



Mackenzie

DISTRICT PLAN REVIEW

TOMORROW'S MACKENZIE
KA AWATEA HŌU

Section 42A Report: Plan Change 23 – Natural Character, Natural Features and Landscapes and General Rural Zone

Reply Report

Author: Nick Boyes

Date: 14 June 2024

Version 2: Final

1. Purpose and Scope of Report

1. The purpose of this Reply Report is to outline where my recommendations on PC23 have altered as a result of the questions arising from the Hearing Panel, submitter evidence or matters traversed at the hearing. It also addresses other matters arising in submitter evidence or during the course of the hearing where I consider further comment may be of benefit to the Hearing Panel. As such, other than where stated in this Reply Report, my opinions and recommendations remain as set out in the Section 42A Report¹ and in the Response to Minute 8.²
2. For the avoidance of doubt, where I do not comment further, this is not because I have not carefully considered matters raised in any evidence and in the presentations made by submitters. Rather, I am not persuaded that there is a need to alter my recommendations from that in the Section 42A report, and my reasoning has not changed from what is set out therein.

2. Format of Report

3. This report is structured following the order of the matters set out in the Hearing Panel request. For the reasons noted above, it does not however traverse all matters/topics discussed at the hearing.
4. A full set of the changes recommended to provisions are contained in **Appendices 1 to 5** of this Report, incorporating all recommendations made in the Section 42A Report, the Response to Minute 8 and in this Reply Report.

Appendix 1: Definitions

Appendix 2: NATC Chapter (No Further Changes Recommended)

Appendix 3: NFL Chapter

Appendix 4: GRUZ Chapter including PREC3 Provisions (Takamana/Lake Alexandrina Huts)

Appendix 5: Mapping Changes

5. Changes recommended in the Section 42A Report are shown by way of ~~strikeout~~ and underlining. Changes recommended in the Response to Minute 8 and in this Reply Report are shown by way of ~~red-strikeout~~ and red underlining. Changes previously recommended to be deleted but now recommended to be reinstated are shown in ~~red without underlining~~. Changes previously recommended to be added but now recommended to be deleted are shown in ~~red strikethrough with black underlining~~. Footnoted references to the relevant submitter(s), and where applicable, submitter evidence, identify the scope for each recommended change.
6. Where required, an evaluation under s32AA of the RMA is undertaken for any new recommended changes.

¹ Section 42A Report: Plan Change 23 –Natural Character, Natural Features and Landscapes, General Rural Zone, 19 April 2024.

² PC23 Section 42A Report Author’s Response to Hearings Panel Questions.

7. The assessment is supported by technical landscape advice received from Ms Yvonne Pfluger contained in the Landscape Reply Memorandum attached as **Appendix 6**.

3. Opuha Water Limited (OWL)

Existing Activity

8. In its submission, OWL expressed concern that the reference to “any existing activities” in **GRUZ-P5** is ambiguous. In particular, OWL noted it was not clear whether the policy is directed at all existing activities, or only primary production activities and activities supporting primary production.
9. Ms Crossman is concerned that without clarification, issues of interpretation regarding what is intended by “existing activities” in **GRUZ-P5** may arise. Ms Crossman seeks that Clause 3.11(2) of the NPS-HPL be replicated; and considers this would accord with the approach taken, i.e., “*by adopting definitions for relevant terms in National Environmental Standards*” (*ibid.*).
10. The Hearing Panel has asked my view of whether a definition of “existing activity” is required; and if so, whether that described in Clause 3.11(2) of the NPS-HPL would be appropriate.
11. Firstly, the reference to ‘existing activities’ in **GRUZ-P5** relates to all activities, not only primary production activities and activities supporting primary production. The latter activities are effectively encouraged by the NPS-HPL, the purpose of **GRUZ-P5** and Clause 3.11(2) is to provide for the continuation of existing activities that would otherwise represent “*inappropriate use and development*” not otherwise provided for on highly productive land by the NPS-HPL.
12. In my view a definition of existing activity is not required. The concept of existing activity/existing use rights is well established in planning terms and I do not see a need to include such a definition in the District Plan, which might otherwise frustrate the implementation of section 10 of the RMA. Existing activity is not formally defined in the NPS-HPL, rather Clause 3.11(2) includes a description of what the term means in the context of its use in Clause 3.11(1). I also note that the National Planning Standards, Definition Standard, does not include a definition of existing activity.
13. Rather than add an entirely new definition, my recommendation is that the use of the term existing activity is clarified by adding the phrase “lawfully established” prior. This effectively provides the relief sought without seeking to add a definition of a term that is already dealt with in the RMA itself.

Recommendation

14. I recommend, for the reasons given above, that **GRUZ-P5** ‘Existing Activities on Highly Productive Land’ is amended as follows:

Enable the maintenance, operation, or upgrade of any lawfully established existing activities on highly productive land.

(OWL, 43.07)

15. The recommended amendment is set out in **Appendix 4**.

16. The scale of changes does not require a s32AA evaluation because it is a minor change, and the change does not alter the general intent.

Lake Ōpuha Catchment (GRUZ-R13)

17. The submitter sought that reference to Lake Ōpuha is added to **GRUZ-R13.4**, which relates to the protection of the Timaru Urban Catchment from the effects of forestry³. This would mean all forestry greater than 2ha in any five year period within the Lake Ōpuha catchment would require resource consent.
18. It is noted that the submitter has not defined the size of the Lake Ōpuha catchment that would be impacted by the proposed amendment to **GRUZ-R13**. Notwithstanding, it would appear to cover a very large area of the Eastern District, including the northern part of Ashwick Flat, the Sherwood Range, Claytons Range and Four Peak Range. Whilst the higher elevations are included in either ONL or FMA where commercial forestry is otherwise controlled, I am concerned that the proposed change would mean that anything other than small scale forestry would require consent across much of the District remaining outside those areas.
19. The aerial photograph below illustrates the extent of existing commercial forestry within the catchment of Lake Ōpuha, this is somewhat at odds with the response provided at the hearing.

