



Mackenzie
DISTRICT PLAN REVIEW
TOMORROW'S MACKENZIE
KA AWATEA HŌU

Section 42A Report: Plan Change 27 – Earthworks, Subdivision, Public Access and Transport

Report on submissions and further submissions

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Date: 19 April 2024

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Appendices

- 1 Recommended Amendments to Definitions Chapter FULL
- 2 Recommended Amendments to Earthworks Chapter
- 3 Recommended Amendments to Subdivision Chapter
- 4 Recommended Amendments to Public Access Chapter
- 5 Recommended Amendments to Transport Chapter
- 6 Memo from MDC Engineering Manager Mr McLachlan

List of submitters addressed in this report:

Submitter Ref	Further Submitter Ref	Submitter Name	Abbreviation
1	FS1	Robin McCarthy	
2	FS3	Bp Oil New Zealand Limited, Mobil Oil New Zealand Limited and Z Energy Limited	Fuel Companies
4		Springwater Trust	
5		Fire and Emergency New Zealand	FENZ
6		Chorus New Zealand Limited, Connexa Limited, Aotearoa Tower Group (trading as FortySouth), One New Zealand Group Limited and Spark New Zealand Trading Limited	The Telcos
7		Director General of Conservation	DOC
8		Helios Energy Limited	Helios
9		Tekapo Landco Limited and Godwit Leisure Limited	TLGL
10	FS13	Nova Energy Limited	Nova
11	FS7	Transpower New Zealand Limited	Transpower
12	FS5	Pukaki Tourism Holdings Limited Partnership and Pukaki Village Holdings Limited	PTHLP and PVHL
14	FS4	New Zealand Transport Agency, Waka Kotahi	NZTA
15		Chorus New Zealand Limited	Chorus
16		Chris and Rachael Pudney	
17		PF Olsen	PFO
18		Timothy Bartlett	
19		Te Rūnanga o Ngāi Tahu	TRoNT
20		New Zealand Pork	NZ Pork
21		South Canterbury Province, Federated Farmers of New Zealand	Fed Farmers
22		Lake Alexandrina Outlet Hutholders Society	LAOHS
23	FS2	Port Blakely	PB
24		Connexa Limited, Aotearoa Tower Group (trading as FortySouth), One New Zealand Group Limited and Spark New Zealand Limited	Telco Companies
25*		Road Metals Company Limited	Road Metals
26	FS14	Lisburn Farm Limited	Lisburn Farm
27		Ministry of Education	MoE
28	FS9	Genesis Energy Limited	Genesis
29	FS15	Opuha Water Limited	OWL
30	FS6	Meridian Energy Limited	Meridian
31	FS10	Canterbury Regional Council	CRC
33	FS16	The Wolds Station Limited	Wolds Station
35	FS11	Milward Finlay Lobb Limited	MFL
36		Grampians Station Limited	Grampians Station
37		Mackenzie Properties Limited	MPL
38	FS12	New Zealand Defence Force	NZDF

	FS8	Davis Ogilvie (Aoraki) Limited	
	FS17	Mt Gerald Station Limited	

* Road Metals submission on SUB-S1 (25.02) is analysed in this report. However, Road Metals submission on PC27 (25.01 and 25.03) relating to a proposal for re-zoning part of Lot 2 DP 487658 for industrial purposes is not analysed within this report.

Abbreviations used in this report:

Abbreviation	Full Text
CON	Controlled activity
Council	Mackenzie District Council
CRPS	Canterbury Regional Policy Statement
DIS	Discretionary Activity
EW Chapter	Earthworks Chapter
HZPT	Heritage New Zealand Heritage New Zealand Act 2014
HSWA	Health and Safety Works Act 2015
INF Chapter	Infrastructure Chapter
LPA	Lakeside Protection Area
LTMA	Land Transport Management Act 2003
LUI	Lifeline Utility Infrastructure
MDP	Mackenzie District Plan
MDPR	Mackenzie District Plan Review
NC	Non-Complying Activity
NES	National Environmental Standard
NESCF	National Environmental Standard for Commercial Forestry
NESCS	National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health
NESET	National Policy Statement on Electricity Transmission
NESHPL	National Policy Statement for Highly Productive Land
NESUD	National Environmental Standard on Urban Development
NP Standards	National Planning Standards
ONL	Outstanding Natural Landscape
PA Chapter	Public Access Chapter
PC13	Plan Change 13 – Rural Zone – Mackenzie Basin
PC18	Plan Change 18 – Indigenous Biodiversity
PC20	Plan Change 20 – Strategic Direction Chapters
PC21	Plan Change 21 – Implementation of the Spatial Plans
PC23	Plan Change 23 - General Rural Zone, Natural Features and Landscapes, Natural Character
PC24	Plan Change 24 - Sites and Areas of Significance to Māori
PC25	Plan Change 25 – Rural Lifestyle Zones
PC26	Plan Change 26 - Renewable Electricity Generation and Infrastructure
PC27	Plan Change 27 – Earthworks, Subdivision, Public Access and Transport
PER	Permitted activity
RDIS	Restricted Discretionary Activity
REG activities	Renewable electricity generation activities
REG Chapter	Renewable Electricity Generation Chapter
RMA	Resource Management Act 1991
RSI	Regionally Significant Infrastructure

SGA	Scenic Grassland Area
SUB Chapter	Subdivision Chapter
SVA	Scenic Viewing Area
TRAN Chapter	Transport Chapter

1. Purpose of Report

1. This report is prepared under s42A of the Resource Management Act 1991 (RMA) in relation to Plan Change 27 (PC27) Earthworks, Subdivision, Public Access and Transport to the MDPR. The purpose of this report is to provide the Hearing Panel with a summary and analysis of the submissions received on this plan change and to make recommendations in response to those submissions, to assist the Hearing Panel in evaluating and deciding on the submissions.
2. The analysis and recommendations have been informed by Mr Ashley McLachlan (Council's Engineering Manager) in relation to the transportation requirements and Mr Dawson Gilcrest (Building Contractor for the Council) in relation to the requirements under the Building Act 2004 for potable water supply, and a memo is provided at **Appendix 6**. In preparing this report I have also had regard to the Strategic Direction Chapter, the provisions contained in Section 19 – Ecosystems and Indigenous Biodiversity of the Plan (which were introduced through PC18 and are subject to appeal) and the provisions proposed in PC23, PC24, PC25 and PC26, which have also been notified as part of Stage 3 of the MDPR.
3. The conclusions reached and recommendations made in this report are not binding on the Hearing Panel. It should not be assumed that the Hearing Panel will reach the same conclusions having considered all the information in the submissions and the evidence to be brought before them, by the submitters.

2. Qualifications and Experience

4. My full name is Rachael Lorraine Willox. I have been employed at the Mackenzie District Council for over six years and am currently the Team Leader Planning. I hold a Master of Planning and a Bachelor of Arts from Otago University and am an intermediate member of the New Zealand Planning Institute.
5. I have over seven years' experience, working in local government. My experience includes processing resource consent applications, preparation of Council's policies and bylaws and preparation and reporting on PC21 of the MDPR.
6. Although this is a Council hearing, I confirm that I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2023 and that I have complied with it when preparing this report. I have also read and am familiar with the Resource Management Law Association / New Zealand Planning Institute "Role of Expert Planning Witnesses" paper. I confirm that I have considered all the material facts that I am aware of that might alter or detract from the opinions that I express, and that this evidence is within my area of expertise, except where I state that I am relying on the evidence of another person. Having reviewed the names of submitters and further submitters relevant to this topic I advise there are no conflicts of interest that would impede me from providing independent advice to the Hearings Panel.

3. Scope and Format of Report

7. This report considers the submissions and further submissions that were received in relation to PC27. It includes recommendations to either retain provisions without amendment, delete, add to or amend the provisions, in response to these submissions. All recommended amendments are shown by way of ~~strikeout~~ and underlining in **Appendices 1 to 5** to this Report. Footnoted references to the relevant submitter(s) identify the scope for each recommended change. Where recommendations are made to either delete or add a provision, new provisions are numbered X and no renumbering has occurred to reflect any additions or deletions. I anticipate that any renumbering will be done in the Hearing Panel's decision version of the provisions.
8. The assessment of submissions generally follows the following format:
 - a. An outline of the relevant submission points;
 - b. An analysis of those submission points; and
 - c. Recommendations, including any amendments to plan provisions (and associated assessment in terms of s32AA of the RMA where appropriate).
9. Clause 10(2)(b), Schedule 1 of the RMA provides for consequential changes arising from the submissions to be made where necessary, as well as any other matter relevant to the PDP arising from submissions. Consequential changes recommended under clause 10(2)(b) are footnoted as such.
10. Clause 16(2) of the RMA allows a local authority to make an amendment to a proposed plan without using a Schedule 1 process, where such an alteration is of minor effect, or may correct any minor errors. Any changes recommended under clause 16(2) are footnoted as such.

4. Plan Change Overview

11. PC27 forms part of Stage 3 of the MDPR and relates to the management of earthworks, subdivision, public access and transportation in the Mackenzie District. It proposes to largely replace Sections 13 (Subdivision) and 15 (Transport) of the Operative Plan. Provisions controlling earthworks and public access are also proposed to be within their own chapters, rather than within each zone framework, as directed by the NP Standards.
12. PC27 proposes to introduce numerous definitions and to amend the definitions within the Definitions Chapter (within the Interpretation Section) to apply to the EW, SUB, PA and TRAN Chapters. PC27 proposes to delete definitions in Section 3 of the MDP, to delete Appendix C and D, and to delete the Twizel Water Supply Protection Area and apply a new Community Drinking Water Supply Protection Areas overlay, which includes the current Twizel Water Supply Protection Area as well as an expansion to it, and other additional areas.

5. Procedural Matters

13. At the time of writing this s42A report there have not been any pre-hearing conferences, clause 8AA meetings or expert witness conferencing in relation to submissions on this topic.

6. Statutory Framework

14. The assessment under the RMA for PC27 includes whether:
 - a. it is in accordance with the Council's functions (s74(1)(a));
 - b. it is in accordance with Part 2 of the RMA (s74(1)(b));
 - c. it will give effect to any national policy statement or operative regional policy statement (s75(3)(a) and (c));
 - d. the objectives of the proposal are the most appropriate way to achieve the purpose of the RMA (s32(1)(a)); and
 - e. the provisions within the plan change are the most appropriate way to achieve the objectives of the District Plan (s32(1)(b)).
15. In addition, assessment of the plan change must also have regard to:
 - a. any proposed regional policy statement, and management plans and strategies prepared under any other Acts (s74(2));
 - b. the extent to which the plan is consistent with the plans of adjacent territorial authorities (s74 (2)(c)); and
 - c. in terms of any proposed rules, the actual or potential effect on the environment of activities including, in particular, any adverse effect (s76(3)).
16. The assessment of the plan change must also take into account any relevant iwi management plan (s74(2A)).
17. Specific provisions within the RMA and in other planning documents that are relevant to PC27 are set out in the Section 32 Report. These documents are discussed in more detail within this report where relevant to the assessment of submission points.
18. The assessment of submission points has also been undertaken in the context of the Section 32 report prepared for PC27. All recommended amendments to provisions since the initial Section 32 evaluation was undertaken must be documented in a subsequent s32AA evaluation and this has been undertaken, where required, in this report.

7. Assessment of Submissions

Overview of Submissions

19. Thirty-eight submissions and 17 further submissions were received on PC27.
20. No submitters opposed PC27 as a whole.
21. The submissions on PC27 are generally supportive of the EW, SUB, PA and TRAN Chapters, with a number of submitters supporting various provisions while seeking minor changes to others.
22. I note that some provisions in the SUB Chapter (SUB-P8, SUB-R4 (in Part), SUB-R8 and SUB-S1 (in Part)) are from the Operative District Plan and were introduced by PC13. These provisions are to be carried over into the SUB Chapter but are not within the scope of PC27. Any submission points received on these provisions are outside the scope of PC27.¹

Structure of Report

23. This report is divided into four primary sections, EW, SUB, PA and TRAN. Within each section submission points are analysed on a provision-by-provision basis, in the order of objectives, policies, rules, standards and matters of discretion. Where rules, standards and matters of discretion are interrelated these have been assessed together. In addition, where a matter has been raised by a submitter or submitters that is relevant to more than one provision but stems from the same concern the analysis of submissions addresses these matters on a topic basis.
24. The final section of this report focusses on any remaining submission points not otherwise covered.

Further Submissions

25. Further submissions have been considered in the preparation of this report, but in general, they are not specifically mentioned because they are limited to the matters raised in original submissions and therefore the subject matter is canvassed in the analysis of the original submission. Further submissions may however be mentioned where they raise a valid matter not addressed in an original submission. Individual recommendations on further submissions are not set out in this report. Instead, recommendations on the primary submissions indicate whether a further submission is accepted or rejected as follows:
 - a. Where a further submission supports a primary submission and the primary submission is recommended to be accepted, or where a further submission opposes a primary submission and the primary submission is recommended to be rejected, the further submission is recommended to be accepted.

¹ TRoNT (19.16) in relation to SUB-P8, TRoNT (19.20) in relation to SUB-R4 and MFL (35.05) in relation to SUB-S1. I note a Clause 16(2) amendment has been made to SUB-S1 to correct the drafting error identified by MFL.

