removal from taking place within riparian areas without the need for consent.

### **8.2 Decision**

41. We adopt Mr Boyes' analysis and recommendation as our reasons and decision to not insert a new NATC rule relating to the "Restoration of surface waterbodies and their margins".

## **9. Entire NFL Chapter, Introduction and Relationship with Other Chapters**

### **9.1 Assessment**

42. Having considered the submissions received, we accept Mr Boyes' advice on the "Entire NFL Chapter, Introduction and Relationship with Other Chapters". In particular, we agree that it is appropriate to delete the text relating to the identification of the ONF and ONL overlays as sought by Genesis.

### **9.2 Decision**

43. We adopt Mr Boyes' analysis and recommendations on the "Entire NFL Chapter, Introduction and Relationship with Other Chapters" as our reasons and decisions.

## **10. Objective NFL-O3, Policy NFL-P9 and Rules NFL-R10 and NFL-R11**

### **10.1 Assessment**

44. We note that the only new NFL chapter objective introduced by PC23 is NFL-O3.
45. Having considered the submissions received, we accept Mr Boyes' analysis and recommendation on objective NFL-O3, policy NFL-P9 and rules NFL-R10 and NFL-R11. In particular, we are satisfied that commercial forestry should be a RDIS activity within an FMA and we find that doing so will not conflict with the NESCF.

## 10.2 Decision

46. We adopt Mr Boyes' analysis and recommendation as our reasons and decisions<sup>11</sup> that objective NFL-O3, policy NFL-P9, and rules NFL-R10 and NFL-R11 are retained as notified.

## 11. NFL-P1 Protection of Outstanding Natural Features and Landscapes

### 11.1 Assessment

47. Having considered the submissions received, we accept Mr Boyes' analysis and recommendation on NFL-P1. In saying that, we note that provisions relating to the protection of biodiversity values are specifically dealt with in other parts of the District Plan (namely the EIB chapter that resulted from PC18 which now forms Section 19 of the District Plan). We find that commercial forestry can have inappropriate impacts on ONF and ONL values and so it must be managed accordingly.

### 11.2 Decision

48. We adopt Mr Boyes' analysis and recommendation as our reasoning and decision that policy NFL-P1 is retained as notified.

## 12. All Rules

### 11.1 Assessment

49. Mr Boyes recommended that no substantive changes should be made to rules NFL-R1 to NFL-R13 in relation to indigenous biodiversity. We are satisfied with his advice and in particular we agree that the EIB chapter's provisions can be relied upon to manage vegetation clearance within the Overlay areas covered by the NFL chapter. In that regard we were not persuaded by DOC's submission and Murray Brass' evidence to the contrary.

### 11.2 Decision

50. We adopt Mr Boyes' analysis and recommendation as our reasoning and decision that rules NFL-R1 to NFL-R13 are retained as notified, other than as provided for in subsequent parts of this Decision.

## 13. Wilding Conifer Provisions Policies NFL-P10, NFL-P11; Rules NFL-R6 to NFL-R8; NFL-MD2; Definitions of 'Harvest of Closed Canopy Wilding Conifers' and 'Land Rehabilitation'; and New Rules

### 13.1 Assessment

51. In addition to the advice of Mr Boyes contained in his Section 42A Reports, we also received written and verbal evidence on this matter from numerous submitters including CRC, EDS, Forest and Bird, Fed Farmers, Wolds Station and Grampians Station. It is obvious to us that the management of Wilding Conifers is a significant resource management issue in the Mackenzie District that requires careful consideration.

#### ***Definition of "Closed Canopy Wilding Conifers"***

52. We were initially attracted to the evidence of Rachel Tutty (CRC) who suggested that permitted activity rule NFL-R6 enabling the harvest of closed canopy wilding conifers should be extended to apply outside the Wilding Conifer Removal Overlay (WCRO) to allow that activity to occur anywhere in the Mackenzie Basin, provided the conifers met a definition of "closed canopy wilding conifers" that she proposed<sup>12</sup>. She considered doing so would be consistent with the Canterbury Regional Pest Management Plan provisions, because almost the entire Mackenzie District falls within the Wilding Conifer Containment Area identified in that Plan. Ms Tutty considered that relying on a static map of the WCRO risked closed canopy wilding conifers that grew elsewhere in the Mackenzie Basin over the lifetime of the District Plan not being covered by the District Plan provisions that enabled their clearance.
53. We posed questions on this matter to a number of Hearing participants, including EDS and Forest and Bird.
54. In his Reply Report Mr Boyes reiterated that the WCRO and Wilding Conifer Management Overlay (WCMO) had been developed in conjunction with CRC, the Mackenzie Basin Wilding Tree Trust and Rob Young of

<sup>11</sup> We note that the typo within NFL-R11 (reference to 900 rather than 90<sup>0</sup>) is to be corrected in the e-Plan.

<sup>12</sup> The definition was "means a stand of at least 0.5ha of wilding conifers that have a density of at least 400 trees per hectare."

Te Manahuna Consulting<sup>13</sup>. Those two overlays intentionally defined the spatial extent where rules NFL-R6 to NFL-R8 enabled the removal of Wilding Conifers and the subsequent rehabilitation of the cleared land.

55. Mr Boyes acknowledged CRC's concerns regarding the shortcomings of delineating the WCRO and WCMO for the life of the District Plan. However, he did not support CRC's relief because (as paraphrased by us):
- relying solely on CRC's definition of "closed canopy wilding conifers," which was based on the density of conifers per hectare, could result in areas of indigenous vegetation containing small emergent conifers falling within the scope of rules NFL-R6 and NFL-R7;
  - relying on a definition of "closed canopy wilding conifers" could incentivise land managers to allow wilding conifer infestation to worsen in order to enable the use of some of the more intrusive removal and rehabilitation methods provided for in NFL-R6 and R7, negating rule NFL-R8 which preferably enabled stock grazing to control emergent Wilding Conifers; and
  - removing the WCRO would render redundant the recommended new rule enabling 'mechanical discing' as a conifer removal method.
56. Importantly, Mr Boyes advised that he had discussed these matters with Ms Tutty post-Hearing, and she now agreed that the provisions recommended in the Section 42A Report that retained the WCRO and WCMO were the most appropriate means of addressing the Wilding Conifer removal issue. We were provided with copies of correspondence between Mr Boyes and Ms Tutty that verified that agreement.
57. Accordingly, we reject the CRC submission regarding their suggested definition of "closed canopy wilding conifers".

***Definitions of "Conservation Activity" and "Land Rehabilitation"***

58. Based on the submission of CRC and Ms Tutty's evidence, we previously decided in section 6 of this Decision that the definition of "Conservation Activity" should be amended.
59. We have also decided that the definition of "Land Rehabilitation" should be amended as sought by Ms Tutty. In our view enabling "land rehabilitation" by the planting and restoration of indigenous vegetation as an alternative to pasture and grazing will clearly help to achieve NFL-O1 and NFL-O2.
60. We note Mr Boyes<sup>14</sup> supported the CRC amendments to those definitions.

***Mechanical Discing***

61. We acknowledge the request of PTHL and PVHL to enable the mechanical discing of Wilding Conifers while they are 'young' (trees that are between two and eight years old) and before they reach a closed canopy state<sup>15</sup>. However, we consider that should not be enabled as of right (by way of a permitted activity rule as sought) anywhere in the Mackenzie Basin because, while a closed canopy area of conifers can be objectively identified, identifying an area of 'young' conifers is more subjective and enabling the mechanical discing of such areas could have undesirable effects within an ONL. On that basis we do not find in favour of the amendments sought by Mr Kyle.
62. Having said that, we note that in his response to our Minute 8 Mr Boyes advised that mechanical discing was nevertheless an effective way to remove young conifers that would not otherwise be removed through traditional harvesting techniques. On that basis he recommended a new permitted activity rule (NFL-RX) that would enable the use of mechanical discing solely within the WCRO.
63. We find that more targeted approach to be appropriate, subject to some wording improvements to his new rule, including that any Wilding Conifer Mechanical Discing Removal Management Plan is submitted to the MDC for certification.
64. We have made some amendments to the recommended new rule enabling mechanical discing as follows:
- amending the rule title to NFL-6A;

<sup>13</sup> The MDC's technical advisor on wilding conifers 33 years of experience in the wilding conifer programme in the Mackenzie / Waitaki area

<sup>14</sup> Reply Report paragraphs 71 to 73.

<sup>15</sup> Tabled letter from John Kyle.

- amending condition 3 because it may not be practically possible to prevent erosion of the disced land, but it should be possible to prevent any sediment runoff entering a surface water body through the use of routine sediment control practices;
- omitting what was recommended condition 4 as it would be practically difficult to reinstate the natural landform. We understand that the land in question will in all likelihood be oversown, top dressed and grazed following the discing and that will ensure that it is left free of deep furrows and such like; and
- requiring the Wilding Conifer Mechanical Discing Removal Management Plan to be subject to MDC certification because there are no provisions in the District Plan setting out what the contents of the Plan should be. Having said that, we envisage that the MDC will promulgate a guideline document setting out the required contents of the Plan. Regarding the omission of what was recommended condition 4, we observe that that matters relating to landscape reinstatement can form part of the Wilding Conifer Mechanical Discing Removal Management Plan.