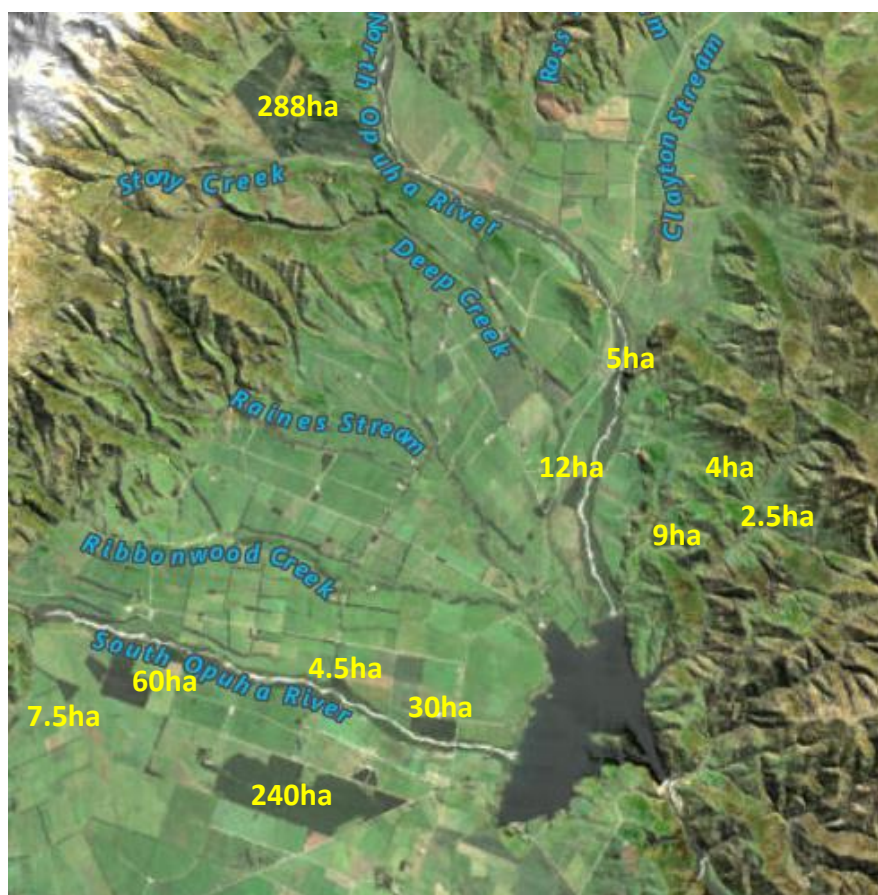


Figure 1: Existing commercial forestry in the vicinity of Lake Ōpuha located outside proposed ONL/FMA.

³ GRUZ-R13 is carried over from the Operative Plan and has not otherwise been amended.

Recommendation

20. Based on the current level of knowledge regarding the scale and extent of the catchment and therefore the implication of including Lake Ōpuha within **GRUZ-R13.4**, I recommend that this change is not made.

4. Blue Lake Investments

FBA-R16 Guide Hill Station

21. The submitter seeks to extend the recommended FBA being west of the existing driveway to the Braemar Road boundary. The FBA extension recommended in the section 42A report stopped short of extending to the Braemar Road boundary. Ms Pfluger recommended a 100m setback from Braemar Road to maintain the hummocky landform between the road and potential structures/buildings in the FBA.
22. The Hearing Panel have asked the Officers to advise whether FBA-R16 should be extended to include the small cross-hatched area next to Braemar Road in the top left-hand corner of Figure 6 in Ms Pfluger's Appendix 6 to the PC23 S42A Report; and if not, why not.
23. This matter is specifically addressed in Ms Pfluger's Reply Memo (**Appendix 6**). Ms Pfluger notes that whilst the existing shelterbelt currently provides screening of this area, she also recommends the setback shown in her Figure 6 to also allow for landform screening through the undulating terrain to the south of the shelterbelt. This is particularly so on the basis that the shelterbelt planting may not be permanent (due to maturity of trees, shelterbelt removal, windfall, etc).

Recommendation

24. No further changes are recommended to FBA-R16 Guide Hill Station from those set out in the Figure 6 of Ms Pfluger's Landscape Reply Memorandum attached as Appendix 6 to the PC23 section 42A report.

5. NZ Pork

GRUZ-R19 Matters of Discretion

25. The submitter effectively agreed with the recommendations set out in the section 42A report relating to the matters raised in the NZ Pork submissions. Some discussion at the hearing focussed on the further amendments recommended in response to the Panel questions set out in Minute 8. These related to whether the matters of discretion should be restricted to only sensitive activities; and the purpose of matter (d) relating to wastewater treatment systems.
26. The Panel has suggested that matter of discretion (d) should refer to the location of effluent system and any resultant impact on odour (not visual amenity).
27. I have subsequently reviewed the further evidence submitted by Mr Vance Hodgson (dated 27 May 2024). I agree with the amended wording set out therein to make it clear that matter of

discretion (d) relates specifically to the location and design of any wastewater treatment to manage odour related effects.