- b. Where a further submission supports a primary submission and the primary submission is recommended to be rejected, or where a further submission opposes a primary submission and the primary submission is recommended to be accepted, the further submission is recommended to be rejected.
- c. Where a further submission supports or opposes a primary submission and the primary submission is recommended to be accepted in part, then the further submission is recommended to be accepted in part.

8. Provisions where no Change Sought

- 26. PC27 proposes to delete various provisions within Sections 3, 5, 7, 7A, 7B, 8, 9, 13 and 15 of the Operative Plan as well as Appendix C and Appendix D. No submitters oppose these deletions. I therefore recommend that these provisions and appendices be deleted as notified.
- 27. The following new provisions included within PC27 were either not submitted on, or any submissions received sought their retention. As such, they are not assessed further in this report, and I recommend that the provisions are retained as notified (except where a clause 16(2) change is recommended):

Section	Provision	Submissions in Support
Interpretation	Contaminant	FENZ (5.01)
	National Grid	Transpower (11.01)
	National Grid Subdivision Corridor	Transpower (11.02)
	National Grid Yard	Transpower (11.03)
	Arterial Road	NZTA (14.03)
	Heavy Vehicle	NZTA (14.04)
	State Highway	NZTA (14.09)
	Vehicle	NZTA (14.11)
Subdivision	SUB-P5	FENZ (5.22), NZTA (14.41), TRoNT (19.16)
	SUB-P6	TRoNT (19.16)
	SUB-P9	No submissions received
Public Access	PA-SCEH1	No submissions received
Transport	TRAN- Introduction	No submissions received
	TRAN-O1	FENZ (5.02), NZTA (14.13), TRoNT (19.02), MoE (27.01)
	TRAN-P3	NZTA (14.16), TRoNT (19.03), MoE (27.03)
	TRAN-S1	TRoNT (19.07)
	TRAN-S2	TRoNT (19.07)
	TRAN-S4	NZTA (14.28), TRoNT (19.07)
	TRAN-S5	NZTA (14.29), TRoNT (19.07)
	TRAN-S12	FENZ (5.17), NZTA (14.36) TRoNT (19.07)
	TRAN-S13	NZTA (14.37), TRoNT (19.07)
	TRAN-S14	TRoNT (19.07)
	TRAN-Table 4	No submissions received
	TRAN-Table 5	No submissions received

	TRAN-Table 6	No submissions received
	TRAN-Table 8	No submissions received
	TRAN-Table 9	No submissions received
	TRAN-Table 11	FENZ (5.18)
	TRAN-Table 12	No submissions received
	TRAN-Table 13	FENZ (5.19)
	TRAN-MD1	NZTA (14.38)
	TRAN-MD2	FENZ (5.20), NZTA (14.39)
	TRAN-MD3	No submissions received

30. Several operative definitions contained in the MDP are currently limited in their application to the commercial and mixed use and general industrial zones, with PC27 proposing to extend their application to the chapters introduced through PC27, where the term is used in those chapters. No submissions were received on PC27 in relation to these definitions. I therefore recommend that the definitions proposed to be applied to the PC27 provisions, are applied (where relevant) to the provisions contained within PC27.

9. Broad Submissions in Support

Submissions

31. Various submitters support PC27 as a whole, or support the overall approach taken in the EW, SUB, PA and TRAN Chapters, as outlined below:

- DOC (7.01) supports the overall approach of PC27 for the reasons outlined in the s32 report and seek that the provisions are retained as notified except for any provisions where they have made a specific submission. DOC (7.02) also supports the TRAN Chapter as a whole and seek no changes to this chapter as notified.
- Nova (10.01 to 10.04) supports the entirety of the EW, SUB, PA and TRAN Chapters as notified. Nova (10.05 and 10.06) also supports the definitions introduced as part of PC27 and the proposed mapping.
- TRoNT (19.01) while not expressly in support do not oppose the definitions introduced as part of PC27.
- CRC (31.02 to 31.05) generally support the MDPR process and consider the proposed provisions within each of the plan changes to be generally consistent with the regional planning framework. CRC are neutral regarding the chapters in PC27 and request no changes to the EW, SUB, PA and TRAN Chapters as notified.

Analysis

32. The above submissions are noted.

Recommendation

33. I recommend that the submission points above are accepted, where no changes have been recommended to the provisions in PC27, or accepted in part, where changes are recommended to provisions in response to other submission points.

10. The Relationship between the EW, SUB and PA Chapters and the REG and INF Chapters

Submissions

34. Genesis (28.02) and Meridian (30.08) generally support the EW Introduction but request, for the avoidance of doubt, that clarification is provided that REG activities are managed under the REG Chapter and are therefore not subject to the district wide earthworks provisions.
35. Genesis (28.01 and 28.09) and Meridian (30.03 and 30.04) also request that clarification is provided in the Introduction to the SUB and PA Chapters that REG activities are managed under the REG Chapter and are not subject to the provisions in the SUB and PA Chapters.
36. The Telcos (6.04) seek an amendment to the EW Introduction to expressly state that the earthworks provisions do not apply to earthworks associated with infrastructure activities, unless specified within the rules in the INF Chapter that the earthwork provisions apply, similar to the statement found in the Introduction to the INF Chapter.
37. OWL (29.12) considers it appropriate that the rules in the EW Chapter do not apply to infrastructure activities and request that this approach is retained in the MDP.

Analysis

38. The Introduction to the REG Chapter sets out the relationship between the provisions in the REG Chapter, and those contained in other parts of the plan. The approach taken in the MDPR is that the REG Chapter is largely standalone, with provisions across the remainder of the MDP not applying, unless explicitly stated in the Introduction of the REG Chapter. The Introduction to the REG Chapter clearly states that the provisions in the EW Chapter do not apply to earthworks which form part of activities managed in the REG Chapter, except for the construction of new roads or access tracks. It is therefore my view, that it is not necessary to amend the EW Introduction to exclude REG activities as an exemption for these activities is already provided for in the MDP. Any amendments to the EW Introduction would therefore create unnecessary duplication.
39. The REG Chapter also states that the provisions in other chapters of the MDP do not apply to activities managed in the REG Chapter except where specified within the Introduction or the provisions within the REG Chapter. It is therefore my view, that the exclusion for REG activities from the SUB and PA Chapters is already provided for in the MDP and does not need to be repeated in the Introduction to SUB and PA Chapters. I therefore recommend that the

submissions from Genesis (28.01, 28.02 and 28.09) and Meridian (30.03, 30.04 and 30.08) are rejected.

40. Similarly, the INF Chapter states that the provisions in the EW Chapter do not apply to earthworks that form part of activities managed in the INF Chapter, unless specified within the rules or for the construction of new roads and access tracks. I therefore do not consider it necessary to amend the EW Introduction to state that the earthworks provisions are not relevant to activities managed in the INF Chapter as this is already clearly stated in the MDP and will create unnecessary duplication. I therefore recommend that the submission from the Telcos (6.04) is rejected.
41. Based on the above, I recommend that the submission from OWL (29.12) is accepted.
42. For completeness, TRoNT (19.08 and 19.12) supports the Introduction to the SUB and PA Chapters as notified. No other submissions on the SUB and PA Introductions were received. I therefore recommend that the submission points from TRoNT (19.08 and 19.12) are accepted (PA-Introduction), or accepted in part (SUB-Introduction), noting changes are recommended to be made to the SUB Introduction in response to other submission points detailed below.

Recommendation

43. I recommend, for the reasons given above, that no changes are made to the Introduction of the EW, SUB and PA Chapters in relation to the above submission points.

11. Earthworks (EW)

EW – Introduction and Advice Note

Submissions

44. PTHLP, PVHL (12.01) and TRoNT (19.29) support the EW Introduction as notified.
45. Transpower (11.14) generally support the Introduction to the EW Chapter but request that the advice note stipulating that the rules in the EW Chapter do not apply to the Open Space and Recreation and Special Purpose Zones be deleted. In their view, the advice note may result in a gap in the provisions as the listed areas may not protect the National Grid from adverse effects from earthworks and land disturbance.

Analysis

46. The MDP is being reviewed via a series of Plan Changes. The operative earthworks rules applying to the Special Purpose Zones and the Open Space Zones therefore do not form part of Stage 3 and will continue to be managed within the underlying zone chapters until they are reviewed in Stage 4, which is scheduled for public notification in November 2024. This allows for the review of the zone framework for these zones to be considered on a comprehensive basis, rather than considering the earthworks provisions for these zones in isolation.

47. I acknowledge that the existing earthworks provisions applying to the Special Purpose Zones and Open Space Zones do not expressly protect the National Grid as per EW-S6. The earthworks provisions applying to these zones, however, will be reviewed as part of Stage 4 and are expected to align with the standards in the District Wide EW Chapter which, in my view, will alleviate the concerns raised by Transpower. Given the relatively short timeframe between Stage 3 and Stage 4 I do not consider an interim rule to protect the National Grid to be necessary. I therefore recommend that the submission from Transpower (11.14) is rejected.
48. Based on the above, I recommend that the submissions from PTHLP, PVHL (12.01) and TRoNT (19.29) are accepted.

Recommendation

49. I recommend, for the reasons given above, that the EW Introduction and Advice Note are retained as notified.

Objective EW-O1

Submissions

50. The Fuel Companies (2.01), Transpower (11.15), TRoNT (19.30), Fed Farmers (21.01), MoE (27.06), Genesis (28.03) and the NZDF (38.02) support EW-O1 as notified.
51. DOC (7.08) opposes EW-O1 as, in their view, the objective fails to address the impacts earthworks can have on natural values and indigenous biodiversity. DOC therefore request that EW-O1 is amended to include the adverse effects on *“natural values”* in addition to adverse effects on *“landscape values, visual amenity and mana whenua values”* to align with direction in Section 6(c) of the RMA that requires areas of significant indigenous vegetation and significant habitats of indigenous fauna to be protected.
52. NZTA (14.57) supports EW-O1 in that it focuses on earthworks being undertaken in a way to minimise adverse effects. NZTA however request various amendments to EW-O1 to:
 - a. recognise the benefits and necessity of earthworks for utility operation purposes by specifically including RSI;
 - b. make it clear that earthworks should be enabled where effects are undertaken in a way that minimises adverse effects (through avoidance, remediation or mitigation); and
 - c. reflect the *“safe and efficient operation of infrastructure”* for consistency with other policies and to provide a better link to EW-R1.

Analysis

53. Indigenous biodiversity in the MDP is predominantly managed in Section 19. Any earthworks which result in the clearance of indigenous vegetation are therefore subject to the rules in Section 19 as well as those in the EW Chapter. The rules in Section 19 were introduced through PC18, which is currently before the Environment Court. While the rules managing indigenous

biodiversity are predominantly contained in Section 19 of the MDP, the EW Introduction does recognise the affect earthworks can have on important “*natural values*”.

54. For Council to meet its obligations under Section 6(c) of the RMA and to achieve Strategic Direction NE-O1 of the MDP I also consider it appropriate to recognise the potential adverse effects that can arise from earthworks and land disturbance on natural values. The alternative wording from DOC also provides a clear link between EW-O1 and the objective and policy direction in Section 19 of the District Plan. I therefore recommend that the alternative wording from DOC (7.08) is accepted.
55. Regarding the submission from NZTA, I do not consider it necessary to amend EW-O1 to specifically include RSI. EW-O1 applies to all earthworks to facilitate land use and/or development and by default already includes RSI. Specific reference to RSI, in my view, is therefore not required. It is also noted that the earthworks provisions apply in a limited way to RSI in any case (i.e. only where specified in the INF Chapter or for the construction of new roads, and access tracks). Specific reference to RSI, in my view, is therefore not appropriate as it could imply that the provisions in the EW Chapter apply to RSI in a much broader way.
56. I also consider the amendment to EW-O1 - to make it clear that earthworks are to be enabled where effects can be managed - is inappropriate as, in my view, it is the role of the policies to provide the course of action to achieve or implement the objective (i.e. the path to be followed to ensure adverse effects of earthworks are minimised). EW-P1 for example enables small-scale earthworks, whereas EW-P2 requires the management of earthwork to achieve the environmental outcomes sought in EW-O1.
57. I support the relief sought from NZTA to include the “*safe and efficient operation of infrastructure*” in EW-O1 as it aligns with the terminology used in the TRAN Chapter and is therefore more consistent with the approach applied to INF activities in the MDPR, with the EW provisions generally only applying to infrastructure for the construction of new roads, and access tracks. I therefore recommend that the submission from NZTA (14.57) is accepted in part.
58. As I have recommended changes to EW-O1 in response to other submissions, I recommended that the submission points by the Fuel Companies (2.01), Transpower (11.15), TRoNT (19.30), Fed Farmers (21.01), MoE (27.06), Genesis (28.03) and the NZDF (38.02) are accepted in part.

Recommendation

59. I recommend, for the reasons given above, that EW-O1 is amended to include the adverse effects on “*natural values*” and to include the “*safe and efficient operation of infrastructure*”. The amendments recommended to EW-O1 are set out in **Appendix 2**.
60. In terms of Section 32AA, the proposed amendments, in my view, are a more appropriate way to recognise and protect significant indigenous vegetation and significant habitats of indigenous fauna as directed in Section 6(c) of the RMA. The proposed amendments also improve plan efficiency by aligning with the direction and terminology used in other parts of the plan.