65. We consider that the amended rule is a more efficient and effective means of achieving policies NFL-P10 and NFL-P11.

#### ***Matters of Discretion***

66. We accept Mr Boyes' recommended amendments to NFL-MD2.

67. We also accept the legal submissions from EDS that a further amendment to NFL-MD2(c) is appropriate to omit the reference to 'increased' stocking rates.

#### ***Section 32AA***

68. We do not consider that the above amendments require a specific s32AA analysis because the MDC's Section 32 Report contains an analysis of the benefits and costs of removing Wilding Conifers within the Mackenzie Basin ONL. We are merely making the existing provisions more enabling of the removal of Wilding conifers, consequently enhancing the benefits identified by the MDC with few if any associated additional costs.

### **13.2 Decisions**

69. We adopt Mr Boyes' recommended amendments, and the reasons for those amendments, to the wilding conifer removal provisions in the NFL chapter of the District Plan, including:

- amending the definition of 'Harvest of Closed Canopy Wilding Conifers';
- amending the definition of 'Land Rehabilitation';
- amending the defined term 'Wilding Conifer Species' to 'Wilding Conifers';
- amending NFL-P10 and NFL-P11;
- amending NFL-R6;
- inserting of a new rule NFL-R6A enabling the mechanical discing of Wilding Conifers with the WCRO, subject to the wording improvements that we outlined above;
- amending NFL-R7;
- amending NFL-MD2(a) and NFL-MD2(d), adding a new matter of discretion to NFL-MD2 (which becomes clause (g)).

70. We have amended NFL-MD2(c) as sought by EDS<sup>16</sup>.

71. These amendments are set out in Appendix 1 to this Decision.

## **14. Definition of 'Pastoral Intensification'**

### **14.1 Assessment**

72. Having considered the submissions received, we accept Mr Boyes' analysis and recommendation regarding the definition of 'Pastoral Intensification'. In particular, we find that the regulation of fencing is not required

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<sup>16</sup> On that basis EDS (20.06) is accepted in part.

on ecological grounds given the definition of mobstocking and associated provisions now included in the EIB chapter.

#### 14.2 Decision

73. We adopt Mr Boyes' analysis and recommendation as our reasoning and decision that the definition of 'Pastoral Intensification' is retained as notified, inclusive of the omission of a reference to 'subdivisional fencing'.

### 15. Rules NFL-R1 and NFL-R9 (Buildings and Structures)

#### 15.1 Assessment

74. Having considered the submissions received and any evidence presented at the Hearing, we accept Mr Boyes' analysis and recommendations regarding rules NFL-R1 and NFL-R9. We agree that NFL-R1 should be amended to clarify that it relates to 'farm' buildings and structures, because 'non-farm' buildings are managed under NFL-R9. We find that a consequential clause 10(2)(b) amendment should be made to retain the definition of 'Farm Building' from the Operative District Plan.
75. At the Hearing, Nathan Hole appearing for Rooney Group sought provisions that would enable the extension of the existing dwelling on Dry Creek Station located around 2km inland from Lochaber Road within ONL-1. In his Reply Report Mr Boyes stated that in his opinion any future addition to that residential unit was better considered by way of a consent process so that a specific design could be considered and effects on the landscape values assessed. We accept Mr Boyes' advice and do not consider the need to gain consent to be an overly onerous approach.

#### 15.2 Decision

76. We adopt Mr Boyes' analysis and recommendation as our reasoning and decision that NFL-R1 should be amended and the definition of 'Farm Building' from the Operative District Plan is retained.

### 16. Rules NFL-R5 Earthworks, NFL-R12 Quarrying Mining and NFL-R13 Landfills

#### 16.1 Assessment

77. Having considered the submissions received and any evidence presented at the Hearing, we largely accept Mr Boyes' analysis and recommendations regarding Rules NFL-R5 Earthworks, NFL-R12 Quarrying Mining and NFL-R13 Landfills. We also agree with Fed Farmers that the provision for farm quarries in the ONL is appropriate, but note that needs to be tightly managed to ensure that the character and values of the ONL are maintained.
78. We accept Mr Boyes' recommendation that farm quarries of a maximum size of 1,500m<sup>2</sup> be provided as a RDIS activity in the ONL (but not in an ONF), with matters of discretion including visual effects and that a new definition of 'Farm Quarry' be added to the District Plan as a clause 10(2)(b) amendment, based on the one used in the recent Selwyn District Plan Review.
79. Road Metals requested a new bespoke CON rule for their existing quarry to the east of Twizel located on the already disturbed area of Lot 2 Deposited Plan 487658, where quarrying had previously occurred and continues to occur under the Operative District Plan. Roads Metals' legal submissions<sup>17</sup> clarified the aerial extent of the requested rule. However, the submitter provided no evidence on why the PC23 'status quo' was inappropriate whereby a quarry in the GRUZ is RDIS under GRUZ-R17.
80. In that regard the Road Metals' original submission sought a CON on the basis that "*These new provisions will ensure effects associated with quarrying activity on this Site are managed in a more comprehensive manner than existing use rights under the permitted activity rule of the operative District Plan and provide for a rehabilitation management plan to be supplied to Council.*" We find that GRUZ-R17 already achieves that outcome and is a more appropriate approach for a quarry that could extract up to 30,000 tonnes per annum<sup>18</sup>. Nor do we find it is appropriate to exclude the provisions of the EIB and NFL chapters from Lot 2 Deposited Plan 487658 which was also sought by Road Metals.
81. We accept Mr Boyes' recommendation that the Road Metals' submission should be rejected.

<sup>17</sup> Legal Submissions for Road Metals Company Limited (Plan Change 23 – Rural), 10 May 2024, Figure 1.

<sup>18</sup> As would be enabled by the new GRUZ-R17A attached to the Road Metals' legal submissions.



82. At the Hearing Nathan Hole appearing for Rooney Group addressed the matter of stockpiling gravel extracted from a river bed on land adjacent to a river where that gravel is to be used elsewhere. Mr Hole sought an amendment to GRUZ-R17 to provide for that stockpiling. In acknowledgment of Mr Hole's evidence, we asked Mr Boyes to provide wording for a new bespoke rule to enable gravel extracted from a riverbed being temporarily stored on adjacent land (for commercial purposes) because GRUZ-R17 appeared to only address farm quarries.
83. In Reply Mr Boyes advised that in his view stockpiling associated with the commercial extraction and supply of aggregate was different from a farm quarry where the material is to be used on site and does not involve off-site transportation. He considered that should there be a need to stockpile aggregate on adjacent land as opposed to within the riverbed, then that should go through a concurrent MDC land use consent process.
84. We agree, but consider that a bespoke RDIS rule would be a preferable and more efficient approach as it would enable any potential adverse effects to be more effectively addressed whilst reducing costs for applicants. Mr Boyes provided example wording for a permitted activity rule for stockpiling and we have adapted that wording for a new rule GRUZ-17A that we set out in Appendix 1 to this Decision.
85. Importantly, to protect the areas of value to Ngāi Tahu, we have precluded the new permitted activity rule from applying in any area listed in SASM SCHED2 or SCHED3. Although it is unlikely that operators would wish to stockpile gravel in those areas, should they wish to do so they will be subject to a DIS consent process.
86. Lastly, in response to the submission of Herman Frank (6.05) Mr Boyes recommended that rule NFL-R5 be amended to preclude permitted activity earthworks within an ONF. At the Hearing Mr Frank stated that he considered his original requested relief was unduly onerous in terms of earthworks referred to in NFL-R5.1<sup>19</sup>. We understood him to be saying that those types of earthworks should remain permitted activities within an ONF. We have amended rule NFL-R5 accordingly.

## 16.2 Decision

87. Other than as outlined above, we adopt Mr Boyes' recommendations set out in paragraphs 298 to 301 of his Section 42A Report as our reasons and decisions relating to NFL-R5 and NFL-R12. We also add a new definition of 'Farm Quarry' to the District Plan as a clause 10(2)(b) amendment.
88. However, we have decided to insert a new rule GRUZ-17A relating to the stockpiling of aggregate extracted from a riverbed. The submission of Rooney Group ((49.06) is consequently accepted.

## 17. NFL Standards (NFL-S1 to NFL-S5)

### 17.1 Assessment

89. Having considered the submissions received, we largely accept Mr Boyes' analysis and recommendations regarding NFL Standards (NFL-S1 to NFL-S5). However, we agree with submitter Herman Frank that in NFL-S4 the term 'ONF' needs to be deleted as Mr Boyes has recommended that under NFL-R1 farm buildings are all NC in an ONF.

### 17.2 Decision

90. We adopt Mr Boyes' analysis and recommendation as our reasoning and decision that NFL-S1.1 is amended to increase the maximum permitted height to 5m. We have amended NFL-S4 to omit the term 'ONF'.