28. The second matter the Hearing Panel sought a response to was whether the matters of discretion should apply only to sensitive activities. In my view this is somewhat inherent in the fact that Intensive Primary Production activity retains an RDIS activity status where (emphasis added):

All paddocks, hard-stand areas, structures and/or buildings used to house stock, and wastewater treatment systems associated with intensive primary production, shall be located a minimum distance of 300m from the notional boundary of any lawfully established existing sensitive activity on another site, and 1km from any residential zone.

29. In discussing this at the hearing, Mr Hodgson stated his view that the concerns around intensive primary production are limited to sensitive activities. This is not my experience and there are examples within the Selwyn District where resource consents relating to effects on vacant rural land and adjoining primary production (which may or may not include a residential unit) have been appealed to the Environment Court. The Decisions on two such resource consent appeals are attached as **Appendix 7**.
30. I am concerned that making the matters of discretion apply to only sensitive activities would mean that adverse effects on other primary production activities and vacant rural land would be beyond the scope of the Council's consideration. **GRUZ-P1** is enabling of primary production and supporting activities and seeks to maintain the character and amenity of the rural zone "by managing the adverse effects from intensive primary production to minimise effects on the surrounding area". In that context I consider that the matters of discretion as notified in PC23 are more effect at implementing this policy than limiting them to only sensitive activities.

Recommendation

31. I recommend, for the reasons given above, that **GRUZ -R19 Matter of Discretion (d)** is amended as follows:
- d. ~~Any adverse visual effects resulting from~~ The location, and design ~~and appearance~~ of the wastewater treatment system to manage odour related effects.
(NZ Pork, 26.27)
32. The recommended amendment is set out in **Appendix 4**.
33. The scale of changes does not require a s32AA evaluation because it is a minor change, and the change does not alter the general intent.

6. Lake Alexandrina Hut Holders Society

PREC3-S1 Maximum Coverage of Buildings and Structures

34. The submitter considers that the use of the term 'Building footprint' would better align with the term as used elsewhere in the District Plan definitions. Building footprint refers to the control of the maximum size of any single building located on a site. Building coverage refers to the

maximum coverage of all buildings (calculated cumulatively) located on a site. The Lake Alexandrina Hut Management Guidelines are clear that the 60m² requirement is a “*maximum coverage for buildings per site...with the exception of car ports and sun decks that remain unrestricted*”. On that basis I do not agree with the submitter’s statement that “*...the more appropriate term would be ‘building footprint’, as this is clear and what the guidelines intended control was*”.

35. On that basis I recommend that the wording remain as set out in the section 42A report, as this reflects the control described in the 1999 Management Guidelines.
36. Furthermore, the submitter seeks that the maximum 60m² requirement (excluding car ports and decks) is increased to 90m² (the submitter was previously seeking this be increased to 120m²). The Panel has sought that specific consideration be given to the 90m² and noting whether the guidelines/lease are superseded by the proposed District Plan provisions.
37. My understanding is that the underlying land is managed by the Mackenzie District Council but owned by the Crown as Department of Conservation Reserve. This partly explains the Note to Plan Users stating: “*It is noted that a Department of Conservation approval will also be required for building work on Crown Reserve Land administered by that department*”. That wording is taken directly from the existing 1999 Management Guidelines. I have been advised by Council staff that the Lease Conditions under which the Mackenzie District Council manages these centrally located ‘Outlet Huts’ are such that no new sites can be created, but that the building size is at the discretion of the Mackenzie District Council.
38. The introduction of the PREC3 provisions in PC23 has been undertaken on the basis that these new provisions would:
 - a) Not conflict with the existing lease; and
 - b) Otherwise place the 1999 Management Guidelines into a statutory context to better guide RMA decision-making. In that way they do not necessarily supersede the 1999 Guidelines, but allow the matters set out therein to be formally considered through the RMA decision making process. However, should it be that the PREC3 provisions differ in any way from the Guidelines, then the District Plan provisions would take precedence when considering future resource consent applications.
39. In that way the purpose of introducing the PREC3 provisions was not to provide for any increase in built form beyond that anticipated under the 1999 Management Guidelines. I am concerned that any increase in the scale of built form provided for in **PREC3-S1** beyond the 60m² maximum will facilitate (or even encourage) the demolition of existing ‘hut’ structures and their replacement with larger ‘bach’ structures up to the maximum size allowable. Whilst design and appearance provisions are in place, the modernisation and increased scale of built form would no doubt lead to a fundamental change in the character of the of the hut settlements should that occur. Whilst the reduction in the relief sought by the submitter to a 90m² building footprint somewhat mitigates this concern, I am of the view that there should be no increase in the standard from that previously agreed and included in the management guidelines.

40. It should also be noted that the PREC3 provisions not only apply to the centrally located ‘Outlet’ hut settlements, but also to the northern and southern huts. The ‘huts’ in these locations are typically smaller and an increase in size applying to those locations would lead to a greater change to the existing character of those settlements.
41. The township of Lake Takapō is located relatively close by and provides an alternative free hold tenure housing option should current occupiers seek larger more modern accommodation without the same restrictions that apply to these hut settlements.