Policy EW-P1

Submissions

61. The Fuel Companies (2.01), TRoNT (19.30), Fed Farmers (21.01), Genesis (28.04) and the NZDF (38.02) support EW-P1 as notified.
62. NZ Pork (20.01) generally support EW-P1 but request an amendment to enable temporary earthworks in addition to small-scale earthworks. Their reasoning for this is that the policy, as notified, only provides for small-scale earthworks and therefore does not necessarily align with the activities listed within EW-R1 and EW-R2 as many of these activities are not necessarily small in scale.
63. NZTA (14.58) supports the general approach in EW-P1. NZTA however, consider that the EW policies should expressly provide for the repair and maintenance of infrastructure to provide a better link with EW-R1 and to ensure consistency throughout the MDP. NZTA therefore request an amendment to EW-P1 to enable earthworks required for the repair and maintenance of infrastructure in addition to small-scale earthworks or a new policy to this effect.

Analysis

64. The earthworks provisions do not apply to infrastructure activities managed in the INF Chapter unless specified in the INF Chapter, or the earthworks are required for the construction of new roads, and access tracks associated with infrastructure. The proposed amendment from NZTA (14.58) to enable earthworks required for the repair and maintenance of infrastructure, in my view, is therefore inappropriate, as well as their recommendation for a new policy to this effect. The reason for this is any amendments to enable earthworks required for the repair and maintenance of infrastructure more generally would capture all infrastructure activities and would therefore not align with the approach to the MDP for the earthworks provisions to predominantly not apply to infrastructure activities.
65. In considering the submission from NZTA, I agree that a stronger link could be made between EW-P1, and the activities listed in EW-R1, with some of the activities listed in EW-R1 likely to exceed the PER thresholds in EW-R4 such as large scale road maintenance projects. The activities listed in EW-R1 are therefore not necessarily captured by EW-P1 despite being appropriate at achieving EW-O1 given they are occurring within areas of previously disturbed ground. I therefore recommend that EW-P1 is expanded to enable earthworks that are small in scale or limited to the maintenance and repair of existing activities more broadly, to capture the activities listed in EW-R1. I therefore recommend that the submission from NZTA (14.58) is accepted in part.
66. It is unclear from the submission from NZ Pork what they define as “temporary earthworks” and how the expansion to include “temporary earthworks” would better capture the activities listed in EW-R1 and EW-R2. I therefore recommend that the submission from NZ Pork (20.01) is rejected. The recommended amendments to EW-P1 to include earthworks limited to the

maintenance and repair of existing activities are however anticipated to address some of the concerns raised by NZ Pork by better capturing the activities listed in EW-R1.

67. Because I am recommending changes to EW-P1, I recommend that the submissions from the Fuel Companies (2.01), TRoNT (19.30), Fed Farmers (21.01), Genesis (28.04) and the NZDF (38.02) are accepted in part.

Recommendation

68. I recommend, for the reasons given above, that EW-P1 is expanded to include earthworks limited to the maintenance and repair of existing activities. The amendments recommended to EW-P1 are set out in **Appendix 2**.
69. In terms of Section 32AA, the recommended amendments will be more effective at achieving the drafting intent and will improve the efficiency of the provisions by providing a clearer link between EW-P1 and EW-R1.

Policy EW-P2

Submissions

70. The Fuel Companies (2.01), TRoNT (19.30), Fed Farmers (21.01), MoE (27.07), Genesis (28.05) and the NZDF (38.02) support EW-P2 as notified.
71. Transpower (11.16) generally support EW-P2 but is concerned EW-P2.2 could be understood to suggest that earthworks can have ‘reasonable’ effects on the stability of adjoining land, infrastructure, buildings, and structures which is contrary to Policy 10 of the NPSET. Transpower therefore requests that EW-P2.2 is amended to remove the term “unreasonable”.
72. Transpower (11.16) also request that EW-P2 is amended to specifically allow larger scale earthworks as EW-P1 and EW-P2 do not directly provide for earthworks other than small-scale earthworks, which, in their view, creates a policy gap that does not align with EW-O1 or provide a base for the subsequent rule framework.
73. NZTA (14.59) generally support EW-P2 but recommend that the term ‘minimise’ in EW-P2.1 is replaced with ‘avoid, remedy or mitigate.’ NZTA also request that EW-P2.2 is amended to allow for effects to be remediated or mitigated if they cannot be avoided.

Analysis

74. I agree with Transpower that EW-P2.2 could suggest that earthworks can have reasonable effects on the stability of adjoining land, infrastructure, buildings and structures and does not align with the direction in Policy 10 of the NPSET. Removing the term ‘unreasonable’ however, in my view, would require any effects no matter their scale to be avoided. I therefore recommend that the reference to avoiding effects is deleted from EW-P2.2, and that the policy is amended to “*ensure the stability of adjoining land, infrastructure, buildings and structures is not compromised*”. The alternative wording, in my view, closely aligns with the direction in the

NPSET and removes any ambiguity regarding the direction sought. I therefore recommend that the submission from Transpower (11.16) is accepted in part.

75. The submission from NZTA (15.49) on this point is therefore recommended to be rejected. The recommended amendments to EW-P2.2 are however anticipated to address the concerns raised by NZTA as the alternative wording, in my view, allows for effects to be remedied or mitigated provided the stability of adjoining land, infrastructure, buildings and structures is not compromised.
76. I do not agree with Transpower that EW-P2 should be amended to apply to large scale earthworks. As discussed in the analysis of EW-P1, not all earthworks in EW-R1 are necessarily small in scale, despite the drafting intent that they are captured under EW-P1. Referring to large scale earthworks in EW-P2 therefore does not reflect the drafting intent or the associated rule framework. I also do not agree with Transpower that EW-P2 only allows for small scale earthworks, as the scale of earthworks in EW-P2 is only one consideration to manage potential adverse effects.
77. Regarding the submission from NZTA to EW-P2.1, it is my view that the requirement to “minimise adverse effects” provides greater direction than “avoid, remedy or mitigate” as the alternative wording does not provide guidance on when avoidance is required and when mitigation might be appropriate. The term ‘minimise’ also aligns with the terminology used in EW-O1 and, in my view, allows for avoidance, remediation, or mitigation where appropriate. I therefore recommend that the submission from NZTA (14.59) is rejected.
78. Because I am recommending changes to EW-P2, I recommend that the submissions from Fuel Companies (2.01), TRoNT (19.30), Fed Farmers (21.01), MoE (27.07), Genesis (28.05) and NZDF (38.02) are accepted in part.

Recommendation

79. I recommend, for the reasons given above, that that EW-P2.2 is amended to “*ensure the stability of adjoining land, infrastructure, buildings, and structures is not compromised.*” The amendments recommended to EW-P2 are set out in **Appendix 2**.
80. In terms of Section 32AA, the recommended amendments will be more effective at meeting Council’s obligations under the NPSET to avoid, as far as reasonably practicable, reverse sensitivity effects on the electricity transmission network and to ensure that its operation, maintenance, upgrading, and development is not compromised.

Rules and Standards

Management of Silt and Sediment Loss in the EW Chapter

Submissions

81. DOC (7.09) opposes the EW rules and standards as notified, as in their view the standards, matters of control, and matters of discretion collectively fail to manage silt and sediment loss,

and therefore do not achieve EW-P2, risking downstream adverse effects. DOC therefore request that the rules and standards of the EW Chapter are revised to consistently manage silt and sediment loss from earthwork activities.

Analysis

82. It is unclear from the DOC submission how the standards and matters of discretion fail to manage silt and sediment loss in the EW Chapter. From my reading, all matters of discretion include an assessment of the effects of sedimentation loss from earthworks and therefore align with the direction in EW-P2. EW-S3 which relates to rehabilitation and reinstatement for example, requires an assessment of the effects of any potential dust nuisance, sedimentation, and water or wind erosion. I also note that it is largely the responsibility of regional councils to control the use of land for soil conservation purposes, maintenance and enhancement of water quality and ecosystems, and to control discharges of contaminants including sediment. I therefore recommend that DOC's submission (7.09) regarding the rules, standards and matters of discretion in the EW Chapter is rejected.
83. An assessment of the matters of control in EW-R4 is provided in the analysis of submissions on EW-R4.

Recommendation

84. I recommend, for the reasons given above, that no changes are made to the EW rules, standards and matters of discretion in relation to the above submission point.

Relationship Between the EW Chapter and the NESCF

Submissions

85. PB (23.01) generally supports EW-R1, EW-R2 and EW-R4. However, as the NESCF regulates earthworks carried out in relation to commercial forestry and permits earthworks that meet the requirements in Regulations 23 to 33, the submitter requests that the rules are amended to include earthworks undertaken in accordance with the NESCF. In their view, the provisions as notified do not align with the higher order regulations and create another set of regulations on top of those contained in the NESCF.

Analysis

86. Pursuant to Section 43A(5) of the RMA, if a NES states that an activity is a PER activity, the following applies to plans and proposed plans:
 - a. *a plan or proposed plan may state that the activity is a permitted activity on the terms or conditions specified in the plan; and*
 - b. *the terms or conditions specified in the plan may deal only with effects of the activity that are different from those dealt with in the terms or conditions specified in the standard; and*

- c. *if a plan's terms or conditions deal with effects of the activity that are the same as those dealt with in the terms of conditions specified in the standard, the terms or conditions in the standard prevail.*

87. Earthworks under territorial authority control in the NESCF are a PER activity pursuant to Regulation 23 of the NESCF. The NESCF includes no terms or conditions to manage the effects of earthworks at a territorial authority level. No terms or conditions to manage the effects of earthworks that are different or not already managed under the NESCF are therefore required in the MDP. The proposed amendments to EW-R1, EW-R2 and EW-R4 to provide for earthworks undertaken in accordance with the NESCF as a PER activity, in my view, are therefore unnecessary and would result in duplication of the NESCF, that prevails over the MDP, and would therefore not align with Section 43A(5) of the RMA.

88. However, for clarification purposes I recommend that a note for plan users consistent with the note found in INF Chapter is included in the EW Chapter which stipulates the relationship between the earthworks provisions and the NESCF. The above recommendation is anticipated to address the concerns of PB. Based on the above, I recommend that the submission from PB (23.01) is accepted in part.

89. In response to the submission from PB, I have also considered whether other NES' should be included in the note for plan users to provide clarity regarding the relationship between the EW Chapter and relevant higher order documents. It is my opinion, that the note for plan users should be expanded to inform plan users that any activities managed in the EW Chapter are also required to comply with the NESCS.

Recommendation

90. I recommend, for the reasons given above, that a note for plan users is added to the EW Chapter that outlines the relationship between the earthworks provisions and the NESCF. A consequential amendment pursuant to Clause 10(2)(b) of the RMA is also recommended to inform plan users that activities managed in the EW Chapter must also comply with the NESCS. The amendments recommended to the EW chapter are set out in **Appendix 2**.

91. In terms of Section 32AA, the proposed amendments, in my view, will be more efficient by removing duplication between the NESCF and MDP, while providing greater clarity for plan users that earthworks activities associated with commercial forestry are managed under the NESCF. The note for plan users will also alert plan users to the NESCS.

Rule EW-R1

Submissions

92. The Fuel Companies (2.02), FENZ (5.28), Fed Farmers (21.02), LAOHS (22.01), Genesis (28.06), Grampians Station (36.06), and the NZDF (38.03) support EW-R1 as notified.

93. Transpower (11.21) oppose EW-R1 in part as the rule is not subject to EW-S6. Transpower note that while the activities listed in EW-R1 are generally small-scale these earthworks still have the potential to have an adverse impact on the National Grid.
94. NZ Pork (20.02) oppose the limitation of EW-R1 to activities for the purpose of maintenance and repair and not development. Many of the activities listed in EW-R1 are, in their view, necessary ancillary farming earthworks and typically temporary in nature and effect. While some may fall within the PER activity thresholds within EW-R4, it is their view that many will not and will therefore be subject to a consenting process. NZ Pork therefore request that the maintenance, repair and development of ancillary farming earthworks is PER in EW-R1 or alternatively the EW thresholds in EW-R4 are increased.

Analysis

95. I agree with Transpower that while the activities listed in EW-R1 are generally small in scale, or are within areas of previously disturbed ground, they do have the potential to impact the National Grid and should therefore be subject to EW-S6 to meet Council's obligations under the NESET. I therefore recommend that the submission point from Transpower (11.21) is accepted.
96. I do not agree with NZ Pork that EW-R1 should be expanded to include ancillary farming earthworks. Allowing earthworks ancillary to farming activities, without limitation, extends beyond small-scale earthworks or earthworks associated with the maintenance and repair of existing activities which, in my view, are generally acceptable given their scale or location within areas of previously disturbed ground. Earthworks associated with new activities, however, if unmanaged, have the potential to have adverse effects on the values identified in EW-O1. I therefore consider it appropriate for these activities to be assessed under EW-R4 and if required, through the consenting process. I therefore recommend that the submission point from NZ Pork (20.02) in relation to EW-R1 is rejected. The permitted thresholds in EW-R4 are however discussed in the analysis of EW-R4 and are anticipated to address the concerns of NZ Pork.
97. Because I am recommending changes to EW-R1, I recommend that the submissions from Fuel Companies (2.02), FENZ (5.28), Fed Farmers (21.02), LAOHS (22.01), Genesis (28.06), Grampians Station (36.06), and the NZDF (38.03) are accepted in part.