## 18. NFL – New Rule

### 18.1 Assessment

91. Having considered the submissions received, we accept Mr Boyes' analysis and recommendation that no new rules be added to the NFL chapter of the District Plan.

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<sup>19</sup> Earthworks undertaken for the purpose of the maintenance and repair of existing fence lines, tracks, reticulated stock water systems (including troughs).

## 18.2 Decision

92. We adopt Mr Boyes' analysis and recommendation as our reasoning and decision that no new rules be added to the NFL chapter of the District Plan.

## 19. ONF, ONL and FMA Overlay Mapping

### 19.1 Assessment

93. In response to the submissions of Herman Frank and Fraser Ross, MDC's landscape expert Yvonne Pflüger reviewed the extent of ONL 2 Two Thumb Range, ONL 3 Hunters Hill, Dalgety, Rollesby Range, ONF 3 Raincliff, ONF 4 Tengawai, and FMA Albury Range. Her assessments are contained in Appendix 6 to Mr Boyes' Section 42A Report.

94. She recommended:

- an addition to the notified extent of ONL 2 Two Thumb Range Overlay to include the limestone escarpment to the west of Point 793masl;
- a reduction to the notified extent of ONL 3 Hunter Hills, Dalgety, Rollesby Ranges Overlay;
- an addition to the notified extent of ONF 3 Raincliff Overlay to include the limestone escarpment along Opuha River;
- a new ONF 4 Tengawai Overlay to include the entire limestone escarpment along Tengawai River; and
- two additions to FMA Albury Range Overlay in vicinity of the Tengawai Gorge to include the gully systems that contain large areas of native vegetation.

95. At the Hearing we heard from a number of landowners affected by those recommendations including:

- Lisburn Farms Ltd;
- M and V Simpson;
- Simpson Family;
- Ian Morrison;
- Steve and Sue Kerr;
- Rodney Hurst;
- Glen Dararach Trust;
- Guy Sutherland; and
- Raincliff Station.

96. We acknowledge the concerns expressed by the landowners regarding potential extension of ONLs and new ONFs. However, we have a clear mandate to retain provisions in the District Plan that protect the values of ONLs and ONFs and in our view the delineation of those areas is to be primarily determined by expert assessment that has probative merit.

#### 19.1.1 ONL 2 – Two Thumb Range

97. The Section 42A Report recommended an extension of the Two Thumb Range ONL 2 Overlay area to include a limestone escarpment located immediately west of Point 793masl.

98. That recommendation was opposed by affected landowners Steve and Sue Kerr who farm Berkeley Downs. They addressed their concerns<sup>20</sup> at the Hearing and helpfully provided us with their speaking notes, but provided no expert evidence that substantiated their expressed concerns or suggested that the affected land did not contain the values that Mr Frank and Ms Pflüger said merited the area being classified as an ONL.

99. In response to submitter concerns about future regulations associated with an ONL overlay (or a SASM), we accept Mr Garbett's closing submissions that it is not correct, nor a relevant consideration, to attempt to assess what hypothetical future regulation may or may not impose on landowners. Any future regulations would need to be justified at that time in light of the statutory framework that then applies. It is not a valid

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<sup>20</sup> Their concerns focused on a lack of consultation, an erosion of private property rights and an apprehension, that having an ONL classification of their land would adversely affect their ability to borrow money from the bank, and 'fear' of future regulation stemming from the ONL.

reason to reject a SASM or an ONL overlay on the grounds that they could in the future be used as a method to force some further (unjustified) regulation.

100. On the evidence we find that the recommended extension to the Two thumb Range ONL 2 Overlay is appropriate.
101. Mr Boyes recommended a consequential change to align the SASM 58 boundary with the expanded Two Thumb Range ONL 2 Overlay boundary La2<sup>21</sup>. His rationale was that was necessary because the SASM and ONL overlays were aligned at the time of Plan notification. Furthermore, the evidence of Michael McMillan explained how SASM and ONL values co-existed and aligned<sup>22</sup>.
102. Mr Boyes' recommendation raises obvious scope issues because an expanded SASM 58 was not notified and no party had an opportunity to comment on it. Relevantly it affects private land. In Reply both Mr Garbett and Mr Boyes suggested that the PC24 submission by Wolds Station<sup>23</sup> provided scope for an expanded SASM. However, in our view that suggestion draws rather a long bow and we are not persuaded the Wolds Station's submission provides scope to expand any SASM, let alone the one associated with ONL 2.
103. We decline to accept Mr Boyes recommendation to expand SASM 58 to align with the expanded Two Thumb Range ONL 2 Overlay.
104. In that regard we differ from Mr Garbett's closing submission that "It is submitted this is a very appropriate time to ensure that the ONL and SASM boundaries on a property remain aligned if the ONL is altered to address submissions made". Instead, we consider that should the MDC wish to expand SASM 58 then it should address that by way of a further plan change process.

#### **19.1.2 ONL 3 – Hunters Hills, Dalgety, Rollesby Range – Lisburn Farm and Ranui Station**

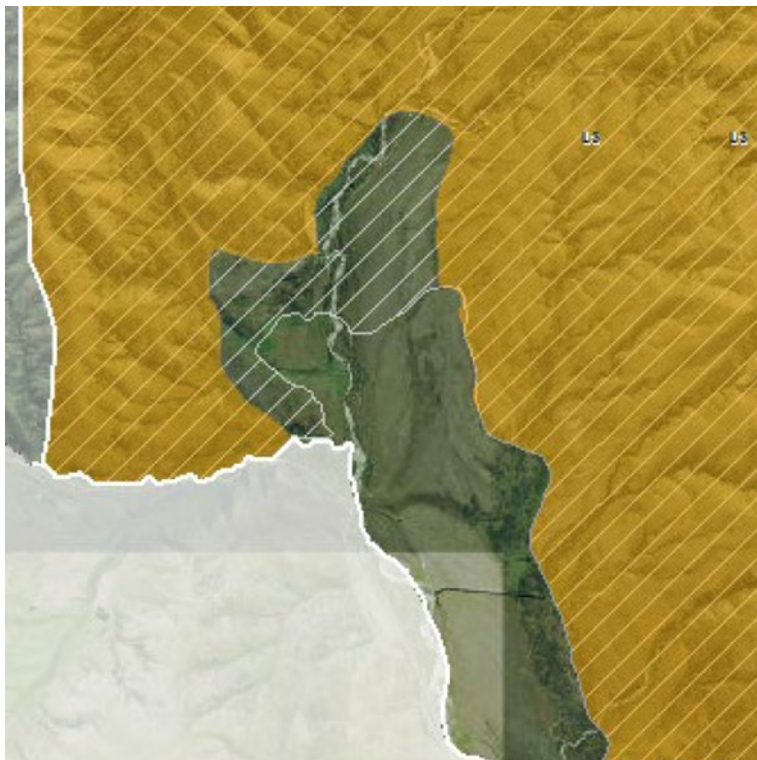
105. The only expert evidence we received in addition to that of Ms Pflüger was from landscape architect Jeremy Head relating to the Lisburn Farm submission on ONL 3 – Hunters Hills, Dalgety, Rollesby Range.
106. We found Mr Head's evidence to be considered, objective and persuasive.
107. In an Addendum dated 20 May 2024 Ms Pflüger helpfully advised that she agreed with Mr Head's assessment and recommendation that a relatively small area near Hakataramea Pass Road at the southern end of the Lisburn Farms that abuts an existing non-ONL area should be amended to be a non-ONL area. We find that doing so will maintain consistency and compatibility with the currently excluded ONL area and will continue to protect the ONL landscape values of the wider area.
108. In her 20 May 2024 Memorandum Ms Pflüger stated that in order to follow the same rationale regarding the exclusion of the flat valley floor and low-lying terraces on the western side of the Hakataramea River from ONL 3 – Hunters Hills, Dalgety, Rollesby Range, she also recommended the same approach on the eastern side of the Hakataramea River owned by M and V Simpson. The revised non-ONL Overlay boundary for ONL 3 – Hunters Hills, Dalgety, Rollesby Range for both Lisburn Farms and the Simpson Family is shown in Figure 3 of Ms Pflüger's 20 May 2024 Memorandum.
109. We have partially reproduced that figure below.
110. At the Hearing submitters M & V Simpson advised they were comfortable with the recommended FMA for the Albury Range, but did not agree with the recommended 'Hakataramea ONL 3'. They sought two amendments to that ONL Overlay:
  - the exclusion of existing farm buildings on their property on the banks of Marsack Stream near the Hakataramea confluence; and
  - basing the ONL Overlay boundary on the 900m contour, as in their view that would better reflect land use patterns and existing fencing.

<sup>21</sup> As shown in the first figure set out in Appendix 5 of the Reply Report.

<sup>22</sup> Overlay boundaries are an attempt at converting Te Ao Māori into the requirements of a district plan format.