Recommendation

42. No changes are recommended to the PREC3 provisions from those set out in the section 42A report.

7. Rooney Earthmoving

Extension to existing residential units in the ONL

43. One matter raised by Mr Hole at the hearing related to this issue requires clarification. The criteria for identifying ONL was never to specifically exclude either existing residential units or farm buildings and other infrastructure. The existing pattern of development in the Tarahaoa Range, Two Thumb Range, Hunter Hills, Dalgety Range and Rollesby Range is such that residential units and other farm infrastructure are generally located within the valleys at elevations lower than has been identified as ONL through the Eastern Mackenzie Landscape Study. The ONL boundaries were not “*defined to avoid capturing any existing dwellings*”⁴.
44. Once informed by Mr Hole that a residential unit on Dry Creek Station was located within the ONL, no advice was given by Council staff that the ONL boundary would be changed to remove it.
45. The Hearing Panel has asked that Officers consider options for **GRUZ-S3 and S4** applying to extensions to this existing dwelling as at a certain date. It is noted that application of these standards would allow the existing dwelling to be increased in size to a maximum building coverage of 500m² and up to a maximum of 9m in height above natural ground level. Any non-compliance with these standards would result in a restricted discretionary activity status.
46. Any such rule would have to be an exception to **NFL-R9**, as set out below:

NFL-R9	Non-Farm Buildings including Residential Units	
ONF ONL excluding Te Manahuna / Mackenzie Basin ONL	Activity Status: DIS PER Where: 1. <u>The activity is the extension of the residential unit on Dry Creek Station located at 1663 Lochaber Road existing as at [the date Plan Change 23 becomes operative].</u>	<u>Activity status when compliance is not achieved with R9.1: DIS</u> <u>Activity status when compliance with standard(s) is not achieved: Refer to relevant standard(s).</u>

⁴ Nathan Hole on behalf of Rooney Group Ltd, PC23 hearing speaking notes, paragraph 4.

	<p><u>And the activity complies with the following standards:</u></p> <p><u>GRUZ-S3 Building Coverage</u></p> <p><u>GRUZ-S4 Height</u></p>	
--	---	--

47. There is a significant difference between the ONL and GRUZ height and building coverage standards. On that basis there is a risk of adverse effects if the increased GRUZ height and coverage standards were applied. In my view any future addition to this residential unit is better considered via a consenting process where a specific design can be considered and effects on the landscape values assessed. As set out in the section 42A report, no such rules applies to the current Mackenzie Basin ONL and I do not recommend that such a rule is included for the ONL within the Eastern Mackenzie.
48. Mr Hole states that “any lawfully established dwelling should at the very least be recognised at the policy level...”. The recommended policy framework does not recognise existing activities not otherwise permitted by PC23. As referred to above, existing use rights are dealt with specifically within the RMA itself, and therefore do not need to be addressed by a district plan. Therefore, I do not recommend any changes to the policy framework in this regard.

Recommendation

49. No changes are recommended to the NFL policies or **NFL-R9** to recognise or provide for the extension of this existing dwelling on Dry Creek Station.

Stockpiling of Aggregate Extracted from Adjacent Riverbeds

50. The Hearing Panel have requested Officers provide wording for either an amended **GRUZ-R17**, or preferably (as **GRUZ-R17** appears to address farm quarries), a new bespoke rule to enable gravel extracted from a riverbed being temporarily stored on adjacent land (for commercial purposes).
51. The rules set out in the Natural Character (NATC) Chapter currently manage listed activities within the riparian margins of surface waterbodies. In my view any such rule should not override the requirements otherwise set out therein. On that basis any such stockpiles would be required to be setback at least 20m from any river listed in **NATC-SCHED1** and 15m for any other river not listed therein.
52. Possibly wording of any such rule could be as follows:

<u>GRUZ-RXX</u>	<u>Stockpiling of Aggregate</u>	
<u>GRUZ</u>	<p><u>Activity Status: PER</u></p> <p><u>Where:</u></p> <p>1. <u>The aggregate to be stockpiled is extracted from an adjacent riverbed not more 500m from the stockpile location.</u></p>	<p><u>Activity status when compliance is not achieved with RXX.1 to RXX.5: RDIS</u></p> <p><u>Matters of discretion are restricted to:</u></p>

	<p>2. <u>The area of the stockpile does not exceed 2,000m².</u></p> <p>3. <u>The height of the stockpile is no greater than 9m above natural ground level.</u></p> <p>4. <u>The stockpile is located no closer than 200m from a site boundary; and 500m from a sensitive activity located on another site, any Residential Zone, Rural Lifestyle Zone, or Open Space and Recreation Zone.</u></p> <p>5. <u>The stockpile is removed within 3 months of the associated aggregate extraction ceasing.</u></p> <p><u><i>Advice Note: stockpiling activity must also comply with the rules set out in the NATC Chapter.</i></u></p>	<p>a. <u>The scale and duration of the stockpiling operation.</u></p> <p>b. <u>Effects on amenity values during the establishment, operation and rehabilitation of the site.</u></p> <p>c. <u>The visual and dust effects arising from the movement of aggregate material and the stockpile itself.</u></p> <p>d. <u>The safety and efficiency of the surrounding roading and other infrastructure.</u></p> <p>e. <u>The preparation of a Quarry Management Plan, including the site rehabilitation proposal (methods, end use and final landform).</u></p> <p>f. <u>The adequacy of any mitigation measures.</u></p>
--	--	---

Recommendation

53. I do not recommend that such a rule is included in the District Plan, as the extraction of aggregate from the adjacent riverbed will require a resource consent from Environment Canterbury. Stockpiling associated with the commercial extraction and supply of aggregate is different from a farm quarry where the material is to be used on site and does not involve off-site transportation. Should there be a need to stockpile aggregate on adjacent land as opposed to within the riverbed, then in my view that should go through a concurrent land use consent process with Mackenzie District Council to allow a proper and integrated effects consideration, including remediation and the possibility of a bond or other compliance conditions.