Recommendation

98. I recommend for the reasons given above, that the activities listed EW-R1 are also required to comply with EW-S6. The recommended amendments to EW-R1 are set out in **Appendix 2**.
99. In terms of Section 32AA, the recommended amendments will be more effective at meeting Council's obligations under the NPSET to avoid, as far as reasonably practicable, reverse sensitivity effects on the electricity transmission network and to ensure that its operation, maintenance, upgrading and development is not compromised.

Rule EW-R2

Submissions

100. Fed Farmers (21.02), Genesis (28.07), Grampians Station (36.07) and the NZDF (38.03) support EW-R2 as notified.
101. TLGL (9.02) oppose EW-R2 in part and request that further exemptions are included in the rule to provide for earthworks associated with landscaping, as landscaping is not necessarily captured by gardening, and earthworks associated with an approved subdivision.
102. Transpower (11.17) oppose EW-R2 in part as the rule is not subject to EW-S6. Transpower note that while the activities listed in EW-R2 are generally small-scale these earthworks still have the potential to have an adverse impact on the National Grid. Transpower also request that the rule title is amended to reference 'Earthworks and Land Disturbance General' so that the rule appropriately reflects the definitions and activities that are regulated by the rule.
103. NZ Pork (20.03) generally support the permitted activity regime in EW-R2 but consider that the list should be extended to include earthworks associated with burying of material infected by unwanted organisms as declared by the Ministry for Primary Industries Chief Technical Officer and as directed by a person authorised under the Biosecurity Act 1993.

Analysis

104. EW-R2 already provides for offal or farm rubbish pits as a PER activity. Any earthworks associated with burying of material, as directed by a person authorised under the Biosecurity Act 1993, in my view, is therefore already provided for as a PER activity. I also note that biosecurity is not a matter managed under the RMA. I therefore recommend that the submission from NZ Pork (20.03) to amend EW-R2 to explicitly allow for burying of material infected by unwanted organisms is rejected.
105. The NP Standards definition of 'earthworks' specifically excludes earthworks associated with 'gardening'. The intent of including 'gardening' in EW-R2 was therefore to make it clear that any land disturbance associated with 'gardening' is a PER activity and is not subject to the other earthworks rules, as gardening activities are generally anticipated to meet the environmental outcomes sought. I, however, agree with TLGL that it is uncertain what 'gardening' entails and therefore what is provided for as a PER activity. I therefore consider it appropriate to expand EW-R2.1.b to include earthworks associated with 'landscaping' in addition to 'gardening' which is defined in the District Plan as "*the planting of trees, shrubs, grasses, ground cover, gardens and lawns*". I therefore recommend that the submission from TLGL (9.02) is accepted in part. The approach to earthworks associated with subdivision are addressed in the analysis of EW-R3 below and are anticipated to address the concerns of TLGL.
106. I agree with Transpower that for the title of EW-R2 to appropriately reflect the definitions, and the activities listed within the rule, it is necessary for EW-R2 to relate to 'land disturbance' in addition to 'earthworks', as 'gardening', 'cultivation' and the 'disturbance of land for the

installation of fence posts' are specifically excluded from the NP Standards definition of 'earthworks'. However, in considering Transpower's submission it is clear that the terms 'earthworks' and 'land disturbance' have been used interchangeably throughout the EW Chapter (despite the drafting intent that the EW provisions apply to both activities). I therefore recommend that the term 'land disturbance' is included as a sub-set definition of 'earthworks' in the Definitions Nesting Table in the Interpretation Section of the MDP. By including the term 'land disturbance' as a subset definition of 'earthworks' any rules relating to 'earthworks' will automatically apply to 'land disturbance', addressing the concern raised by Transpower. In my view, this is a more efficient method to achieve the drafting intent, noting that if the title of EW-R2 is amended to refer to both 'earthworks' and 'land disturbance' consequential amendments will need to be made to the entire EW Chapter to make it clear the EW provisions apply to both 'earthworks' and 'land disturbance' activities.

107. In considering Transpower's submission I also consider that additional improvements can be made to the title of EW-R2, as the title, as notified, implies the rule is relevant to earthworks more broadly despite being specific to certain activities. I therefore recommend that the title of EW-R2 is amended to read "Earthworks for Specific Activities" as opposed to "Earthworks General". I also agree with Transpower that the activities listed in EW-R2 if unmanaged do have the potential to impact the National Grid and should therefore be subject to EW-S6. I therefore recommend that the submission from Transpower (11.17) is accepted in part.
108. As I am recommending amendments to EW-R2, I recommend that the submissions from Fed Farmers (21.02), Genesis (28.07), Grampians Station (36.07) and NZDF (38.03) are accepted in part.

Recommendation

109. I recommend for the reasons given above, that the following amendments are made to EW-R2:
 - a. the title is amended to read "Earthworks for Specific Activities";
 - b. the term "landscaping" is added to EW-R2.1.b; and
 - c. the activities listed in the rule are required to comply with EW-S6.
110. The amendments recommended to EW-R2 are set out in **Appendix 2**.
111. The term 'land disturbance' is also recommended to be included as a subset definition of 'earthworks' in the Definition Nesting Table in the Interpretation Section of the MDP. The amendments recommended the Interepetation Section are set out in **Appendix 1**.
112. In terms of Section 32AA, the recommended amendments, in my view, will be more effective at meeting Council's obligations under the NPSET to avoid, as far as reasonably practicable, reverse sensitivity effects on the electricity transmission network by requiring activities to comply with EW-S6 and by including 'land disturbance' as a subset definition of 'earthworks'. Including the term 'landscaping', in my view, is also more efficient at achieving the drafting

intent (that the other earthworks rules do not apply to gardening/landscaping activities as they are generally anticipated to meet the environmental outcomes sought).

Rule EW-R3

Submissions

113. Transpower (11.18) and the NZDF (38.03) support EW-R3 as notified. Grampians Station (36.08) also support EW-R3 but seek a minor amendment to the rule to correct an error in the provision as drafted (the PER activity status is missing from the rule).
114. TLGL (9.03) oppose EW-R3 in part and request amendments to the rule to provide for earthworks associated with a consented subdivision as the notified volume and area, in their view, is limiting to give effect to larger scale development. Alternatively, TLGL request that the volume and area of land be increased to better reflect the works necessary for installation of infrastructure and services associated with subdivision.

Analysis

115. A rule allowing earthworks to facilitate subdivision as a PER activity, without controls, has the potential to have adverse effects and may not achieve the objective and policy direction in EW-O1 and EW-P2. I therefore do not recommend that EW-R3 is amended to permit earthworks to facilitate subdivision as sought by TLGL. I however agree with TLGL that the thresholds in EW-R3 are fairly limiting to give effect to larger scale subdivision. I therefore recommend that EW-R3 (Earthworks for Subdivision) is deleted and that any earthworks to facilitate subdivision are instead assessed under EW-R4 (Earthworks not Specified). The reason for this is the permitted thresholds in EW-R4 essentially form the permitted baseline in the underlying zone in which subdivision is sought. In my view, it is therefore inefficient to have a specific rule for earthworks associated with subdivision unless the thresholds for subdivision are more permissive in all zones (which is currently not the case for earthworks in the GRUZ). The analysis of submissions on EW-R4 are also anticipated to address the concerns of TLGL as the permitted thresholds in EW-R4 are recommended to be increased in all zones and by effect allow for larger scale earthworks associated with subdivision. I therefore recommend that the submission from TLGL (9.03) is accepted in part.
116. As EW-R3 is recommended to be deleted, I recommend that the submissions from Grampians Station (36.08), Transpower (11.18) and the NZDF (38.03) are rejected.

Recommendation

117. I recommend, for the reasons given above, that EW-R3 is deleted, as set out in **Appendix 2**.
118. In terms of Section 32AA, I consider the proposed amendment to be more efficient by removing the consenting requirements for subdivisional earthworks that meet the PER thresholds in EW-R4, while remaining effective at achieving the outcomes sought in EW-O1 and EW-P2.

Rule EW-R4

Submissions

119. Transpower (11.19), MoE (27.08), Genesis (28.08), Wolds Station (33.02) and the NZDF (38.03) support EW-R4 as notified.
120. NZ Pork (20.04) request that the PER activity thresholds in EW-R4 are amended as they consider the DIS activity status when compliance is not achieved with R4.2 to be unnecessarily onerous on necessary ancillary farming earthworks. NZ Pork (20.04) also oppose the CON activity framework in EW-R4 as, in their view, it is unclear in the s32 report how the CON status is an effective or efficient method to achieve the outcomes sought. They argue that if earthworks up to 1,500m³ by volume and 2,500m² by area are guaranteed to get consent, a more appropriate framework would be to establish a RDIS status for any earthworks above these volumes. NZ Pork therefore request that the activity status in EW-R4 is amended to RDIS for any earthworks exceeding 1,500m² by volume and 2,500m² by area and that the CON framework for earthworks exceeding 1,000m³ by volume and 1,000m² by area is removed.
121. Fed Farmers (21.03) support the stepped approach taken and the corresponding activity statuses in EW-R4 but request that EW-R4.1 is amended to reduce the time period from five years to 12 months. A consequential amendment to EW-R4.2 is also sought.
122. DOC (7.09) oppose the matters of control in EW-R4, as in their view, they fail to manage silt and sediment loss, and do not achieve EW-P2.

Analysis

123. The cascade in activity status in EW-R4 has largely been carried over from the Operative MDP (noting that there has been increases made to the volume thresholds in both the PER and CON framework). The intention of the cascade is to enable small scale earthworks, where it is anticipated that adverse effects can be appropriately managed through the standards, as a PER activity; to provide for a level of earthworks over the PER volume and area which comply with the standards as CON, allowing for additional conditions to be applied as necessary over and above the standards; and for all other earthworks to be DIS to allow for consideration of all effects and, if necessary, the ability to decline a consent.
124. The matters of control are the effects of stockpiling, the visual effects on landscape values and where any earthworks are within a SASM, those matters in SASM-MD1. In considering the submission from NZ Pork, I however consider that the visual amenity effects on landscape values (including any visual amenity effects associated with stockpiling) are effectively managed via the EW Standards. EW-S3, for example, requires within 12 months after earthworks have commenced and on completion of the earthworks, the area of land subject to the earthworks to be built upon, sealed with hardstand material, landscaped or recontoured and replanted. Based on the recommendation to include additional matters of discretion relating to SASM within the EW Standards (refer to the assessment below) I also consider that the effects on SASM sites are effectively managed via the standards. I therefore do not anticipate that

additional conditions will be needed to manage the visual amenity effects on landscape values or SASM sites for the larger volume and area provided for as a CON activity in EW-R4. I therefore recommend that the CON activity framework in EW-R4 is deleted, and the PER thresholds in the GRUZ are increased to 1,500m³ by volume and 2,500m² by area as sought by NZ Pork. As a consequence, I also recommend that the CON activity thresholds applying to the RESZ, RLZ, CMUZ and GIZ are deleted, and the PER thresholds are increased to 1,000m³ by volume and 2500m² to align with the recommended approach to the GRUZ.

125. I also agree with NZ Pork that the activity status where the PER thresholds or standards cannot be achieved should be changed to RDIS, as the effects of earthworks, in my view, are largely known and are therefore able to be addressed via matters of discretion. An RDIS status also allows for earthworks activities to be declined where the effects of earthworks will not achieve the direction in EW-O1 or EW-P2 and therefore still aligns with the drafting intent. I therefore recommend that the submission from NZ Pork (20.04) is accepted.
126. The submission from DOC, in my view, has been addressed, as the matters of control are now recommended to be deleted. Any perceived gaps in the provision to manage silt and sediment loss have therefore been removed. I also note that the proposed RDIS matters of discretion include a matter addressing sedimentation and water or wind erosion aligning with EW-P2 which should address the concern raised by DOC.
127. I agree with Fed Farmers that the 5 year time period applying to EW-R4 should be reduced to 12 months as, in my opinion, 12 months is a more effective method to assess any adverse effects of earthworks. The 5 year timeframe, as notified, equates to half the life of the District Plan and, in my view, is more difficult to monitor and enforce. The 12 month timeframe proposed by Fed Farmers is also consistent with the approach taken in other recent district plan processes² and the recommendations of Mr Boyes. I therefore recommend that the submission from Fed Farmers (21.03) is accepted. No amendments to the permitted thresholds in EW-R4 are recommended based on the submission from Fed Farmers. In my view, the permitted thresholds (including the recommended increase) generally align with other district plans. Any adverse effects of such earthworks, in my view, can also be effectively managed via the standards and are likely to achieve the outcomes sought.
128. As I am recommending changes to EW-R4, I recommend that the submissions from Transpower (11.19), MoE (27.08), Genesis (28.08), Wolds Station (33.02) and the NZDF (38.03) are accepted in part.