<sup>23</sup> 17.03, 17.05. The part of the submission referred to simply reads "Amend the SASM overlays and schedules to align with ground truthed outcomes."

111. Regarding the first amendment, in her Reply Memorandum<sup>24</sup> Ms Pflüger advised that exclusion of the farm building area would constitute a very small change that would not undermine the integrity of the wider ONL. We find that area should be excluded.
112. We note that where relevant the District Plan aligns the boundaries of ONLs and SASMs. In this case the associated SASM will not need to be amended as the relevant parts of the ONL are not delineated as a SASM.



**Figure 3 of Ms Pflüger's 20 May 2024 Memorandum**

113. Regarding the second requested amendment, Ms Pflüger considered that following the 900m contour line would result in the exclusion of the valley and lower slopes that contained incised and vegetated gullies, which in her view formed an integral part of the ONL. The area below the 900m contour that would be excluded from the ONL 3 Overlay is shown in Figure 6 of Ms Pflüger's Reply Memorandum. She advised that in terms of a size comparison, an ONL Overlay that followed the 900m boundary around the Hakataramea Valley floor would be 16,758ha in total size, while a ONL Overlay where only a small area in Marsack Stream is removed would be 19,559 ha in size. That is a significant difference.
114. In the absence of any expert evidence substantiating the merits of using the 900m contour to delineate the ONL 3 Overlay, we are not persuaded that would be appropriate. In making that finding we observe that the Simpson's concerns included the need to fence the new ONL 3 Overlay boundary on their property at what they said would be great cost. We note Mr Boyes' advice<sup>25</sup> that there are no provisions in the District Plan that necessitate any such fencing and that the disturbance of land for the installation of fence posts is exempted from the definition of earthworks. The only direct control on fencing within an ONL overlay is set out in rule NFL-R4, which only applies within the Te Manahuna/Mackenzie Basin ONL.
115. Accordingly, we reject the M and V Simpson's request to base the ONL 3 Overlay on the 900m contour.
116. The ONL 3 Overlay boundary that we have decided is appropriate is shown in Figure 2 of Appendix 5 to Mr Boyes' Reply Report.

<sup>24</sup> Appendix 6 (dated 16 June 2024) to Mr Boyes' Reply Report.

<sup>25</sup> Reply Report paragraph 112.

**19.1.3 ONF 3 – Raincliff**

117. The Section 42A Report recommended an addition to ONF 3 Raincliff to include the limestone escarpment along Opuha River. This was opposed by submitters Grant Chisholm and Jud Baynes representing the Glen Darrach Trust, which we understand farms the affected land. Submitter Guy Sutherland who also farms within the proposed ONF 3 Overlay similarly opposed ONF 3.
118. We also heard from David Morgan from Raincliff Station, but at the Hearing it became evident that his property does not fall within the extent of the ONF 3 Overlay as recommended by Ms Pflüger. Mr Morgan is concerned about SASMs on his land and that matter is addressed in our Decision on PC24. For the sake of completeness, we note his presentation to us on SASM matters was ‘out of scope’ as it was not raised in his original submission.
119. Submitters Chisholm, Baynes and Sutherland all spoke at the Hearing and helpfully provided us with speaking notes. Their concerns appeared to focus on the process that led to the recommended extension of the ONL following the original submission lodged by Herman Frank. They were also concerned about future regulations that might arise for their farming operations. We addressed that ‘fear of future regulation’ matter in section 19.1.1 of this Decision and in short that is not a matter that weighs against the imposition of an ONF Overlay.
120. The submitters provided no expert evidence to substantiate their concerns or to suggest that the land in question did not have the values that led Ms Pflüger to recommend it being classified as an ONF.
121. Having said that, we note that the lower limestone outcrops at Spur Road and the outcrop that the Raincliff Station Homestead is located on will not be included in the extended ONF. Consequently, the additional areas of ONF recommended by Ms Pflüger and Mr Boyes are smaller than the relief sought in the submission from Hermann Frank.
122. We find that the recommended extension to ONF 3 Raincliff is appropriate and we record that it will pose few, if any, additional restrictions on their current farming operations.

**19.1.4 ONF 4 - Tengawai Cliff**

123. Submitter Andy McNab advised us at the Hearing that despite the contents of his original submission, he no longer had any issue with recommended Tengawai Cliff ONF 4. Submitter Ian Morrison also generally supported Mr Boyes’ recommendation regarding the extent of the proposed ONF 4 Tengawai Cliff, however, he requested the exclusion of two small “red hatched areas” on a plan that he tabled at the Hearing.
124. In her Reply Memorandum Ms Pflüger considered it was more appropriate to identify the ONF as a whole, rather than splitting it into three sections (as was effectively requested by Mr Morrison), because doing so would undermine its cohesiveness. We agree.
125. However, Ms Pflüger advised that in the eastern area where the limestone escarpment was not expressed on the surface, the recommended ONF was 50-120m wide as it included an area of grey shrubland above the Tengawai Gorge. She suggested that part of the ONF could be narrowed as the limestone feature was less legible in that area. We find that ONF 4 Tengawai Cliff should be narrowed in the eastern area of concern to Mr Morrison, as shown in Figure 7 of Ms Pflüger’s Reply Memorandum.
126. Submitters A & R McGregor who also farm part of ONF 4 Tengawai Cliff requested that it be reduced to include only the rock escarpment, excluding the farmed area on the slope below. We found their evidence on that matter to be persuasive and in her Reply Memorandum Ms Pflüger recommended that the extent of the ONF could be refined to a minimum that only incorporated the limestone escarpment and its lower legible slopes, while maintaining it as one cohesive feature. We agree.
127. The refined ONF 4 Tengawai Cliff is illustrated in Figure 11 of Ms Pflüger’s Reply Memorandum.

**19.1.5 FMA - Albury Range**

128. Submitters Ian Morrison and Andy McNab opposed the recommended additions to FMA Albury Range in vicinity of the Tengawai Gorge. Their concerns related firstly to an area of existing forestry in the north-eastern corner of Tramway Stream and secondly that much of areas S2a and S2b comprised grazed flats and the gullies only contained manuka, broadleaf and matagouri.
129. Ms Pflüger considered that the forestry area should be excluded from FMA and we find that to be appropriate. The area to be excluded is shown in Figure 8 of her Reply Memorandum.

130. Regarding the grazed flats and gullies, Ms Pflüger recommended the retention of those areas in the FMA as they connected the Albury Range with the Tengawai Gorge. In the absence of any expert evidence to the contrary we accept her recommendation.

## 19.2 Decision

131. We adopt Ms Pflüger's assessments and have decided to make:
- an addition to ONL 2 Two Thumb Range to include the limestone escarpment to the west of Point 793masl;
  - two additions to FMA Albury Range in vicinity of the Tengawai Gorge to include the gully systems that contain large areas of native vegetation, but excluding the area of forestry in shown in Figure 8 of her Reply Memorandum;
  - an addition to ONF 3 Raincliff to include the limestone escarpment along Opuha River;
  - a reduction of ONL 3 Hunter Hills, Dalgety, Rollesby Ranges as shown in shown in Figure 3 of Ms Pflüger's 20 May 2024 Memorandum and Figure 6 of Ms Pflüger's Reply Memorandum; and
  - a new ONF 4 Tengawai to include the entire limestone escarpment along Tengawai River as shown in Figure 11 of Ms Pflüger's Reply Memorandum.
132. Consequently, the submissions of Lisburn Farm (37.16), M & V Simpson (23.39), Ian Morrison (23.FS16 and FS38), Andy McNab (23.FS27), Guy Sutherland (23.FS28), and Andrew & Rachel McGregor (23.FS29 and FS30) are all accepted in part.

## 20. Farm Base Area (FBA) Mapping

### 20.1 Assessment

133. A number of submitters requested amendments to notified Farm Base Area (FBA) maps.
134. FBA are used within Te Manahuna/the Mackenzie Basin ONL to identify areas within landholdings where the rules provide for a greater scale and intensity of development. Mr Boyes advised that the spatial extent of an FBA varies between properties and does not always reflect the underlying size or use of the property. Consequently, MDC provided an opportunity for landowners to seek changes to the FBAs for inclusion in PC23.
135. Mr Boyes noted that only one response from Grampians Station met MDC's information requirements. As a result, FBA R14 was proposed to be amended through PC23 and one new FBA was created on Omahau Hill.
136. A number of submissions were received on PC23 requesting amendments to the notified FBAs. MDC's landscape expert Yvonne Pflüger assessed those submissions and this assessment is contained in Appendix 6 to Mr Boyes' Section 42A Report.
137. She recommended amendments to:
- FBA-R32a - Pukaki Flats Central as an addition to FBA R32 - Simons Pass in response to the submission of Murray Valentine from Simons Pass Station (Figure 5 of the Section 42A Report);
  - FBA-R25 Omahau Downs based on a detailed landscape report provided by submitter Neil Lyons on behalf of Farry Trustees 2014 Limited;
  - FBA-R14 Grampians Station (Figure 6 of the Section 42A Report); and
  - FBA-R16 Guide Hill based on a detailed landscape report provided by submitter Blue Lake Investments.
138. The amendments to FBA-R25 and FBA-R16 are shown in Figures 5 and 6 respectively of Ms Pflüger's assessment contained in Appendix 6 to Mr Boyes' Section 42A Report.
139. We received a Memorandum from counsel for Grampians Station dated 7 May 2024 stating that the submitter supported the mark-up<sup>26</sup> of the e-Plan Map of FBA-R14 in Mr Boyes' Section 42A Report. Accordingly, we do not discuss that submission further.