8. NZ Agricultural Aviation Association/Aviation NZ on behalf of the NZ Helicopter Association

Rural Airstrips

54. The submitters sought the inclusion of a definition of 'rural airstrip'. This was recommended to be rejected in the section 42A report on the basis that there was no corresponding rule or standard that uses this term included as part of PC23 (and noting that no such rule was sought by the submitters).
55. The Hearing Panel have asked that consideration be given to the definition of rural airstrips being included (and whether if so, this makes such activity no longer permitted, which seems not intended).
56. As was discussed by the Panel with the submitter at the hearing, I am also of the view that the inclusion of this definition would have the unintended consequence of making 'rural airstrips' a discretionary activity pursuant to **GRUZ-R22** 'Activities Not Otherwise Listed'.

57. Under the recommended rule framework rural airstrips are a non-commercial airfield, and on the basis any new rural airstrip can meet the separation distances set out in **GRUZ-R16.1** and **16.2** is a permitted activity. If the setbacks cannot be met then the rural airstrip would be a restricted discretionary activity, with dedicated commercial airfields and heliports being discretionary.

Recommendation

58. No changes are recommended to the proposed PC23 provisions set out in the section 42A report.

Temporary Helicopter Activities

59. The Hearing Panel has requested that Officers evaluate the provisions in the Selwyn District Plan controlling aircraft and helicopter movements referred to by the submitters and advise whether or not they would be appropriate in the MDP.
60. Having reviewed the submitters statement, it is understood that this relates to the possible recognition of the taking off and landing of aircraft completing operations of not more than five consecutive days in a rolling six-month period as a permitted 'temporary activity'. The statement includes that this same approach has recently been agreed with the Selwyn District Council at mediation in order to resolve Aviation NZ's Appeal on SDC's decisions on submissions to their Proposed District Plan.
61. I have attached the Consent Order relating to that Appeal as **Appendix 8**. This provided that an additional explanatory note was added to the applicable rule, being the equivalent to **GRUZ-R16** included in PC23. Part of this note refers to movements being permitted by other provisions in the Plan, including the Temporary Activity provisions. I have reviewed both TEMP-R1 and TEMP-R7 included in the Partially Operative Selwyn District Plan.
62. TEMP-R1 permits 'temporary activities' on the basis they:
- a) Shall not exceed a duration of five consecutive days on any site. This timeframe excludes site preparation and restoration, which shall not occur for more than five consecutive days, prior to or following a temporary activity; and
 - b) No more than twelve temporary activities shall occur on a site within any calendar year.
63. TEMP-R7 relates specifically to 'Aircraft and Helicopter Movements', and permits such movements relating to:
- a) emergency work;
 - b) military or law enforcement work; or
 - c) conservation activities.
64. It is noted that aircraft and helicopter movements related to the aviation activities listed above are already provided for by way of **GRUZ-R15**.
65. Temporary activities are being considered as part of Stage 4 of the Mackenzie District Plan Review. This will provide the submitter a further opportunity to seek the inclusion of temporary

activity rules. Notwithstanding, the rules included in PC23 are considered to provide a comprehensive package to manage aircraft and helicopter movements (**GRUZ-R15**) and airfields and helicopter landing areas (**GRUZ-R16**).

66. The submitters position appears to be based on misinterpretation of how the provisions are to be applied. This is best summed up by the comments in evidence that:

“We seek the temporary aspect of helicopter operations to conduct commercial aviation in the types of operations listed in Section 1.3 of this document”.

“Equally, Item 4 also states non-commercial, so as this was a hired helicopter, it couldn’t be done”.

67. From my review of the activities listed in Section 1.3, the majority fall within the activities listed in **GRUZ-R15.1 a. to g.** and are therefore permitted. Similarly, the example of flight movements associated with establishing two tanks set out in section 2.9 would be permitted on the basis the tanks are required to support rural production. The Council is well aware that the majority of movements undertaken in accordance with **GRUZ-R15.1 a. to g.** will be undertaken by commercial operators, and this is provided for. The reference to ‘commercial’ aviation activity in **GRUZ-R16** merely seeks to differentiate dedicated commercial airfields or heliports from ad hoc flights made to various locations as and when required.

Recommendation

68. No changes are recommended to the proposed PC23 provisions set out in the section 42A report.

9. Environment Canterbury

69. The Hearing Panel has requested discussions with Ms Tutty to advise if the definition of closed canopy wilding conifers recommended by CRC was adopted and incorporated into **NFL-R6**, whether there would be any utility in retaining the Wilding Conifer Removal Overlay (WCRO). Furthermore, to clarify who is meant by “Chief Technical Officers” in Ms Tutty’s recommended amendment to **GRUZ-R21**.

Definition of Conservation Activity and Land Rehabilitation

70. The evidence of Ms Tutty suggested amendments to the definition of ‘conservation activity’ and ‘land rehabilitation’. I agree with those changes and the inclusion of the updated definition of conservation activity addresses the CRC’s concern raised regarding the NATC provisions.

Recommendation

71. I recommend, for the reasons given above, that the definition of ‘**conservation activity**’ and ‘**land rehabilitation**’ are amended as follows:

Conservation Activity - means the use of land for any activity undertaken for the purposes of the preservation, ~~and~~ protection and restoration of natural and historic resources for the purpose of maintaining or enhancing their intrinsic values, providing for

their appreciation and recreational enjoyment by the public, and safeguarding the options of future generations.

Land Rehabilitation – means the rehabilitation of land following ~~harvest~~ the removal of closed canopy wilding conifers through restoration of pasture or indigenous vegetation through means including cultivation, root raking, direct drilling, planting, fencing, topdressing and oversowing.

(CRC, 45.03, 45.07)

72. The recommended amendments are set out in **Appendix 1**.
73. The scale of changes does not require a s32AA evaluation because it is a minor change, and the change does not alter the general intent.