Recommendation

129. I recommend, for the reasons given above, that the CON activity status framework is deleted from EW-R4 and that the permitted thresholds are increased to 1,500m³ by volume and 2,500m² by area in the GRUZ. The DIS activity status where the PER thresholds cannot be

² Proposed Selwyn District Plan, Proposed Waimakariri District Plan and Proposed Timaru District Plan.

complied with is recommended to be changed to RDIS and the time period applying to the EW-R4 is recommended to be reduced from 5 years to 12 months.

130. The following consequential amendments pursuant to Clause 10(2)(b) of the RMA are also recommended:

- a. the CON activity framework applying to the RESZ, RLZ, CMUZ and GIZ in EW-R4 is recommended to be deleted and the permitted thresholds in these zones increased to 1,000m³ by volume and 2500m² by area.
- b. The time applying to RESZ, RLZ, CMUZ and GIZ is recommended to be reduced from 5 years to 12 months.
- c. The time applying to EW-S5 is also recommended to be reduced from 5 years to 12 months to ensure a consistent approach is being applied to earthworks throughout the MDP.

131. The amendments recommended to EW-R4 and EW-S5 are set out in **Appendix 2**.

132. In terms of Section 32AA, the proposed amendments, in my view, are more efficient by allowing for a larger volume and area of earthworks in any 12-month period while remaining effective at achieving the outcomes sought in EW-O1 and EW-P2.

Relationship Between the EW Matters of Discretion and SASM-MD1

Submissions

133. TRoNT (19.32) generally support the earthworks standards (EW-S1 to EW-S6) but request that a new assessment matter is included in each of the standards that requires an assessment of the matters listed in SASM-MD1 for any earthworks within a SASM.

Analysis

134. EW-S4 already includes an assessment matter requiring an assessment of the matters in SASM-MD1 where any earthworks are within a SASM. A new assessment matter in EW-S4 is therefore not required and would result in unnecessary duplication.

135. Inclusion of a matter of discretion requiring an assessment of SASM-MD1, in my opinion, is also not appropriate in EW-S5 and EW-S6, as any breach of these standards is a DIS or NC activity. The Council's discretion is therefore unrestricted and already enables an assessment of those matters in SASM-MD1 where appropriate.

136. In regards to EW-S1 to EW-S3, SASM-MD1 directs that the potential effects of a proposal on Ngā Rūnaka values are to be identified by engagement with the rūnaka, and any cultural assessment that has been undertaken, as well as the consideration of whether there needs to be a cultural observer present during ground disturbance works. While I support the engagement of rūnaka where activities are anticipated to have potential effects on Ngā Rūnaka

values, I do not consider engagement to be efficient in all circumstances where activities are being undertaken within a SASM, as engagement requires significant time, resource and cost for both applicants and rūnaka. It is also important to consider whether the activities which these standards manage are likely to have effects on mana whenua values.

137. EW-S1 manages earthworks being undertaken on a slope and therefore applies to numerous SASM sites that are located on hills and mountains of cultural significance (wāhi tupuna). The matters of discretion in EW-S1 are concerned with the effects of earthworks on the stability of adjoining land, the susceptibility of the land to subsidence or erosion and whether any changes to the patterns of surface drainage would result because of the earthworks. The effects of earthworks on wāhi tupuna however, are not necessarily limited to the stability of the slope or surface drainage. Earthworks on a slope can also have visual amenity effects given the potential scar they can leave on the landscape. I therefore agree with TRoNT that an additional matter of discretion should be added to EW-S1 that requires an assessment of those matters in SASM-MD1 for any site within a SASM to ensure the values associated with SASM sites are not compromised, consistent with the direction in SASM-P6. For the same reason, I also recommend that a matter of discretion is added to EW-S3 relating to rehabilitation and reinstatement. In considering the submission from TRoNT I also recommend that an additional matter of discretion is added to EW-S1 to make it clear to plan users that earthworks on a slope can have adverse effects on visual amenity, landscape character and outlook, consistent with the assessment matter in EW-S3.
138. EW-S2.1, in comparison, is specific to the depth of earthworks in relation to the boundary of a site in separate ownership. I therefore do not anticipate that the effects of earthworks which breach this standard will impact the overall values of SASM sites, because the rule relates to cross boundary effects. In addition, SASM-R6 (which lists landfills, waste disposal facilities, wastewater treatment plants, crematories, cemeteries, hazardous facilities and quarrying and mining activities as a NC activity), in my view, addresses EW-S2.2 (relating to the use of cleanfill) within any SASM. Inclusion of a matter of discretion requiring an assessment of those matters in SASM-MD1, in my opinion, is therefore not required in EW-S2.
139. Based on the above, I recommend that the submission from TRoNT (19.32) is accepted in part.
140. For completeness, Fed Farmers (21.04) support EW-S1 to EW-S3 as notified. I therefore recommend that the submission from Fed Farmers is accepted in relation to EW-S2 and accepted in part in relation to EW-S1 and EW-S3.

Recommendation

141. I recommend, for the reasons given above, that EW-S1 and EW-S3 are amended to include an additional matter of discretion which requires an assessment of those matters listed in SASM-MD1 for any earthworks within a SASM. A consequential amendment pursuant to Clause 10(2)(b) of the RMA is also recommended to add a matter of discretion to EW-S1 to make it clear that earthwork on a slope, if unmanaged, can have impacts on visual amenity, landscape

character and outlook. The amendments recommended to EW-S1 and EW-S3 are set out in **Appendix 2**.

142. In terms of Section 32AA, the proposed amendments, in my view, will be more effective at achieving the outcomes sought in SASM-P6 and EW-O1 by better recognising the impacts earthworks can have on mana when values and by recognising the potential impacts on visual amenity, landscape character and outlook.

Standard EW-S4

Submissions

143. TRoNT (19.31), Fed Farmers (21.04) and OWL (29.13) support EW-S4 as notified.
144. NZTA (14.63) oppose EW-S4 in part and request that either the standard is deleted, or it is amended to make it relevant only to matters outside of the scope of the HNZPT Act. While adherence to an accidental discovery protocol during earthworks is supported by NZTA, they consider EW-S4 replicates the process required to be followed under the HNZPT Act. It is therefore NZTA's view, that the archaeological authority process is not a planning matter that should be replicated in the MDPR. However, if there is a clear resource management purpose that requires an accidental discovery protocol to be in place for matters that are outside of the HNZPT process, NZTA request that the standard is amended to reflect only those matters. If EW-S4 is deleted in response to the NZTA submission, NZTA also request consequential amendments to EW-R1 (14.60), EW-R2 (14.61) and EW-R4 (14.62) to remove the requirement for Standard EW-S4 to be complied with.

Analysis

145. EW-S4, in my view, is appropriate to alert plan users undertaking earthworks of their obligations relating to accidental discovery. The standard also helps achieve Council's obligations under Section 6 of the RMA to provide for the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taonga and to protect historic heritage from inappropriate use and development, as well as helping to achieve the objectives and policies in the SASM Chapter.
146. EW-S4 also only applies in the event of discovery of sensitive material which is not authorised to be disturbed by any resource consent or any other statutory authority which includes any works approved by Heritage New Zealand Pouhere Taonga. The standard, in my view, therefore, does not duplicate the HNZPT Act as it only applies to sensitive material not approved by other statutory authorities. I therefore recommend that the submission points from NZTA (14.60, 14.61 14.62 and 14.63) are rejected and the submissions from TRoNT (19.31), Fed Farmers (21.04) and OWL are accepted.

Recommendation

147. I recommend, for the reasons given above, that the EW-S4 is retained as notified.

Standard EW-S5

Submissions

148. Fed Farmers (21.04) support EW-S5 as notified.
149. Wolds Station (33.03) oppose EW-S5 as they consider that a certain level of earthworks should be PER in SVAs and SGAs and that small scale earthworks do not justify the imposition of a DIS activity status. Grampians Station (36.09) also oppose EW-S5 as they consider some allowance needs to be made for ancillary farming earthworks in SVAs and SGAs and suggest that the volume and areas of earthworks is increased to 20m³ and 50m².

Analysis

150. I do not support the submissions from Wolds Station and Grampians Station as the EW provisions already provide for small scale earthworks within SVAs and SGAs as sought by the submitters. EW-R1 (Earthworks for Maintenance or Repair of Existing Activities) and EW-R2 (Earthworks General) are not required to comply with EW-S5 and therefore allow for an appropriate level of earthworks in SVAs and SGAs as a PER activity. Providing for further earthworks in SVAs and SGAs, in my view, would be inappropriate and would not meet Council's obligations to recognise and provide for the protection of outstanding natural landscapes and features from inappropriate use and development as a matter of national importance under the RMA, or achieve the outcome sought in EW-O1. I therefore recommend that the submissions from Wolds Station (33.03) and Grampians Station (36.09) are rejected and the submission from Fed Farmers (12.04) is accepted.

Recommendation

151. I recommend, for the reasons given above, that no amendments are made to EW-S5 in considering the above submission points.

Standard EW-S6

Submissions

152. Fed Farmers (21.04) and Grampians Station (36.10) support EW-S6 as notified.
153. Transpower (11.20) supports EW-S6 to the extent the standard seeks to manage land disturbance and earthworks in the vicinity of the National Grid in a manner that gives effect to Policy 10 of the NPSET and that the standard is generally consistent with the requirements established in NZECP34:2001. Transpower however notes that various clauses of EW-S6 either address earthworks or land disturbance. Transpower therefore request that the clauses and exemption are amended to address both earthworks and land disturbance due to the nuances of the definitions. In their view, this will ensure consistency with NZECP34:2001 and that the National Grid is not compromised consistent with Policy 10 of the NPSET.

Analysis

154. Based on the recommendation to include the definition of 'land disturbance' as a subset definition of 'earthworks' I recommend that EW-S6.3 and EW-S6.4 are amended to apply to 'earthworks' as opposed to 'land disturbance'. This will ensure any alteration or disturbance of the land (under both definitions) is required to comply with each of the clauses in EW-S6 to provide consistency with NZECP34:2001 and to ensure the National Grid is not compromised consistent with Policy 10 of the NPSET. I therefore recommend that the submission from Transpower (11.20) is accepted in part.

155. As I am recommending changes to EW-S6, I recommend that the submission from Fed Farmers (21.04) and Grampians Station (36.10) are accepted in part.

Recommendation

156. I recommend, for the reasons given above, that EW-S6 is amended to ensure EW-S6.3 and EW-S6.4 apply to 'earthworks' as opposed to 'land disturbance', noting that the definition of 'land disturbance' is recommended to be a subset of the definition of 'earthworks'. The amendments recommended to EW-S6 are set out in **Appendix 2**.

157. In terms of Section 32AA, the proposed amendments, in my view, align with the drafting intent and more appropriately give effect to the NPSET.

Definitions

Submissions

158. TLGL (9.01) consider that definition of 'earthworks' or the EW Chapter need to be amended to outline how volume is calculated for cut and fill works undertaken within the same site.

159. CRC (31.01) supports the definition of 'cleanfill material' as it comes from the NP Standards but requests a minor amendment to correct an error in the definition as notified (the letter f. is missing).

Analysis

160. The NP Standards direct that where a term defined in the NP Standards is used, and the term is used in the same context, local authorities must use the definition as defined in the NP Standards. However, if required, they may define:

- terms that are a subcategory of, or have a narrower application than, a defined term; and
- additional terms if they do not have the same or equivalent meaning.

161. 'Earthworks' is a term defined in the NP Standards. The definition of 'earthworks' therefore must match the definition in the NP Standards and cannot be amended. TLGL has not recommended a subcategory or new definition to clarify how cut and fill works are calculated within the same site. No changes to the Interpretation Section are therefore recommended

based on the submission from TLGL. I also do not consider it necessary to amend the EW Introduction to include an advice note on how to calculate cut and fill works, as this is not something Mackenzie has experienced difficultly with, nor is it something I have seen in other District Plans. I therefore recommend that the submission from TLGL (9.01) be rejected.

162. I recommend that the submission from CRC is accepted, to correct a minor drafting error in the definition as notified.

Recommendation

163. I recommend, for the reasons given above, that no changes are made to the Interpretation Chapter or EW Chapter based on the submission from TLGL. A minor amendment is recommended to be made to the definition of 'cleanfill material' as set out in **Appendix 1**.
164. The scale of change does not require a Section 32AA evaluation because it is a minor change to correct a drafting error in the definition as notified.

12. Subdivision (SUB)

Objective – SUB-O1

Submissions

165. FENZ (5.21), the Telcos (6.01), NZTA (14.40) and TRoNT (19.13) support SUB-O1 as notified. NZ Pork (20.05) also supports SUB-O1 as the objective requires subdivision to align with the purpose and character of the zone in which it occurs and therefore based on the objectives and policies in the GRUZ supports and enables primary production activities and avoids reverse sensitivity effects in the GRUZ.
166. Transpower (11.06) opposes SUB-O1 as they are concerned the objective does not describe the role subdivision plays in managing the effects of future land uses. Transpower therefore request that a further clause is added to SUB-O1 to avoid conflict between incompatible intended uses that will then be implemented by the subsequent subdivision policies. A minor amendment to SUB-O1.4 is also recommended to provide for infrastructure that is appropriate for the intended use more generally as opposed to the intended use of the subdivision.