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<sup>26</sup> That mark-up included a 1.7ha area on the southern boundary and the removal of the area east of the Transpower Lines from FBA R14 under Clause 16

140. At the Hearing we heard from a number of other affected landowners including:

- Murray Valentine;
- N & C Lyons Family Trust (Omahau Downs); and
- David Tseng for Blue Lake Investments and
- John Murray from Wolds Station.

#### **20.1.1 Murray Valentine FBA-R32**

141. Murray Valentine had sought a new FBA for an area at Simons Pass Station (Pūkaki Flats Central) abutting existing FBA-R32. The new area included various farm infrastructure lawfully established by a suite of consents obtained since 2016. Mr Boyes recommended that Mr Valentine's submission be accepted. Mr Valentine attended the Hearing and advised verbally that he had nothing to add to Mr Boyes' recommendation to add FBA-32a Pukaki Flats Central to the District Plan.

142. We find that a new FBA on Simons Pass Station (Pūkaki Flats Central) should be included in the District Plan, as shown in Figure 5 of the Section 42A Report.

#### **20.1.2 N & C Lyons Family Trust – FBA-R25**

143. Counsel for N & C Lyons Family Trust provided legal submissions<sup>27</sup> advocating for extending the FBA to encompass an additional 2.13 ha of land close to the Takapō - Twizel Road boundary and that surrounds a developed site for a house that has been in existence since the 1960s. The proposed boundary would sit around the developed area of that house, while excluding the land that is in crop. Ms Pflüger had recommended against that expansion and she retained that recommendation in her Reply Memorandum.

144. However, we find that the 2.13 ha expansion should be made to the FBA-R25. In that regard we accept the submissions of counsel who noted that the 'Proposed House Extension' does not propose any physical change to the existing environment itself; it simply proposes a change in status for the subject land. Any potential adverse visual effects of the 'Proposed House Extension' therefore already exist and form part of the existing environment, with the existing house on the subject land having been in existence since the 1960s.

145. We prefer the detailed landscape assessment (Wildlab<sup>28</sup> report) that was attached to the original Lyons Family Trust submission. That assessment noted that the 2.13ha area in contention (referred to as Area 3 in the Wildlab report) already contained a building which was the original farm workers accommodation house built in the 1960s and is located at the entrance to Omahau Downs directly between State Highway 8 and the FBA in which all the farm's other dwellings are located. 'Area 3' also contains the driveway to the property. We agree with Wildlab that, in terms of the layout of the farm, it would be incongruous to retain 'Area 3' outside the FBA because there is no perceived change in landscape features, driveway design, amenity planting, and density of building and structures of 'Area 3' with the remainder of the FBA.

146. The submission of N & C Lyons Family Trust (Omahau Downs) is therefore accepted in full.

147. The amended FBA-R25 is shown in Appendix 2 to this Decision.

#### **20.1.3 Blue Lake Investments – Guide Hill Station – FBA-R16**

148. Submitter Blue Lake Investments opposed the exclusion of a small area from the FBA-R16 in the north-west corner of the wider FBA adjacent to Braemar Road. In her Reply Memorandum Ms Pflüger recommended against including that small area because the shelterbelt along Braemar Road might not be permanent. She instead suggested retaining the 2.09ha north-eastern area that she had previously recommended to be removed as it was less sensitive from a landscape and visual perspective. However, that outcome was not sought by the submitter.

149. We prefer the evidence of Mick Abbott's detailed landscape assessment<sup>29</sup> that was attached to the original Blue Lake Investments submission. The area in contention lies beside the farm entrance and driveway within what was annotated as Area 3 in Mr Abbott's landscape assessment. That site is protected from harsh winds (and in particular the nor-wester) due the extensive shelter belts that were planted with the

<sup>27</sup> Submissions of Counsel for the Trustees of the N & C Lyons Family Trust, Dated: 10 May 2024.

<sup>28</sup> Omahau Downs, Twizel Farm Base Area Proposed Changes Landscape Assessment Report, 26 January 2024.

<sup>29</sup> Guide Hill Station, Farm Base Area Proposed Changes, Landscape Assessment Report, 26 January 2024.

purpose of providing shelter for farming operational activities. The area has had an active role in the activities customarily associated with the 'home area' of a high-country station, including being where the mustering horses and wagon team were located.

150. We agree with Mr Abbott<sup>30</sup> that including all of 'Area 3' in FBA-R16 will enable the more effective use of existing farm buildings, structures (including existing power, water and roads) in a way that avoids fragmentation of built forms in the FBA. It will also avoid dividing farming operations activity across two sites.
151. We find that the entire 5.22ha north-western Area 3 sought to be added in FBA-R16 in Blue Lake Investments' original submission should be included.
152. The amended FBA-R16 is shown in Appendix 2 to this Decision.

#### **20.1.4 FBA Consenting pathway**

153. John Murray representing the Wolds Station sought the inclusion of a 'resource consent pathway' in the District Plan that would facilitate the creation of new FBAs. Mr Boyes advised that adding an FBA by way of a resource consent process was not provided for under the RMA. However, a resource consent application could be made to establish a building outside an FBA and the operative District Plan provides for that. On that basis we accept Mr Boyes' recommendation that the Wolds Station submission should be rejected.

#### **20.2 Decision**

154. We have decided to:
  - add a new FBA on Simons Pass Station (Pūkaki Flats Central) in the District Plan as shown in Figure 5 of the Section 42A Report and
  - amend the existing FBAs for Grampians Station (R14), Guide Hill (R16) and Omahau Downs (R25) as outlined above and as shown in Appendix 2 of this Decision.

### **21. Entire GRUZ Chapter, Introduction and Relationship with Other Chapters**

#### **21.1 Assessment**

155. Having considered the submissions received, we accept Mr Boyes' analysis and recommendation regarding the entire GRUZ chapter, its Introduction and its relationship with other District Plan chapters.

#### **21.2 Decision**

156. We adopt Mr Boyes' analysis and recommendation as our reasoning and decision that the GRUZ Introduction is retained as notified.

### **22. GRUZ objectives (GRUZ-O1, GRUZ-O2)**

#### **22.1 Assessment**

157. Having considered the submissions received and any evidence presented at the Hearing, we accept Mr Boyes' analysis and recommendation that GRUZ-O1 and GRUZ-O2 remain as notified, other than GRUZ-O2.4 which should be amended to include reference to other activities that have a functional or operational need to locate within the GRUZ.

#### **22.2 Decision**

158. We adopt Mr Boyes' analysis and recommendation as our reasoning and decision that GRUZ-O2.4 be amended to include reference to other activities that have a functional or operational need to locate within the GRUZ.

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<sup>30</sup> Paragraph 73.



## **23. Primary Production, Other Activities and Reverse Sensitivity (GRUZ-P1, GRUZ-P2 and GRUZ-P3)**

### **23.1 Assessment**

159. Numerous submitters addressed GRUZ-P1, GRUZ-P2 and GRUZ-P3. Mr Boyes analysed those submissions and recommended that:

- GRUZ-P1 is amended to make reference to 'supporting activities' as is used in the title;
- GRUZ-P2.1 is amended to include 'or otherwise has a functional or operational need to locate in the General Rural Zone';
- GRUZ-P2.2 is amended to also include 'and/or experiencing the natural environment'.
- GRUZ-P3 is amended to delete reference to 'non-farm development and residential activity' and 'lawfully established' primary production activities; and
- GRUZ-P3 is amended to include reference to 'regionally significant infrastructure'.

160. We accept his analysis and reasons for those amendments.

161. However, we were persuaded by the evidence of Ainsley McLeod for Transpower that GRUZ-P3 should also be amended by deleting the word 'existing' on the basis that the word is superfluous in the context of the Policy alongside the proposed definition of 'reverse sensitivity'. We also consider that the provision should apply equally to future REG activities as well as those existing at this point in time.

### **23.2 Decision**

162. We adopt Mr Boyes' analysis and recommendations as our reasoning and decisions for GRUZ-P1, GRUZ-P2 and GRUZ-P3 as outlined above.

163. However, in response to the submission and evidence of Transpower, we have amended GRUZ-P3 by deleting the word 'existing' as set out in Appendix 1 to this Decision. Consequently, the submission from Transpower (13.04) is accepted in part.