Definition of Closed Canopy Wilding Conifers and Removal Overlay

74. The inclusion of the both the Wilding Conifer Removal Overlay (WCRO) and Wilding Conifer Management Overlay (WCMO) defined the spatial extent of the areas in which the proposed new rules seeking to remove, rehabilitate and manage wilding conifers would apply. Initial consultation with EDS identified this as a key requirement for the application of any such rules.
75. The Overlay areas were developed in conjunction with ECan, the Mackenzie Basin Wilding Tree Trust and Rob Young of Te Manahuna Consulting (the latter being the technical adviser to the MDC).
76. The evidence presented by Ms Tutty identifies a shortcoming in the use of the WCRO should areas currently identified as WCMO deteriorate to the stage they need to be re-classified as WCRO sometime in the future. This is acknowledged, and the section 42A report refers to the fact that the only way these overlays can be updated moving forward is by way of a further plan change. To overcome this shortcoming Ms Tutty proposes the introduction of a definition of **'closed canopy wilding conifers'**:

means a stand of at least 0.5ha of wilding conifers that have a density of at least 400 trees per hectare.

77. It is understood that this definition comes from The New Zealand Wilding Conifer Strategy 2015-2030.
78. I have a number of concerns with this approach:
 - a) The proposed definition deals only with density, and not the size/height of the wilding conifer. Closed canopy was chosen to describe a wilding conifer at a high density that had reached a more mature state; meaning that other vegetation (particularly indigenous) had effectively been out competed and was no longer likely to be present. In that way the subsequent removal of the wilding conifers was unlikely to impact on indigenous biodiversity values.
 - b) Relying solely on density could mean that areas affected by small emergent trees within the WCMO could still fall within the closed canopy definition and enable the use of the removal

methods and rehabilitation set out in Rules **NFL-R6 and R7**. Given the extent of indigenous vegetation still likely to be present in such situations, the use of such mechanisms is unlikely to be appropriate to protect indigenous biodiversity.

- c) Introduction of the proposed definition would potentially incentivise land managers to allow the wilding issue to get worse in order to have the ability to utilise the more intrusive removal and rehabilitation methods provided for in **NFL-R6 and R7**. This would be an unintended consequence and mean that the intention of the proposed rules to use stock grazing to control emergent wildings would not be as effective.
- d) Any subsequent removal of the WCRO would render the new rule recommended in the report in response to Minute 8 relating to Mechanical Discing largely redundant. For the reasons outlined above, I do not recommend the use of mechanical discing in all areas that meet the proposed definition of closed canopy. This should be restricted to the WCRO only.

- 79. These matters have been discussed with Ms Tutty and she agrees that the provisions as recommended in the section 42A report, being with both the WCRO and WCMO remaining in place, are the most appropriate.
- 80. In terms of any future changes, the MDC is committed to being responsive to the requirement to undertake future plan changes to the boundaries of the WCRO and WCMO should that be required in order to better achieve the objectives and policies set out in PC23 and the higher order planning documents.

Recommendation

- 81. No changes are recommended to the proposed PC23 provisions set out in the section 42A report.

GRUZ-R21 Planting of Wilding Conifers

- 82. CRC seek to amend this provision so as to prohibit the planting of pest species identified in the Canterbury Regional Pest Management Plan (CRPMP).
- 83. This was not recommended in the section 42A report due to the potential for wilding conifers to be planted for legitimate scientific and research purposes. A prohibited activity status would prevent such planting.
- 84. The evidence of Ms Tutty provided a drafting solution that made it clear that wildings required to be planted for such purposes, and where an exemption has been granted in accordance with the Biosecurity Act 1993, would retain a non-complying activity status. In all other situations the planting of any wilding conifer species would be prohibited.
- 85. I agree this drafting solution provides the appropriate planning framework to manage wilding conifers.
- 86. In terms of who is meant by “Chief Technical Officers” in Ms Tutty’s recommended wording, we have subsequently discussed this provision and recommend to the Hearing Panel that the

wording be amended slightly to remove this reference and simply rely on the exemption being issued under the Biosecurity Act 1993.

Recommendation

87. I recommend, for the reasons given above, that **GRUZ-R21** is amended in response to CRC submission (45.13) as follows:

GRUZ-R21	Planting of any Wilding Conifer Species	
GRUZ	<p>Activity Status: NC</p> <p>Where:</p> <p><u>1. The planting is for a scientific or research purpose and has been exempted under the Biosecurity Act 1993.</u></p>	<p><u>Activity status when compliance is not achieved with R21.1: PR</u></p>

88. The recommended amendment is set out in **Appendix 4**.

89. The scale of changes does not require a s32AA evaluation because it is a minor change, and the change does not alter the general intent.

Definition of Highly Productive Land

90. Ms Tutty recommends that the reference to Class 1, 2 and 3 land under the Land Use Capability be removed from the definition of Highly Productive Land. I agree with that change as it ensures that the MDP definition better reflects any future changes to the mapping of HPL as determined by the CRC in accordance with the NPS-HPL.

Recommendation

91. I recommend, for the reasons given above, that the definition of ‘**Highly Productive Land**’ is amended as follows:

means highly productive land ~~classified as Land Use Capability classes 1, 2, or 3~~ as determined in accordance with the National Policy Statement for Highly Productive Land 2022.

(Helios Energy, 8.04; NZ Pork, 26.01)

92. The recommended amendment is set out in **Appendix 1**.

93. The scale of changes does not require a s32AA evaluation because it is a minor change, and the change does not alter the general intent.