Analysis

167. Strategic Direction ACT-O6 directs that the location and effects of activities are to be managed to minimise conflicts between incompatible activities and to protect important existing activities from reverse sensitivity effects which, in my view, subdivision plays a significant role. I also note that while SUB-O1 directs that subdivision is to align with the purpose and character of the zone in which it occurs, not all underlying zone chapters include direction specifically relating to the management of reverse sensitivity effects. I therefore agree with Transpower that SUB-O1 should be amended to include a specific clause relating to reverse sensitivity effects and that SUB-O1.4 should be amended to provide for infrastructure that is appropriate for the intended use more generally as opposed to the intended use of the subdivision. In regard to the

additional clause, I however recommended alternative wording to that of Transpower to closely align with the direction in ACT-O6. I therefore recommend that the submission from Transpower (11.06) is accepted in part.

168. As I am recommending changes to SUB-O1, I recommend that the submissions from FENZ (5.21), the Telcos (6.01), NZTA (14.40), TRoNT (19.13) and NZ Pork (20.05) are accepted in part.

Recommendation

169. I recommend, for the reasons given above, that SUB-O1 is amended to include a new clause to “minimise conflict between incompatible activities” and to amend SUB-O1.4 to provide for infrastructure that is appropriate for its intended use, as opposed to the intended use of the subdivision. The amendments recommended to SUB-O1 are set out in **Appendix 3**.
170. In terms of Section 32AA, I consider the recommended amendments to be more effective at achieving ATC-O6 and therefore the purpose of the RMA, while not undermining other objectives sought such as those in the underlying zone chapters.

Policy – SUB-P2

Submissions

171. TRoNT (19.15) support SUB-P2 as notified.
172. Wolds Station (33.01) oppose SUB-P2 as they consider the policy to be unrealistic on the basis that any subdivision will find it immensely challenging to enhance the amenity values and quality of the environment in which it is located. The policy framework is therefore requested to be amended to reflect more achievable standards to provide a clear pathway for subdivision to obtain resource consent.

Analysis

173. Based on the submission from Wolds Station, I recommend that SUB-P2 is deleted and the requirement for subdivision to follow natural and physical features is merged with SUB-P1 (relating to subdivision design), to align with the direction in SUB-O1.1 and SUB-MD1. In my view, the current policy does not align with the direction in SUB-O1 which only requires subdivision to maintain the values of any overlays within which it is located (SUB-O1.2) and to align with the purpose and character of the underlying zone (SUB-O1.1). Based on the matters of discretion in SUB-MD1 I also consider that the requirement for subdivision to follow natural and physical features is more concerned with the overall design of the subdivision as opposed to the quality of the environment. The reference to maintaining and enhancing the amenity values and the quality of the environment is therefore recommended to be removed. In my opinion, the quality of the environment is also already managed through the provisions in the underlying zone chapters, overlays, and Section 19 and is therefore not necessary in the SUB Chapter as any application for subdivision consent will also need to be assessed against the District Wide Chapters and the provisions of the underling zone.

174. In considering the submission from Wolds Station, I also consider it appropriate to add “where practicable” as the wording, as notified, in my view, is fairly onerous and does not allow for situations where it may not be appropriate or practical to follow physical and natural boundaries. The recommended amendments are anticipated to address the concerns raised by Wolds Station and provide a clearer pathway for obtaining resource consent. Based on the above, I recommend that the submissions from Wolds Station (33.01) and TRoNT (19.15) are accepted in part.
175. For completeness, as changes are recommended to be made to SUB-P1 based on the analysis of submission received on SUB-P2, I recommend that the submission from TRoNT (19.14) to SUB-P1 is accepted in part.

Recommendation

176. I recommend, for the reasons given above, that the SUB-P2 is deleted and SUB-P1 is amended to require subdivision “*where practicable to follow natural and physical features such as the landscape, topography, and established vegetation of the site*”. The amendments recommended to SUB-P1 and SUB-P2 are set out in **Appendix 3**.
177. In terms of Section 32AA, the recommended amendments, in my view, are more effective at achieving the environmental outcomes sought in SUB-O1. The recommended amendments, in my view, are also more efficient as the quality of the environment is already managed via the underlying zone chapters and District Wide Chapters.

Policy – SUB-P3

Submissions

178. Transpower (11.07) generally supports SUB-P3 but requests amendments to the policy to align it with Policy 10 of the NPSET by ensuring that “*the operation, repair, upgrading, and development of the National Grid will not be compromised*.” Transpower also request that effects on people and safety are to be appropriately “managed” as opposed to avoided, remedied, or mitigated.

Analysis

179. I recommend that the alternative wording from Transpower is accepted as, in my view, it appropriately gives effect to the policy direction in the NESET which includes a requirement to avoid, as far as reasonably practicable, reverse sensitivity effects on the electricity transmission network and to ensure that its operation, maintenance, upgrading, and development is not compromised.

Recommendation

180. I recommend, for the reasons given above, that SUB-P3 is amended to reflect the alternative wording proposed by Transpower. The amendments recommended to SUB-P3 are set out in **Appendix 3**.

181. In terms of Section 32AA, the proposed policy direction, in my view, is more effective at giving effect to the NESET.

Policy – SUB-P4

Submissions

182. TRoNT (19.16) support SUB-P4 as notified.

183. Wolds Station (33.01) oppose SUB-P4 as they believe the policy introduces an excessively onerous policy framework on applications within the identified natural and cultural environments. ‘Only allowing’ in their view will be interpreted as ‘avoid’ and have the same result, effectively prohibiting subdivision in the listed areas.

184. Grampians Station (36.02) oppose SUB-P4 and request it is deleted as the wording, in their view, is overly restrictive and protections are already contained elsewhere in the District Plan.

Analysis

185. SUB-P4, in my view, is necessary to ensure the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna, the protection of historic heritage and the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga that are all recognised as matters of national importance under Section 6 of the RMA. I also consider that SUB-P4 does provide a pathway for subdivision to be granted within these areas, as subdivision only needs to be avoided where it will compromise the important natural and cultural values present; it does not direct avoidance of subdivision in these areas. I therefore do not agree with the position that subdivision in these areas will be effectively prohibited. I therefore recommend that the submissions from Wolds Station (33.01) and Grampians Station (36.02) are rejected.

186. Based on the above, I recommend that the submission from TRoNT (19.16) is accepted.

Recommendation

187. I recommend, for the reasons given above, that SUB-P4 is retained as notified.

Policy SUB-P7

Submissions

188. FENZ (5.23) and TRoNT (19.16) support SUB-P7 as notified.

189. The Telcos (6.02) support the integration intent of SUB-P7. However, they seek that the title of the policy is amended to ‘*SUB-P7 Infrastructure Integration*’ to better reflect the direction of the policy.

190. NZTA (14.42) generally support the intent of SUB-P7 as it considers infrastructure should be provided to service development in an integrated manner. NZTA however requests that the term ‘adequate’ is replaced with ‘sufficient’ as what is classified as ‘adequate’ may not always

be appropriate to support a development over the long term. An amendment is also sought to ensure infrastructure capacity “*to service the scale of the development*” is replaced with “*that is appropriate for the intended purpose and scale of the development*.”

Analysis

191. I do not support the submission from the Telcos to amend the title of the policy to ‘*SUB-P7 Infrastructure Integration*’ as, in my view, the policy has two primary aims. First, that infrastructure to service the scale of the development is provided and second, that the infrastructure is provided in an integrated way. I therefore consider that the title of the policy should remain as Infrastructure as the policy provides direction on infrastructure more generally as opposed to just integration. I therefore recommend that their submission (6.02) be rejected.
192. I agree with NZTA that the term ‘adequate’ should be replaced with ‘sufficient’ to allow an assessment of the infrastructure demands over the long term as well as an assessment of the quality of the infrastructure being installed. In my view, the term ‘adequate’ could have unintended consequences by only requiring the minimum level/quality of infrastructure to be installed and does not allow scope for the Council to require a higher level/quality of infrastructure if it is deemed appropriate in a given location. I also agree with NZTA that the policy should be amended to enable consideration of the intended purpose/use of the land following subdivision in addition to scale of the development, to be consistent with the proposed amendments to SUB-O1.
193. As I am recommending changes to SUB-P7, I recommend that the submissions from NZTA (14.42), FENZ (5.23) and TRoNT (19.16) are accepted in part.

Recommendation

194. I recommend, for the reasons given above, that SUB-P7 is amended to replace the term “adequate” with the term “sufficient” and to require infrastructure to be at a capacity to service the scale “and intended use of the development”, in an integrated manner. The amendments recommended to SUB-P7 are set out in **Appendix 3**.
195. In terms of Section 32AA, the recommended amendments will be more effective at achieving SUB-O1.4 by providing infrastructure that is appropriate for the intended use of the land following subdivision.

Policy SUB-P10

Submissions

196. Genesis (28.10) and Meridian (30.05) support SUB-P10 as notified.
197. NZTA (14.43) supports SUB-P10 in part but believes the policy should be broadened to ensure reverse sensitivity effects are avoided on all RSI, such as the state highway network, and not

just existing renewable electricity activities. OWL (29.07) similarly considers it appropriate to extend such policy direction to include infrastructure more generally, or at the very least, RSI.

198. NZ Pork (20.06) considers that the policy direction should be extended to other activities including RSI, transport networks, primary production activities (including intensive primary production) and rural industry as SUB-10, in their view, does not align with SUB-O1 nor the matters of discretion in SUB-MD7.
199. The NZDF (38.01) also request that SUB-P10 is amended to broaden its applicability beyond renewable electricity generation assets by including reference to avoiding reverse sensitivity effects of subdivision on RSI and other lawfully established activities (such as the Tekapo Military Training Area).

Analysis

200. As discussed earlier, Strategic Direction ACT-O6 requires that the location and effects of activities are managed to minimise conflicts between incompatible activities and to protect important existing activities from reverse sensitivity effects, which, in my view, subdivision plays a significant role. I also agree with NZ Pork that SUB-MD7 relating to reverse sensitivity effects broadens its applicability beyond renewable electricity generation assets by including reverse sensitivity effects on other activities including RSI, transport networks, rural activities, and rural industry. I therefore agree with NZTA, OWL, NZ Pork and the NZDF that SUB-P10 should be expanded to include reverse sensitivity effects more generally as opposed to only renewable electricity generation activities. This shift aligns with the recommended amendments to SUB-O1 and is not expected to compromise Council's obligations under the NPSREG to avoid, as far as reasonably practicable, reverse sensitivity effects on renewable electricity generation assets and activities, or the achievement of ATC-O4 which is specific to REG activities and electricity transmission activities. I therefore recommend that the submissions from NZTA (14.43), OWL (29.07), NZ Pork (20.06) and the NZDF (38.01) are accepted and the submissions from Genesis (28.10) and Meridian (30.05) are accepted in part.

Recommendation

201. I recommend, for the reasons given above, that SUB-P10 is amended to apply to the management of reverse sensitivity effects more broadly as opposed to only renewable electricity generation assets and activities. The amendments recommended to SUB-P10 are set out in **Appendix 3**.
202. In terms of Section 32AA, I consider the recommended amendments to be more effective at achieving SUB-O1 and ACT-O6 by minimising conflict between incompatible activities without undermining ATC-O4 which is specific to REG activities.

New Policy

Submissions

203. OWL (27.29) request new policy direction for subdivisions to create access, reserves, or to house infrastructure which is to be implemented by SUB-R3.

Analysis

204. While there is no specific policy direction for subdivision to create access, reserves or to house infrastructure, SUB-P5 (Safe Access), SUB-P6 (Public Open Space) and SUB-P7 (Infrastructure), in my view, already provide direction on subdivision managed under SUB-R3. SUB-P5 for example requires Council to ensure subdivision (including subdivision to create access) results in safe and efficient access for motorists, pedestrians, and cyclists and SUB-P6 and SUB-P7 require the provision of public open spaces and infrastructure. I also note that the SUB policies are not to be assessed in isolation and that policies in other district wide chapters are also relevant to activities managed under SUB-R3. In relation to infrastructure for example there are clear policies in the INF Chapter to recognise the benefits of infrastructure (INF-P1) and to encourage the coordination of infrastructure planning and delivery including within subdivision (INF-P3). The TRAN Chapter and Section 9 (Recreation and Open Space) of the operative MDP also contains policies that would be applicable to subdivision to create access and public open spaces. I therefore recommend that the submission from OWL (27.29) is rejected.

Recommendation

205. I recommend, for the reasons given above, that no changes are made to the SUB chapter in relation to the above submission point.

Rules, Standards and Matters of Discretion

Recognition of the Quality of the Environment, Amenity Values and Public Open Space in the SUB Chapter

Submissions

206. DOC (7.06) oppose SUB-R1 to SUB-R7, SUB-S1 to SUB-S10 and SUB-MD1 to SUB-MD9 as, in their view, they fail to recognise the quality of the environment, amenity values, and public open space and do not achieve SUB-O1, SUB-P2 and SUB-P6. DOC therefore request that the rules, standards and matters of discretion are amended to protect and provide for the quality of the environment, amenity values and public open space.