## **24. Highly Productive Land (GRUZ-P4, GRUZ-P5, Definition of HPL and Mapping of HPL)**

### **24.1 Assessment**

164. We observe that the management of highly productive land (HPL) as mandated by the NPSHPL can be controversial. We agree with Mr Boyes that GRUZ-P4 is consistent with clause 3.12(1)(b) of the NPSHPL. Having said that, we accept Ms Tutty's evidence that it is appropriate to remove the reference to LUC 1, 2, or 3 land from the District Plan's definition of HPL, as not all those classes of land may be included in the eventual CRPS maps of HPL (given the specific exceptions in the NPSHPL) which could create inter-plan consistency issues. In his Reply Report Mr Boyes supported Ms Tutty's wording as it resulted in the District Plan definition better reflecting any future changes to the mapping of HPL as determined by the CRC in accordance with the NPSHPL.

165. We have adopted Ms Tutty's proposed amendment to the definition of HPL.

### **24.2 Decision**

166. We adopt Mr Boyes' analysis and recommendation as our reasoning and decision that that GRUZ-P4, GRUZ-P5 and the mapping of HPL are retained as notified.

167. Regarding the definition of HPL, we have amended it as suggested by Ms Tutty as shown in Appendix 1 of this Decision.

## **25. Wilding Conifers (GRUZ-P7 and GRUZ-R21 and Wilding Conifers Species Definition)**

### **25.1 Assessment**

168. We addressed provisions in the NFL chapter of the District Plan relating to the control of Wilding Conifers in section 13 of this Decision. In terms of appropriate GRUZ provisions, we acknowledge CRC's desire to prohibit the planting of wilding conifer species. Particularly relevant is CRPS Policy 5.3.13:

*Avoid, or minimise as far as practicable, the risk of wilding tree spread, through the location of planting, design of planting, species selection and management, once planting has occurred*

169. GRUZ-P7(1) is consistent with the CRPS Policy as it states “*Avoiding the further planting of wilding conifer species ...*”. As is now well known from *King Salmon*, avoid means “do not allow”. Such a directive policy is most effectively given effect to by a prohibited activity.
170. The Canterbury Regional Pest Management Plan (CRPMP) defines wilding conifer species as pest species, other than Douglas Fir and Bishops Pine. We agree with Ms Tutty that it is desirable to have consistency between the CRPMP and District Plan. However, we are also mindful of the need to have regard to expert evidence. In that regard Rob Young<sup>31</sup> advised<sup>32</sup> that *Pinus muricata* (Bishops Pine) should not be included in the definitions of Wilding Conifers as it was not a high-risk spreading species. Regarding *Pseudotsuga menziesii*, (Douglas Fir), Mr Young considered that while it was a valuable timber species, it should nevertheless be included as a wilding species in the Mackenzie Basin area because it was a high-risk spreading species. Douglas Fir is one of the top five wilding conifer risk species within the Basin due to its very small and light seed and the prevalence of strong westerly winds.
171. We accept Mr Young's evidence and find that the District Plan definition of Wilding Conifers should include Douglas Fir but not include Bishops Pine. We understand that Ms Tutty subsequently confirmed her agreement with that approach. As we noted earlier, we were provided with copies of correspondence between Mr Boyes and Ms Tutty that verified that agreement
172. Turning to the GRUZ rules, we accept counsel for CRC's submission<sup>33</sup> that it is appropriate to amend GRUZ-R21 to categorise the planting of Wilding Conifers as a prohibited activity as that would be consistent with the Canterbury Regional Pest Management Plan. However, we consider it is reasonable to enable an approach whereby if an exemption for any such planting has been granted under the Biosecurity Act 1993, then a resource consent could be sought to plant those species as a non-complying activity. In that regard we are satisfied with the amended version of GRUZ-R21 agreed in post-hearing discussions between Mr Boyes and Ms Tutty<sup>34</sup>. In terms of s32AA of the RMA, we are satisfied that is an efficient and effective option, particularly in light of the policy direction in PC23 and the CRPS.
173. Turning to GRUZ-P7, we accept with the legal submissions of EDS that GRUZ-P7(2) should be qualified by adding a requirement that the land use activities that are promoted to contain or eradicate Wilding Conifers still need to have their adverse effects appropriately managed.
174. In respect to other submissions, we accept Mr Boyes' analysis and recommendations.

## 25.2 Decision

175. Our decisions are:
- Retain GRUZ-P7 as notified, other than for a qualification relating to managing adverse effects as sought by EDS;
  - Amend GRUZ-R21 to make the planting of Wilding Conifers a prohibited activity, other than where an exemption for planting them has been granted under the Biosecurity Act 1993, in which case the planting is categorised as a non-complying activity; and
  - Amend the definition of “wilding conifer species” to Wilding Conifers” and delete the reference to *Pinus muricata* (Bishops Pine).
176. Submissions EDS (20.07), OWL (43.14) and CRC (45.13) are therefore accepted in part.

## 26. Aircraft and Helicopters (GRUZ-P8, GRUZ-P9, GRUZ-R15, GRUZ-R16 and Related Definitions)

### 26.1 Assessment

177. The regulation of aircraft movements (both fixed wing and helicopter) was of interest to a number of submitters. Having considered the submissions and evidence<sup>35</sup> we consider that there is a need to balance the enabling of the operations of those aircraft while avoiding as far as practical, or minimising, the adverse

<sup>31</sup> The MDC's technical advisor on wilding conifers 33 years of experience in the wilding conifer programme in the Mackenzie / Waitaki area.

<sup>32</sup> Rob Young, Te Manahuna Consulting Ltd, 19 April 2024. Forming Appendix 7 to the Section 42A Report.

<sup>33</sup> Legal Submissions on behalf of the Canterbury Regional Council, 10 May 2024, paragraph 49.

<sup>34</sup> Reply Report, paragraphs 82 to 89.

<sup>35</sup> We heard from the NZ Agricultural Aviation Association and the NZ Helicopter Association.

effects of those movements on rural amenity, particularly in terms of noise. In our view Mr Boyes' recommendations generally achieved that balance and so we largely adopt his analysis and recommendations as our reasons and decisions.

178. In particular we find that rural airstrips and temporary helicopter landing areas do not need to be defined in the District Plan because they would be permitted activities until such time as the associated movements exceed the maximum permitted movement thresholds set out in GRUZ-R15.2 and they require a DIS consent. However, we have made a minor clarification to the wording of GRUZ-R15.2.
179. In his Reply Report Mr Boyes noted that rural airstrips are a non-commercial airfield, so if a new rural airstrip could meet the separation distances set out in GRUZ-R16.1 and 16.2 the airstrip would be a permitted activity. We accept that advice, but also acknowledge the problematic nature of GRUZ-R16.4 which refers to "non-commercial aviation activity". As pointed out by Richard Milner, helicopter movements in the District are primarily undertaken by commercial operators.
180. We have decided that to address that problem GRUZ-R16.4 should be amended to refer to airfield or helicopter landing areas that are not used on a regular basis for commercial aviation activities. We acknowledge that the term "regular basis" is subjective, but we are confident the MDC will assess such situations in a 'real world' and practical manner in light of the helicopter movements that currently occur throughout the District in support of agricultural and construction activities as described by Mr Milner.
181. We also note that in any case more than eight helicopter movements will trigger a DIS consent under GRUZ-R15. That would in all likelihood capture any site being regularly used for truly 'commercial' operations as opposed to any infrequent and temporary helicopter movements associated with agricultural or construction activities.
182. Accordingly, the submission of Aviation NZ (19.17) is accepted in part.
183. We note the evidence of Julia Crossman for OWL that aircraft movements associated with resource consent and compliance monitoring should be permitted under rule GRUZ-R15, particularly as consent and compliance monitoring is provided for as a permitted activity in the rules for Activities on Waterbodies under PC19 to the Operative District Plan<sup>36</sup>. Having said that, we acknowledge that the effects of aircraft differ to those of vessels.
184. We find that the wording "aircraft movements associated with natural and physical resource monitoring required by statutory or regulatory instruments" is more enabling than the wording suggested by Ms Crossman. We have inserted new clause GRUZ-R15.1.h accordingly.

## 26.2 Decision

185. Our decisions are:
  - introduce new definitions for "aircraft movement", "helicopter movement" and "agricultural aviation activities"
  - amend GRUZ-P8 to refer to military use;
  - amend GRUZ-R15.1.a to refer to the new defined term 'agricultural aviation activities';
  - include aircraft movements associated with natural and physical resource monitoring required by statutory or regulatory instruments in rule GRUZ-R15.1.h;
  - amend GRUZ-R15.2 to refer to eight aircraft and helicopter movements per day;
  - amend GRUZ-R16.3 to reduce the setback from any public road (including by default a State Highway) to 50m;
  - amend GRUZ-R16.4 as outlined above; and
  - amend GRUZ-R16 to make non-compliance with GRUZ-R16.4 a DIS activity.
186. These amendments are set out in Appendix 1 to this Decision.

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<sup>36</sup> Rules 7A.1.1.a, 7A.2.1.a, 7A.3.1.a, 7A.4.1.a.