10. Neil Lyons

FBA-R25 Omahau Downs

94. The submitter seeks to extend the recommended FBA to incorporate an existing dwelling being less than 100m from the State Highway 8 boundary. Ms Pfluger assessed the proposed change but did not recommend that this dwelling be included in an amended FBA.

95. The Hearing Panel have asked the Officers to advise whether FBA-R25 should be extended to include the small cross-hatched area next to the Tekapo-Twizel Road in Figure 5 in Ms Pfluger's Appendix 6 to the PC23 S42A Report; and if not, why not.
96. This matter is specifically addressed in Ms Pfluger's Landscape Reply Memorandum (**Appendix 6**). Ms Pfluger considers this area is sensitive to passing views from the highway. She is concerned that if multiple buildings were to be erected in this area, the rural character is likely to change. The area currently forms the rural entrance area to Twizel. In Ms Pfluger's view the recommended FBA included in the section 42A report represents a more compact node without the visual effects of sprawling development in vicinity of the State Highway 8.

Recommendation

97. No further changes are recommended to FBA-R25 Omahau Downs from those set out in the Figure 5 of Ms Pfluger's Landscape Reply Memorandum attached as Appendix 6 to the PC23 section 42A report.

11. EDS/Forest & Bird

NFL-R8 Activity Status and Notification

98. The Hearing Panel has requested a reply as to whether **NFL-R8** should be RDIS in response to matters raised by EDS and Forest & Bird. Furthermore, whether **NFL-R8** as an RDIS should include a non-notification provision (either full non-notification or no public notification but limited notified to key management agencies / interest groups).
99. The suite of wilding conifer provisions have been promulgated to address a key resource management issue facing the Mackenzie District, primarily restricted to Te Manahuna/ Mackenzie Basin ONL. **NFL-R8** in particular is designed to provide a less onerous regulatory framework for oversowing and topdressing (OSTD) when used to facilitate stock grazing to address a demonstrated emergent wildings issue on the land in question. This was done in response to the current provisions being identified as a barrier to the effective control of wilding conifers. Land managers have identified the costs involved and lack of certainty of outcome as key reasons to not wish to go through a consent process.
100. It is in that context that I consider any change from CON to an RDIS activity status would have a detrimental impact on the uptake of the opportunity to utilise stock grazing to control wilding conifers.
101. The obvious implication of an RDIS activity status is the ability to decline consent. This would only be required in the circumstance where resource consent was sought to undertake OSTD in an area where it is not required to control wildings; or where the rate of OSTD is greater than required to address the wilding conifer issue.
102. However, these matters are already addressed by firstly, limiting the use of **NFL-R8** to the WCRO and WCMO as identified on the planning maps, and secondly by the Matters of Control – namely **NFL-MD2.c.**, which sets out that the *“frequency and rate of direct drilling, topdressing and oversowing required to support an increased stocking rate sufficient to remove emergent*

wilding conifer seedlings in the short to medium term whilst retaining landscape and ecological values”.

103. If the rate or frequency of OSTD being sought is too great, then conditions can ensure that this is reduced to the appropriate level to most efficiently and effectively achieve the objectives and policies of the MDP, including those in relation to indigenous biodiversity.
104. It is only if the use of Overlays and the matters of control are considered to be inadequate that a change to an RDIS status would be appropriate. In my view any change to RDIS must be accompanied by the introduction of a non-notification clause. Otherwise the issues of costs and uncertainty set out above will mean **NFL-R8** is unlikely to contribute to meeting the objectives set out in **NFL-O1 and O2**. In my view a lack of trust in the Council’s ability to properly implement the district plan (as stated by submitters) is not a reason to amend the provisions.

Recommendation

105. No changes are recommended to the proposed PC23 provisions set out in the section 42A report.

12. The Wolds

Oversowing & Topdressing

106. The Hearing Panel have asked that Mr Murray’s 12-page tabled document be reviewed and advise whether or not anything therein has led to amended officer recommendations, particularly to how OSTD is managed.
107. The Wold’s Station is located within Te Manahuna/Mackenzie Basin. The rules relating to OSTD applying were introduced through PC13 and aside from **NFL-R8**, are not proposed to be changed via PC23. Furthermore, there are no specific controls relating to OSTD proposed for the Eastern Mackenzie, including in the new areas identified as either ONL, ONF or FMA.

Recommendation

108. Having reviewed Mr Murray’s statement, no further changes are recommended to the proposed PC23 provisions set out in the section 42A report.

13. M & V Simpson

ONL Boundary

109. The Hearing Panel have asked that the following information be provided:
 - a) A map of the proposed ONL boundary and a 900m line on Ranui Station.
 - b) The respective areas (ha) of Ms Pfluger’s recommended ONL3 and a revised ONL3 based on the 900m line.
 - c) Is there a requirement to fence the boundary of an ONL?

d) Provide us with ONL maps (as recommended by Ms Pfluger and also based on the 900m line) that exclude the remaining farm buildings and sheepyards near Marsack Stream of concern to M and V Simpson.

110. A map showing the recommended ONL boundary⁵ as well as the 900m contour line is attached part of Ms Pfluger’s Reply Memo (**Appendix 6**).

111. The respective areas are set out in the following Table:

	ONL3 (s42A Reply)	ONL3 (900m contour)
Area(ha):	19,559	16,758

112. There is no requirement to fence an ONL boundary. Furthermore, the disturbance of land for the installation of fence posts is exempted from the definition of earthworks. The only direct control on fencing within ONL is set out in **NFL-R4**, which only applies within Te Manahuna/Mackenzie Basin ONL. Fencing does however have to meet the indigenous vegetation clearance provisions set out in the EIB Chapter/Section 19 introduced through PC18.