Analysis

207. I do not agree with DOC that the subdivision rules, standards and matters of discretion fail to recognise the quality of the environment, amenity values and public open space. The rules in the SUB Chapter have been purposely drafted to ensure inappropriate subdivision is avoided in areas identified as having high amenity, natural and cultural values, with subdivision in these areas typically requiring a DIS or NC resource consent. Subdivision (excluding subdivision to create access, reserve, or infrastructure sites) is also required to comply with the minimum

allotment size and dimensions standards in SUB-S1 which have been purposely set to align with the character and amenity values of the underlying zone in accordance with SUB-O1 and SUB-P1. In addition, SUB-MD1 requires an assessment of whether the allotment boundaries reflect natural or physical boundaries; and in residential areas (where public open space is predominantly located) an assessment is required of the provision, location, design, protection, management and intended use of reserves and open space aligning with the direction in SUB-P6. I therefore recommend that the submission from DOC (7.06) is rejected.

208. As no changes are recommended to the SUB rules, standards and matters of discretion in considering the submission from DOC, I recommend that the following submissions in support of the rules, standards and matters of discretion are accepted:

- a. FENZ (5.24 and 5.27) SUB-R1, SUB-R2, SUB-R4, SUB-R7 and SUB-MD3.
- b. NZTA (14.44, 14.45, 14.48 to 14.51, 14.53, 14.54 and 14.56) SUB-R1, SUB-R2, SUB-S5, SUB-S6, SUB-S10, SUB-MD1, SUB-MD4, SUB-MD5 and SUB-MD9.
- c. TRoNT (19.17, 19.18 and 19.22 to 19.27) SUB-R1, SUB-R2, SUB-R7, SUB-R8, SUB-R9, SUB-R10, SUB-R11 and SUB-R12.
- d. NZ Pork (20.07 and 20.08) SUB-R1 and SUB-R2.
- e. OWL (29.08 and 29.11) SUB-R2 and SUB-MD8.
- f. Grampians Station (36.04) SUB-R4

Recommendation

209. I recommend, for the reasons given above, that no changes are made to the SUB Chapter in relation to the above submission points.

Subdivision Activity Status

Submissions

210. MPL (37.01) opposes the shift in the SUB Chapter for subdivision that meets the applicable rules and standards from CON, as it is in the Operative Plan, to RDIS. Their reasons for this are that the RDIS status increases compliance costs for applicants and the Council, the RDIS status is less certain that subdivision will be approved, and if all rules and standards are met there is no valid reason why a subdivision should be rejected warranting a CON activity status.

Analysis

211. As detailed in the s32 report, the Investment Logic Mapping undertaken for the MDPR identified four key problems that the review should address. This includes:

- a. uncoordinated and fragmented development is enabled, disrupting social and economic wellbeing, putting pressure on infrastructure; and

- b. the outdated and permissive nature of the Plan has resulted in inconsistent and ad hoc decision making, creating perverse and undesirable outcomes.

212. The shift in activity status from CON to RDIS aims to address both of these statements by providing Council with the ability to decline inappropriate subdivision, while ensuring matters to be considered are focused and ad hoc decision making is avoided. While it is anticipated that most subdivision that meets the rules and standards will be acceptable, there may be particular circumstances where subdivision meets the rules and standards but does not align with the objective and policy direction and therefore may need to be declined to achieve the environmental outcomes sought.

213. While I acknowledge that there is less certainty for applicants obtaining subdivision consent, the objectives and policies have been specifically drafted to provide direction as to what type of subdivision is appropriate and what is not. This direction, in my view, provides an appropriate level of certainty for applicants during the application phase as applications in line with this direction are likely to be granted, with only applications contrary to this direction at risk of being declined.

214. No additional costs are anticipated due to the shift from CON to RDIS, as the assessment is still limited to the matters being assessed and would therefore be the same regardless of the activity status change. Any application that meets the standards and the objective and policy direction would also more than likely be non-notified.

215. Based on the above, I recommend that the submission from MPL (37.01) is rejected.

Recommendation

216. I recommend for the reasons given above, that no amendments are made to the SUB Chapter based on the submission from MPL.

Application of the SUB Standards to SUB-R3

Submissions

217. Transpower (11.10 to 11.13) generally support SUB-S1, SUB-S3, SUB-S4 and SUB-S7 but given these standards do not apply to SUB-R3 considers that the reference in these standards that specifically excludes *“any allotments created solely for access, reserves or network utilities operations”* is not required. Transpower therefore request that the reference in these standards is deleted.

Analysis

218. SUB-R3 applies specifically to subdivisions that create access, reserves or infrastructure sites including network utilities operations. The only standards to be complied with under SUB-R3 are SUB-S2 and SUB-S10. I therefore agree with Transpower that the exemption for allotments created solely for access, reserves, or network utility operations in SUB-S1, SUB-S3, SUB-S4 and SUB-S7 is not required when assessing subdivision applications under SUB-R3.

219. SUB-R3 however is limited in scope to subdivision purposely for the creation of access, reserves or infrastructure sites and does not include access, reserve or infrastructure sites created as part of a wider subdivision such as larger scale residential developments that include access, reserve, or infrastructure allotments. The exemption in SUB-S1, SUB-S3, SUB-S4 and SUB-S7 is therefore required for any subdivisions not specifically addressed under SUB-R3. I therefore recommend that the submission from Transpower (11.10 - 11.13) is rejected.

Recommendation

220. I recommend, for the reasons given above, that SUB-S1, SUB-S3, SUB-S4 and SUB-S7 are retained as notified insofar as they relate to the above submission points.

Rule SUB-R3

Submissions

221. FENZ (5.25), TRoNT (19.19), OWL (29.09) and Grampians Station (36.03) support SUB-R3 as notified.

222. The Telcos (6.03) support that there is a specific rule providing for subdivision to create infrastructure within the SUB Chapter. However, given the generally low impact and nature of such subdivision they request that the activity status is changed from RDIS to CON. Transpower (11.08) similarly oppose SUB-R3 as they consider the RDIS status to be overly onerous in situations where subdivision is for infrastructure and request that the activity status is changed to CON.

223. Transpower (11.08) also request that the positive effects of, or benefits of, the access, reserve or infrastructure be given consideration in the matters of control to give effect to Policy 1 of the NPSET; and that the default activity status in situations where compliance with the conditions and standards in Rule SUB-R3 are not achieved is uniformly changed to RDIS, on the basis that the potential effects are sufficiently known and able to be managed through matters of discretion.

224. NZTA (14.46) generally supports the intent of SUB-R3 as it provides a consenting pathway to create allotments via subdivision to house infrastructure. NZTA however considers that the matters of discretion, specifically a.i. could be clarified by replacing the term "flow" with "efficiency."

Analysis

225. As discussed above, the shift in activity status from CON to RDIS aims to address two of the key problem statements identified in the Investment Logic Mapping undertaken for the MDPR by providing Council with the ability to decline inappropriate subdivision, while ensuring matters to be considered are focused and ad hoc decision making is avoided. While I agree that subdivision to create access, reserve or infrastructure sites is generally acceptable, subdivision of this nature can still be inappropriate in particular circumstances and have adverse effects that are not able to be appropriately managed through consent conditions and therefore may

need to be declined to achieve the environmental outcomes sought. I therefore recommend that the RDIS activity status for subdivision to create access, reserve or infrastructure allotments is retained and the submission points from the Telcos (6.03) and Transpower (11.08) relating to activity status are rejected.

226. I agree with Transpower that the positive effects or benefits of subdivision to create access, reserve or infrastructure sites should be given consideration in the matters of discretion, to align with the NPSET; Strategic Direction ACT-O3 which requires the importance of infrastructure to be recognised and provided for; and UFD-O1 which seeks for the districts townships and settlements to grow and develop in an integrated way with the provision of infrastructure and facilities which support the functioning of the community. However, for simplicity, I recommend alternative wording to that from Transpower. I therefore recommend that the submission from Transpower (11.08) on this point is accepted in part.
227. I also agree with Transpower that the DIS activity status applying to subdivision that cannot comply with SUB-R3 should be removed. I consider that as notified, any sites not created for the purpose of access, reserves or infrastructure could be argued to be in breach of SUB-R3.1, triggering a DIS activity status. This is inconsistent with the drafting intent for subdivision that does not meet SUB-R3.1 to be governed by the other rules in the SUB Chapter. I therefore recommend that an advice note is added under SUB-R3.1 and SUB-R3.2 that states where SUB-R3.1 does not apply to the subdivision, the other rules in the SUB Chapter apply. The activity status for when SUB-R3.1 is not complied with is therefore no longer required. I also recommend that the activity status where SUB-R3.2 is not complied with, noting that it relates to compliance with the subdivision standards, should be determined by the activity status set out in the relevant standard as opposed to the SUB-R3, consistent with the approach applying across the District Plan with respect to where standards are breached. I therefore recommend that the submission point from Transpower (11.08) is accepted in part.
228. I also recommend that the alternative wording from NZTA is accepted as the term “efficiency” aligns with the terminology used in the TRAN Chapter and, in my view, is broader in application than the term “flow.” I therefore recommend that submission point from NZTA (14.46) is accepted.

Recommendation

229. I recommend, for the reasons given above, that the positive effects or benefits of subdivision to create access, reserve or infrastructure allotments is included as a matter of discretion in SUB-R3; an advice note is added to SUB-R3 that stipulates where SUB-R3.1 does not apply to the subdivision, the other rules in the SUB Chapter apply; the DIS activity status for subdivision that does not comply with SUB-R3.1 and SUB-R3.2 is removed; and the term “flow” in SUB-R3.a.i is replaced with the term “efficiency.” The recommended amendments to SUB-R3 are set out in **Appendix 3**.
230. The recommended amendments, in my view, will be more effective at achieving the direction in the NPSET, ACT-O3 and UFD-O1 by recognising the positive effects or benefits of subdivision

to create access, reserve or infrastructure sites. The proposed amendments will also be more efficient by removing any ambiguity regarding the application of SUB-R3 and the associated DIS activity status.

Rule SUB-R5

Submissions

231. FENZ (5.24), TRoNT (19.21) and Grampians Station (36.05) support SUB-R5 as notified.
232. Transpower (11.09) supports SUB-R5 on the basis that the rule gives effect to Policies 10 and 11 of the NPSET and is consistent with the approach that Transpower seeks for the management of subdivision in the vicinity of the National Grid in plans across New Zealand. Transpower however seeks minor amendments to the rule to correctly reference the New Zealand Electrical Code of Practice; and to clarify that SUB-R5.1 only requires the subdivision plan to demonstrate that each allotment can accommodate a building platform outside of the National Grid Yard as opposed to the formal identification of building platforms secured by way of a consent notice.

Analysis

233. I recommend that the submission from Transpower (11.09), to correctly reference the New Zealand Electrical Code of Practice, is accepted, as this will correct a minor error in the rule as notified. I also agree with removing the requirement for building platforms to be secured by way of a consent notice, as if it can be demonstrated that each allotment can accommodate a building platform outside of the National Grid Yard, it is not necessary or efficient to require the identification of formal building platforms at the time of subdivision. Removing the consent notice requirement also provides greater flexibility for future landowners at the time of construction. I therefore recommend that the submission from Transpower (11.09) is accepted and the submission from FENZ (5.24), TRoNT (19.21) and Grampians Station (36.05) are accepted in part.

Recommendation

234. I recommend, for the reasons given above, that SUB-R5 is amended to correctly reference the New Zealand Electrical Code of Practice and to remove the requirement for building platforms outside of the National Grid Yard to be secured by way of a consent notice. The amendments recommended to SUB-R5 are set out in **Appendix 3**.
235. Removing the requirement for building platforms to be secured by way of a consent notice, in my view, is a more efficient approach, while still being effective at achieving SUB-P3 and SUB-P1 as well as the strategic directions and NPSET.

Rule SUB-R6 and Standard SUB-S8

Submissions

236. FENZ (5.24) support SUB-R6 as notified.

237. Meridian (30.06) support SUB-S8(2)(a) and (c) as notified.
238. DOC (7.07) oppose SUB-R6 and SUB-S8 as the Ōhau River Precinct is close to the largest remaining breeding colony (~1000 adults) of the Nationally Endangered Black-fronted tern/Tarapirohe. There is also a significant population of the Nationally Vulnerable Lakes skink (*Oligosoma off. chloronoton* "West Otago") in the immediate vicinity. The proposed rule and standard, in their view, therefore, fail to protect significant habitats of indigenous fauna and do not give effect to Section 6(c) of the RMA. DOC therefore request that the activity status in SUB-R6 is changed from RDIS to DIS and that SUB-S8 is amended to adequately recognise and protect the significant habitats of indigenous fauna in the immediate vicinity of the site.