## **27. All GRUZ Rules, Standards and Matters of Discretion**

### **27.1 Assessment**

187. Having considered the submissions received, we accept Mr Boyes' analysis and recommendation to make no specific amendments to the GRUZ rules, GRUZ standards and matters of discretion, other than as outlined in the remainder of this Decision.

### **27.2 Decision**

188. We adopt Mr Boyes' analysis and recommendation as our reasoning and decision that the GRUZ rules, GRUZ standards and matters of discretion, other than as outlined in the remainder of this Decision.

## **28. GRUZ-R1 'The Establishment of a New, or Expansion of an Existing Primary Production Activity Not Otherwise Listed'**

### **28.1 Assessment**

189. Having considered the submissions received, we accept Mr Boyes' analysis and recommendation to retain GRUZ-R1 as notified.

### **28.2 Decision**

190. We adopt Mr Boyes' analysis and recommendation as our reasoning and decision that the GRUZ-R1 is retained as notified.

## **29. Buildings, Structures and Relocated Buildings (GRUZ-R2, GRUZ-R3, GRUZ-R4, GRUZ-R5)**

### **29.1 Assessment**

191. Having considered the submissions received and any evidence presented at the Hearing, we find that it is desirable to make provision for workers accommodation in the GRUZ, particularly in the eastern part of the District. Having said that, we accept Mr Boyes' advice that in the Mackenzie District workers accommodation can be enabled by amending the consent status for 'Minor Residential Units'<sup>37</sup> to RDIS. This approach can be contrasted to other parts of NZ (such as Canterbury or Hawke's Bay) where there is more labour-intensive primary production occurring, such as orchards and vegetable growing.

192. We were persuaded by the evidence of Vance Hodgson for NZ Pork that an additional matter of discretion should be added to GRUZ-R3, to prevent workers' accommodation being subdivided and sold as a primary residential unit(s) if it is no longer required. Having said that, we note NZ Pork's submission can still be accepted in part as recommended by Mr Boyes.

193. We also find that the scope of GRUZ-R4 should be widened to include all buildings and structures in order to better accommodate relocated buildings.

### **29.2 Decision**

194. We adopt Mr Boyes' analysis and recommendations as our reasonings and decisions that:

- GRUZ-P2 is amended to include recognition of the provision for workers accommodation;
- the status for any activity not meeting GRUZ-R3.1 to 3.3 is amended from DIS to RDIS, with new matters of discretion added to include those set out in GRUZ-MD1 and whether the unit is required for workers accommodation; and
- GRUZ-R4 is amended so that it applies to all relocated buildings and structures; and that the phrase "*intended for use as a residential unit*" is replaced with "*used as a residential unit*".

195. We have also added an additional matter of discretion GRUZ-R3.c to prevent workers' accommodation being subdivided and sold as a primary residential unit(s) if it is longer required.

196. These amendments are set out in Appendix 1 to this Decision.

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<sup>37</sup> A NP Standard definition.

**30. Home Business, Rural Selling Place and Rural Industry (GRUZ-R6 to GRUZ-R8)****30.1 Assessment**

197. Having considered the submissions received, we accept Mr Boyes' analysis and recommendation that GRUZ-R6 is amended so that the rule standard GRUZ-S5 (the sensitive activity setback from Intensive Primary Production) applies to any permitted Home Business activity.

**30.2 Decision**

198. We adopt Mr Boyes' analysis and recommendation as our reasoning and decision that GRUZ-R6 is amended so that the Rule Standard GRUZ-S5 applies to any permitted Home Business activity.

**31. Rural Tourism, Residential Visitor Accommodation and Camping Grounds (GRUZ-R9 to GRUZ-R11)****30.1 Assessment**

199. Having considered the submissions received, we accept Mr Boyes' analysis and recommendations. In particular we agree that providing for up to 24 guests to be accommodated as sought by the Simpson Family would represent a scale of visitor accommodation that goes beyond what would typically be described as rural tourism activity. We note that GRUZ-R9 applies across the whole of the GRUZ, so whether the activity is located in an FBA (the submitter suggested that was justification for allowing a higher number of guest) is irrelevant because the underlying zoning in an FBA is GRUZ.

**30.2 Decision**

200. We adopt Mr Boyes' analysis and recommendation as our reasoning and decision that GRUZ-R9, GRUZ-R10 and GRUZ-R11 are retained as notified.

**32. Conservation Activity (GRUZ-R12)****31.1 Assessment**

201. Having considered the submissions received, we accept Mr Boyes' analysis and recommendations.

**31.2 Decision**

202. We adopt Mr Boyes' analysis and recommendation as our reasoning and decision that GRUZ-R12 is retained as notified.

**33. Commercial Forest and Woodlots and Shelterbelts (GRUZ-R13 and GRUZ-R14)****32.1 Assessment**

203. We consider that the notified provisions establishing setbacks in GRUZ-R13 that are consistent with the setbacks applying for residential activities seeking to establish in proximity to commercial forestry as set out in GRUZ-S7 are both practical and desirable in terms of District Plan consistency. In saying that we agree with Mr Boyes that the District Plan can be more stringent than the regulations in the NESCF.
204. We accept Mr Boyes' advice that the definition of 'Shelterbelt' should be amended to allow a maximum width of 30m in order to be consistent with the NESCF and that there is no need to prescribe the purpose of a shelterbelt. We also consider the definition of 'woodlot' should be consistent with the NESCF.
205. We are familiar with the Canterbury Land and Water Plan<sup>38</sup> and so we accept Mr Boyes' advice that controls on land use in 'flow sensitive catchments' are dealt with by the CRC and not the MDC. It would be inefficient to duplicate those controls in the District Plan as was sought by OWL.
206. Julia Crossman for OWL requested that Lake Opuha be referenced in condition 4 of GRUZ-R13.4 in order to protect the Timaru District Council's water supply from the effects of commercial forests and woodlots. In his Reply Report Mr Boyes observed that the Lake Opuha catchment appears to cover a very large portion of the eastern Mackenzie District, including the northern part of Ashwick Flat, the Sherwood Range, Claytons Range and Four Peak Range. Whilst higher elevations in those areas are included in either an ONL or FMA where commercial forestry is already controlled, he was concerned that the relief sought by

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<sup>38</sup> Commissioner van Voorthuysen was on the Hearing Panel for the CLWRP.

OWL would mean that anything other than small scale forestry would require consent across much of the District. We find that would be inappropriate and consequently the OWL submission is rejected accordingly.

### **32.2 Decision**

207. We adopt Mr Boyes' analysis and recommendations as our reasoning and decisions to:
- amend the definition of 'Woodlot' to remain consistent with the NESCF, by removing the reference to trees planted as a carbon sink; and
  - amend the definition of 'Shelterbelt' to be consistent with the NESCF, by increasing the maximum average width to 30m and removing restrictions on the purpose of a shelterbelt.
208. These amendments are set out in Appendix 1 to this Decision.

## **34. Quarrying Activities and Landfill (GRUZ-R17 and GRUZ-R20)**

### **33.1 Assessment**

209. Having considered the submissions received, we accept Mr Boyes' advice that having to obtain resource consent for a commercial quarry is appropriate and recognises that such quarries have a range of adverse effects which justify closer consideration by decision-makers by way of a consenting process.
210. In that regard we consider it would be inappropriate to provide for a quarry as a CON activity where a quarry is currently the subject of a resource consent process, as was sought by Road Metals for Lot 2 Deposited Plan 487658 in Twizel.

### **33.2 Decision**

211. We adopt Mr Boyes' analysis and recommendations as our reasoning and decisions that GRUZ-R17 and GRUZ-R20 are retained as notified.

## **35. Community Facilities, Intensive Primary Production and Activities Not Otherwise Listed (GRUZ-R18, GRUZ-R19 and GRUZ-R22)**

### **34.1 Assessment**

212. In relation to the submission of FENZ, we accept Mr Boyes' advice that fire stations (which are defined as community facilities) can have adverse effects in terms of structure height (hose drying), their 24-hour operation and the resulting noise and amenity disturbance. We find that community facilities should remain a RDIS activity throughout the GRUZ.
213. We agree that the activity status of intensive primary production meeting the requirements set out in GRUZ-R19.1 to R19.3 should be RDIS and that if those conditions are not met then a DIS consent should be required. We note that in his Reply Report Mr Boyes recommended amended wording for the associated matters of discretion and we find that wording to be appropriate.

### **34.2 Decision**

214. We adopt Mr Boyes' analysis and recommendations as our reasoning and decisions that GRUZ-R19 is amended to make intensive primary production a RDIS activity.
215. The resultant provisions are set out in Appendix 1 to this Decision.