113. As set out in Ms Pfluger’s Reply Memo (**Appendix 6**), the ONL boundary is now recommended to exclude the farm buildings adjacent to Marsack Stream. Updated ONL Maps are included therein.

Recommendation

114. I recommend, for the reasons given above, that ONL3 in the Hakataramea Valley is amended to exclude the farm buildings adjacent to Marsack Stream on Ranui Station.

115. A consequential change to this is the corresponding reduction in the SASM – Areas of Significance to Māori Overlay, which otherwise aligns with the ONL boundary. Such an amendment is required to align the SASM and ONL Overlays, as was the case at the time of notification. The evidence of Mr Michael McMillan on behalf of the MDC outlined how SASM and ONL values co-exist and the aligned Overlay boundaries are an attempt at converting Te Ao Māori into the requirements of a district plan format. The amended ONL has also been checked by AEC and Ms Kylie Hall is comfortable that the amended alignment reflects SASM values. It should be noted that this also applies to the recommended increase in the Two Thumb Range ONL set out in the section 42A report. It is recommended that additional ONL land area is similarly included in the SASM Overlay. Matters of scope need to be considered, noting that there are no submissions seeking either the widespread removal of, or any increase to, the SASM Overlay. However, the PC24 submission by Wolds Station (17.03, 17.05) refers to a collaborative identification process being followed to amend the SASM overlays and schedules to align with ground-truthed outcomes necessitating site visits being undertaken⁶. It is noted that the changes to the ONL arising since notification are based on further inspection and

⁵ Including the minor amendment to exclude farm buildings adjacent to Marsack Stream.

⁶ These submissions are discussed in more detail at paragraphs 39 and 78 of the PC24 Section 42A Report.

ground truthing. The nature of these changes to retain alignment between the ONL and SASM Overlays is further discussed in the Council's closing legal submissions.

116. The recommended mapping changes are set out in **Appendix 5**.
117. The scale of changes does not require a s32AA evaluation because it is a minor change, and the change does not alter the general intent.

14. Ian Morrison

ONF Tengawai Cliff

118. The Hearing Panel have asked the Officers to consider the appropriateness of excluding the two "red hatched areas" from the recommended Tengawai Cliff's ONF4 as set out in the statement of Mr Ian Morrison.
119. This matter is specifically addressed in Ms Pfluger's Landscape Reply Memo (**Appendix 6**). Ms Pfluger considers it important to identify the feature as a whole, rather than splitting it into three sections as it would undermine its cohesiveness. However, Ms Pfluger notes that the eastern area where the limestone escarpment is not expressed on the surface is currently between 50-120m wide as it includes an area of grey shrubland above the Tengawai Gorge. Ms Pfluger is of the view that this part of the ONF could potentially be narrowed as the limestone feature is less legible.

Recommendation

120. I recommend, for the reasons given above, that the eastern area where the limestone escarpment (Tengawai Cliff) is not expressed on the surface be reduced in width to 20m.
121. The recommended mapping changes are set out in **Appendix 5**.
122. The scale of changes does not require a s32AA evaluation because it is a minor change, and the change does not alter the general intent.

15. Ian Morrison / Andy McNabb

Additional Recommended Areas FMA S2a and S2b

123. The Hearing Panel have asked that the appropriateness of additional SNL areas S2a and S2b on Figure 1 of Ms Pfluger's Appendix 6 to the PC23 s42A Report be reconsidered in light of Mr Morrison's advice that the top part of S2b is production forestry; and that much of the two areas are grazed flats and the gullies only contain manuka, broadleaf and matagouri.
124. This matter is specifically addressed in Ms Pfluger's Reply Memo (**Appendix 6**). Based on the assessment set out therein, the area of existing commercial forestry is recommended to be removed from FMA S2b. Otherwise Ms Pfluger does not change her earlier recommendation.

Recommendation

125. I recommend, for the reasons given above, that the area of existing commercial forestry is removed from FMA S2b.
126. The recommended mapping changes are set out in **Appendix 5**.
127. The scale of change does not require a s32AA evaluation because it is a minor change, and the change does not alter the general intent.

16. A & R McGregor

Tengawai Cliff ONF4

128. The Hearing Panel have asked whether there the ability to reduce the width to cover the limestone cliff faces and not productive grazed land?
129. This matter is specifically addressed in Ms Pfluger's Reply Memo (**Appendix 6**). Based on the assessment set out therein, Ms Pfluger supports further changes to the ONF extent to refine it to only incorporate the limestone escarpment and legible slopes, whilst still maintaining it as one cohesive feature to reflect the underlying geomorphology.
130. I agree with this recommendation to remove areas where the mapped ONF feature extends beyond existing fencelines into the more productive grazed pasture on the backslope of the Tengawai Cliff. As the existing fenceline demarcates the existing underlying land use, I consider refinement to follow the existing fencelines is justified on planning grounds.
131. In response to the submission of Mr Frank, the status of the managed land uses within an ONF has been recommended to change from DIS to NC. This was on the basis that ONF are generally smaller and the boundary more defined than the larger scale ONL. In my view a refinement of the Tengawai Cliff ONF is consistent with that overall planning approach.

Recommendation

132. I recommend, that the area identified as ONF4 Tengawai Cliff be reduced to remove productive land.
133. The recommended mapping changes are set out in **Appendix 5**.
134. I consider that the scale of changes does not require an additional s32AA evaluation because the mapping changes proposed are minor, and the changes do not alter the general intent of the inclusion of Tengawai Cliff as an ONF in the District Plan.