## **36. Standards (GRUZ-S1 to GRUZ-S12)**

### **35.1 Assessment**

216. Having considered the submissions received and any evidence presented at the Hearing, we accept Mr Boyes' and Ms Pflüger's advice that to protect the openness and vastness of the large-scale eastern Mackenzie landscapes located outside the Fairlie Basin (identified as SCA-13), a 100ha minimum density is appropriate, with a 200ha density being appropriate within an ONL.
217. We accept Mr Boyes' advice that it is reasonable to provide for unimplemented subdivision consents issued before PC23 becomes operative so as to avoid triggering an additional land use consent requirement after the subdivision consent has been granted, noting that approach will only apply outside the Te Manahuna/

Mackenzie Basin ONL. We also find that the minimum area limits for non-compliance status should continue to apply. Those being, 10ha for GRUZ and 4ha within SCA-13.

### **35.2 Decision**

218. We adopt Mr Boyes' analysis and recommendations as our reasoning and decisions that:

- GRUZ-S1.3 and GRUZ-S1.5 are amended to include sites which are the subject of a subdivision consent granted by the MDC before Plan Change 23 becomes fully operative;
- GRUZ-S1.5.a is amended to mirror the amendment made to GRUZ-S1.3 as a clause 10(2)(b) consequential amendment; and
- GRUZ-S1.5.c is amended to refer to net site area.

219. The resultant provisions are set out in Appendix 1 to this Decision.

## **37. Matters of Discretion (GRUZ-MD1)**

### **361 Assessment**

220. Having considered the submissions received, we accept Mr Boyes' advice that GRUZ-MD1 should be amended to add a new clause (g) that refers to the functional and operational needs for the activity to establish in the GRUZ.

### **36.2 Decision**

221. We adopt Mr Boyes' analysis and recommendations as our reasoning and decision that GRUZ-MD1 is amended to add a new clause (g) that refers to the functional and operational needs for the activity to establish in the GRUZ.

## **38. New Rules (Not Otherwise Addressed Above)**

### **37.1 Assessment**

222. MoE sought the inclusion of a new permitted activity rule for education facilities in the GRUZ. MoE's tabled evidence addresses this matter stated "*Whilst the inclusion of a new rule for educational facilities, with a permitted activity status was sought, on balance the Ministry consider that in this context, being a Tier 3 local authority (with a relatively low population), a combined rule is not opposed given these activities in the General Rural are somewhat comparable in scale, effect and locality.*" However, MoE continued to request that any such rule be a permitted activity.

223. Having considered MoE's submission and tabled evidence, we accept Mr Boyes' advice that it is important for any proposed 'educational facility' (a NP Standards defined term) in the GRUZ to be assessed on a case-by-case basis to ensure the character and amenity outcomes sought for the Zone are achieved. Consequently, we find that a RDIS activity status, with the matters of discretion being the same as those for community facilities, is more appropriate than a permitted activity.

### **37.2 Decision**

224. We adopt Mr Boyes' analysis and recommendations as our reasoning and decision that GRUZ-R18 is amended to also refer to 'Educational Facilities'.

## **39. PREC3 Introduction**

### **38.1 Assessment**

225. In recognition that PREC3 applies to three distinct areas of hut settlements, we accept Mr Boyes' advice that it is not appropriate for the PREC3 Introduction to refer to the Cowan & Holmes survey plan as was sought by LAOHHS.

### **38.2 Decision**

226. We adopt Mr Boyes' analysis and recommendations as our reasoning and decision that the PREC3 Introduction remains as notified.

## **40. PREC3 Mapping**

### **39.1 Assessment**

227. Having considered the submissions and evidence presented by submitters at the Hearing, we accept Mr Boyes' advice that the enlarged areas sought to be included in PREC3 by submitter LAOHHS are actually locations where any further hut development would be inappropriate, because that further development would be contrary to the District Plan policy framework for ONLs and LPAs.

### **39.2 Decision**

228. We adopt Mr Boyes' analysis and recommendations as our reasoning and decision that the mapping of PREC3 remains as notified.

## **41. Rule (PREC3-R1) and Standards (PREC3-S1 to PREC3-S8)**

### **40.1 Assessment**

229. We note Mr Boyes' advice that the inclusion of PREC3 within PC23 was based on transferring the Hut Design Guidelines, prepared in 1999 in conjunction with the Hut owners, into a district planning framework. That was considered to be more efficient than the current process, which requires a NC resource consent application for any works given the area's location within an ONL and LPA. The inclusion of PREC3 consequently facilitated the removal of the PREC3 areas from both Te Manahuna/the Mackenzie Basin ONL and Lakeside Protection Area (LPA) Overlays.

230. We accept Mr Boyes's advice that amending PREC3-S1 to enable a doubling of the allowable size of the huts as of right as sought by submitter LAOHHS, and providing an exception for outdoor living spaces, would be inconsistent with PREC3-O1.

231. At the Hearing Glen McLachlan representing LAOHHS suggested a compromise amendment to PREC3-S1 whereby the allowable size of huts would be 90m<sup>2</sup>. He tabled an aerial photograph showing the indicative size of many of the existing huts as a basis for that suggestion.

232. In his Reply Report Mr Boyes' recommended rejecting a 90m<sup>2</sup> hut size because, notwithstanding the design and appearance standards that are in place, any increase in the scale of built form provided for in PREC3-S1 beyond a 60m<sup>2</sup> maximum could facilitate (or even encourage) the demolition of existing 'hut' structures and their replacement with larger 'bach' structures up to the new maximum allowable size.

233. Mr Boyes also noted that the PREC3 provisions not only apply to the centrally located 'Outlet' hut settlements of concern to Mr McLachlan, but also to the northern and southern huts. The 'huts' in those other two locations are typically smaller and an increase in size that applied to those locations would lead to an undesirable change to the existing character of those two small settlements. In that regard we note that some of the Northern Huts are located within the Lake Alexandrina Marginal Strip administered by DOC.

234. We prefer Mr Boyes' advice on this matter and observe that should any hut owner wish to enlarge an existing hut beyond 60m<sup>2</sup> then they can seek a DIS consent for that purpose.

235. We accept Mr Boyes' analysis and recommendations on the other submissions on these provisions.

236. We record that we have amended the headings of the standards in PREC3-R1 to align with the actual headings of the Standards as was recommended by Mr Boyes in his Reply Report.

237. For completeness, we also record that in a 24 June 2024 email to our Hearing Administrator, regarding the 'Note to Plan Users' that precedes the PREC3 rules, Mr McLachlan suggested that ownership of the two 'Reserve Settlements' were vested in the MDC by Gazette notice and they were no longer owned by the Crown (or DoC). Mr Boyes' response stated that there is various DOC administered reserve land immediately adjoining the PREC3 zoning, and some of the hut's ancillary structures, including boat sheds and jetties, appear to be within the riparian margin or on the surface of water administered by DOC. On that basis we are satisfied that the 'Note to Plan Users' is appropriate.

### **40.2 Decision**

238. We adopt Mr Boyes' analysis and recommendations as our reasoning and decisions that:



- an Advice Note is added to PREC3-R1 referring to the cadastral plan attached to the LAOHHS submission, and that the cadastral plan is incorporated into PC23 as a new PREC3-SCHED1;
- the title of PREC3-S1 is amended to read “Maximum Coverage of Buildings and Structures”;
- the reference to “Shape” is deleted from the title of PREC3-S3;
- PREC3-S6.3 is amended to include an exception for fencing provided by PREC3-S6.4;
- PREC3-S6.4 is amended to refer specifically to PREC3 boundary fencing;
- PREC3-S7 is amended to refer to a wastewater system approved by the CRC;
- that PREC3-S8 is amended to provide an exception for works within a road; and
- a clause 10(2)(b) amendment is made to the ‘Note for Plan Users’ at the commencement of the Rules section, by deleting reference ‘for consent to be obtained from the Canterbury Regional Council where necessary’.

239. The resultant provisions are set out in Appendix 1 to this Decision.

## 42. Definitions (Not Otherwise Addressed Above)

### 41.1 Assessment

240. Having considered the submissions received we accept Mr Boyes’s advice that the definitions of ‘Mining Activity’ (which is the same as the one in section 2 of the Crown Minerals Act 1991) and ‘Sensitive Activity’ (which already includes ‘Community Facilities’ which include marae) should be retained; and that reference to the NP Standards is included after the definition of ‘Wetland’.

### 41.2 Decision

241. We adopt Mr Boyes’ analysis and recommendations as our reasoning and decisions that the definitions of ‘Mining Activity’ and ‘Sensitive Activity’ remain as notified; and that reference to the NP Standards is included after the definition of ‘Wetland’.

## 43. Miscellaneous Mapping

### 42.2 Assessment

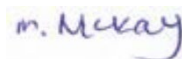
242. In response to the submission of OWL, we note that treatment of Lake Ōpūaha/Opuha on the planning maps is the same as the other lakes within the District, which are all shown as being within the GRUZ where they lie within the district boundary.

### 42.2 Decision

243. We adopt Mr Boyes’ analysis and recommendation as our reasoning and decision that (other than as amended by other decisions on PC23 to PC27) the planning maps remain as notified for Lake Ōpūaha/Opuha and that Lake Ōpūaha/Opuha remains within the GRUZ.



Rob van Voorthuysen (Chair)



Megan McKay



Andrew Willis



Ros Day- Cleavin