Analysis

239. SUB-R6, as notified, largely replicates the Operative MDP rule (Section 12, Rule 4A.c) applying to subdivision in the Ōhau River Rural Residential Zone. Based on the information provided by DOC regarding the site and surrounds providing habitat for nationally endangered species, I however consider it appropriate for amendments to be made to the rule and standard to ensure Council meets its obligations to protect areas of significant indigenous vegetation and significant habitats of indigenous fauna under Section 6(c) of the RMA, as well as to achieve the objective and policy direction in Section 19 of the MDP.
240. An activity status shift to DIS, in my view, is not necessary as any potential effects of subdivision in the Ōhau River Precinct on indigenous vegetation and/or habitats of indigenous fauna can be managed through the matters of discretion. I therefore recommend that the RDIS status is retained but SUB-S8.3 is amended to require areas of significant indigenous vegetation and significant habitats of indigenous fauna to be identified as part of any Vegetation Management Plan and if necessary protected from inappropriate subdivision and use. I also recommend a minor change to the matters of discretion in SUB-R6 to refer to the adequacy of the Vegetation Management Plan, rather than its approval. This is because the requirement for approval is already contained in SUB-S8, and the change therefore makes it clearer what will be considered in the approval. I also recommend that SUB-S8.2 is amended to ensure no building platforms are located within an area of significant indigenous vegetation and/or significant habitat of indigenous fauna as identified in any Vegetation Management Plan. I also note that based on the recommendations of Ms Justice in the Section 42A Report for PC25 any proposed indigenous vegetation clearance associated with development within the Ōhau River Precinct will be considered under the provisions of Section 19 - Ecosystems and Biodiversity of the MDP, including any earthworks activities to facilitate subdivision.
241. Based on the above, I recommend that the submissions from DOC (7.07), FENZ (5.24) and Meridian (30.06) are accepted in part.

Recommendation

242. I recommend, for the reasons given above, that SUB-R6.d is amended to refer to the adequacy of any proposed Vegetation Management Plan. SUB-S8.2 is recommended to be expanded to ensure no building platforms are located within an area of significant indigenous vegetation

and/or significant habitat of indigenous fauna. The purpose of the Vegetation Management Plan, in SUB-S8.3, is recommended to be broadened to include the identification and protection of significant indigenous vegetation and significant habitats of indigenous fauna. The recommended amendments to SUB-R6 and SUB-S8 are set out in **Appendix 3**.

243. In terms of Section 32AA, the recommended amendments will be more effective at achieving Council's obligations to protect areas of significant indigenous vegetation and significant habitats of indigenous fauna as required under Section 6(c) of the RMA, as well as achieving the objective and policy direction in Section 19 of the MDP.

Rule SUB-R13

Submissions

244. TRoNT (19.28) support SUB-R13 as notified.
245. TLGL (9.04) oppose SUB-R13 in part and seek confirmation as to whether the LPAs are the same as the operative layers, or whether any changes to these areas are proposed.
246. Wolds Station (33.01) opposes SUB-R13 as, in their view, a NC activity status should not apply in circumstances where a subdivision will have no material impact/change on the listed areas. In addition, Wolds Station do not consider the NC status should apply to boundary adjustments. Wolds Station therefore request an exemption to enable a more permissive pathway for minor boundary adjustments wholly or partly within a LPA, SVA or SGA.

Analysis

247. To address the submission from TLGL (9.04), the only changes to the LPA proposed in PC23 relate to the inclusion of PREC3, to recognise the three existing Hut Settlements on the shore of Takamana/Lake Alexandrina.
248. Providing for subdivision that will have no material impact/change on the listed areas as a RDIS activity requires a qualitative assessment, and in my view, cannot be used to determine the activity status of an activity. The NC activity status also aligns with the direction in SUB-P8 which makes it clear that subdivision in LPAs, SVAs and SGAs should be avoided. This policy direction was included in the District Plan as part of PC13 and is therefore outside the scope of PC27. Any amendments to the activity status, in my view, would therefore be inappropriate as it would not align with this policy direction. I therefore recommend that the submission from Wolds Station (33.01) is rejected.

249. Based on the above, I recommend that the submission from TRoNT (19.28) is accepted.

Recommendation

250. I recommend, for the reasons given above, that SUB-R13 is retained as notified.

Standard SUB-S1 and Table SUB-Table 1

Submissions

251. OWL (29.10) support SUB-S1 as notified. TLGL (9.05) support the specified allotment sizes in SUB-S1.3 and SUB-S1.4.
252. Chris and Rachael Pudney (16.01) oppose SUB-S1 and request that the minimum allotment size in the Reserve Area (Fairlie) is reduced to 3,000m² – 5,000m².
253. NZ Pork (20.09) oppose SUB-S1 in part and request that SUB-S1.2 is amended to require that compliance is demonstrated at the time of subdivision that all building squares comply with the applicable land use setbacks in the GRUZ.
254. Road Metals (25.02) oppose SUB-S1 as they consider the 200ha minimum allotment size to be very restrictive for allotments within an ONL. In their view, the minimum allotment size should be reduced to 100ha, as 100ha still provides opportunities for building platforms which do not compromise landscape values. A 200ha minimum allotment size, in their view, also means boundary adjustments become difficult, particularly if an averaging concept is not provided for.
255. Lisburn Farm (26.02) also request a reduction of the 200ha minimum allotment size within an ONL to 100ha (or similar) as the 200ha in their view is unattainable and makes it challenging to undertake future development. Lisburn Farm (26.01) also request that the minimum allotment size is reduced from 100ha to 40ha (or similar) in the GRUZ. Their primary concern is the minimum allotment sizes proposed limit landowners' ability to subdivide in the GRUZ which is intended to be conducive to farming and related land uses.
256. MFL (35.02) similarly request that the minimum allotment size in the GRUZ is reduced from 100ha to 40ha. MFL (35.01) also seek amendments to SUB-S1 noting that there is no specific provision for how land affected by the NPSHPL should be managed which, in their view, is required by the NPSHPL. A reference to LUC 1-3 outlining how it is to be treated is therefore sought in SUB-S1/SUB-Table 1.

Analysis

257. The approach taken in the MDPR is that the minimum allotment size and minimum density applying in each zone has been determined at the time the review of each zone chapter is undertaken, as opposed to the SUB Chapter. The analysis of the submissions received on the minimum allotment size/density in the GRUZ is therefore assessed in the s42A report for PC23. Having read Mr Boyes analysis, no amendments to SUB-S1/SUB-Table 1 to reduce the minimum allotment sizes in the GRUZ have been recommended. I also note that the 200ha minimum allotment size applying to the Te Manahuna / Mackenzie Basin ONL (i.e. SUB-S1.10) is outside the scope of the PC27. Based on Mr Boyes analysis, I recommend that the submission points from Chris and Rachael Pudney (16.01), Road Metals (25.02), Lisburn Farm (26.02) and MFL (35.02) in regard to the minimum allotment size/density in the GRUZ are rejected.

258. The submission from NZ Pork (20.09) is also recommended to be rejected as the purpose of the building square is to ensure allotments are of a reasonable shape/dimension as opposed to identifying fixed building platforms. SUB-MD1 and SUB-MD7, in requiring an assessment of the suitability of the allotment for its intended purpose and the potential for reverse sensitivity effects, also enable consideration of the underlying zone setbacks at the time of subdivision where appropriate which, in my view, addresses the concerns of NZ Pork.

259. Section 3.8 of the NPSHPL requires territorial authorities to include objectives, policies and rules in their district plans to avoid the subdivision of highly productive land, except as provided for in the NPSHPL. The drafting approach applied to the MDPR is that the objectives and policies and rules applying to highly productive land are largely contained in the GRUZ. GRUZ-P4, for example, is specific to highly productive land and provides direction that the irreversible loss of highly productive land from inappropriate subdivision, use and development is to be avoided. The minimum allotment sizes applying to the GRUZ has also been deliberately set to ensure allotments are of a sufficient size to avoid the loss of highly productive land. I therefore do not consider it necessary to add an additional clause to SUB-S1 to outline how land affected by the NPSHPL should be managed. In considering the submission from MFL I do however recommend that the SUB Introduction is amended to make it clear to plan users that the underlying zone chapters may also contain provisions that are relevant to subdivision to ensure the subdivision provisions are not assessed in isolation. The amendments to the Introduction are anticipated to address the concerns of MFL by directing plan users to the underlying zone chapters including GRUZ-P4. I therefore recommend that the submission from MFL (35.01) is accepted in part.

Recommendation

260. I recommend, for the reasons given above, that SUB-S1 and SUB-Table 1 are retained as notified. I however recommend that the Introduction to the SUB Chapter is amended to make it clear that the underlying zone chapters may also contain provisions that are relevant to subdivision. The amendments recommended to Introduction to the SUB Chapter are set out in **Appendix 3**.

261. The recommended amendments, in my view, are more efficient at achieving the drafting intent by ensuring plan users also refer to the provisions in the underlying zone chapters.

Standard SUB-S2

Submissions

262. NZTA (14.47) generally support SUB-S2. However, for clarity purposes NZTA recommend that the term 'flow' in matter of discretion 2.a. is replaced with the term 'efficiency'.

Analysis

263. For the reasons given above, in relation to SUB-R3, I recommend that the request from NZTA (14.47) is accepted.

Recommendation

264. I recommend, for the reasons given above, that the SUB-S2 is amended to replace the term “flow” with “efficiency.” The amendment recommended to SUB-S2 is set out in **Appendix 3**.
265. The scale of the change does not require a Section 32AA evaluation because it is a minor change to improve plan drafting and the change does not alter the general intent. The original s32 evaluation therefore still applies.

Standard SUB-S3

Submissions

266. FENZ (5.26) support SUB-S3 in part but request that SUB-S3.1 is amended to ensure firefighting water supply capacity and pressure sufficient to meet the New Zealand Fire Service Fire Fighting Water Supplies Code of Practice is provided for allotments which have a separate connection to Council’s reticulated water supply, as there may be instances where the reticulated water supply network does not provide adequate capacity or pressure in accordance with SNZ PAS 4509:2008. Amendments are also sought to ensure where the water supply capacity and pressure cannot meet the requirements of FENZ an alternative firefighting water source in accordance with the SNZ PAS 4509:2008 is provided.
267. MFL (35.03) request amendments to SUB-S3.b to reduce the minimum volume of drinking water to be maintained on site from 35,000 litres to 30,000 litres. The reason for this is 35,000 litre water tanks are not commonly available, whereas 30,000 litre water tanks are readily available from several manufacturers.
268. MFL also consider that SUB-S3 should be amended to account for firefighting solutions that are approved by FENZ in accordance with the standard consent notice wording utilised by Mackenzie District Council in resource consent applications.

Analysis

269. Certain buildings under clause C5 of the Building Act 2004 must provide appropriate access for fire service vehicles, firefighters and equipment, and the inlets to any automatic fire sprinkler systems or fire hydrant systems. They must also deliver water for firefighting. The requirements in clauses C5.3 to C5.8 of the Building Act 2004 however do not apply to detached dwellings, or to outbuildings and other ancillary buildings. I therefore agree with FENZ that it is appropriate for fire fighting water supply to be assessed at the time of subdivision to ensure all allotments for residential use have an appropriate water source in accordance with SNZ PAS 4509:2008. I therefore recommend FENZ (5.26) submission is accepted in part to ensure every allotment for residential use demonstrates at the time of subdivision that a sufficient water supply and access to water supplies for firefighting is available in instances where the reticulated water supply network does not provide adequate capacity or pressure in the RESZ, CMUZ and GIZ. I therefore recommend that the submission from FENZ (5.26) is accepted in part.

270. Regarding the submission from MFL, the minimum size of the water tank for the storage of potable water needs to be adequate to ensure those dwellings which are not connected to reticulated services and do not have a bore, have sufficient potable water available to meet the Building Act requirements. In addition to the potable water supply required per dwelling, additional water must be retained on site for firefighting purposes. Advice received from the Council's Building Control officer is that a minimum storage of 30,000 litres is adequate to meet the requirements of the Building Act 2004. From a review of other District Plans, there are a range of water storage quantities, ranging from 1000 litres per household per day, to the storage of a minimum of 23,000 litres per household. I therefore consider that a minimum storage requirement for potable water of 30,000 litres is acceptable. I therefore recommend that the submission point from MFL (35.03) is accepted. I note that this is consistent with a similar recommendation in Ms Justice's s42A report for PC25.

271. I do not agree with MFL that amendments should be made to SUB-S3 to provide for alternative firefighting solutions that are approved by FENZ, as, in my view, it is not best practice to have standards that require third-party approval.

Recommendation

272. I recommend, for the reasons given above, that SUB-S3 is amended to ensure every allotment for residential use shall demonstrate at the time of subdivision that a sufficient water supply and access to water supplies for firefighting is available via the Council's urban reticulated system in accordance with SNZ PAS 4509:2008. An additional clause is also recommended to ensure where a reticulated water supply compliant with SNZ PAS 4509:2008 is not available, water supplies for firefighting that is in compliance with the alternative firefighting water sources provisions of SNZ PAS 4509:2008 must be provided. The minimum storage of water is also recommended to be reduced from 35,000 litres to 30,000 litres. The amendments recommended to SUB-S3 are set out in **Appendix 3**.

273. In terms of Section 32AA, the proposed amendments, in my view, are more effective at implementing SUB-P7, which requires infrastructure to have an adequate capacity to service the development, while being more efficient by reducing the water storage capacity from 35,000 litres to 30,000 litres.

Standard SUB-S7

Submissions

274. Chorus (15.01) supports the intent of SUB-S7 to ensure that telecommunications connections are provided to all new allotments. Chorus however request that the standard is amended to require fibre to be provided to the boundary of all new allotments within RESZ, CMUZ and GIZ.

275. The Telco Companies (24.01) generally support SUB-S7 as it requires all new allotments to be provided with a connection to a telecommunication system. However, they seek that the matters of discretion are revised to integrate SUB-S7.1.a with SUB-S7.1.c as SUB-S7.1.a, in their

view, is only required for subdivision where the future land use on these allotments will require the ability to connect to a telecommunications network.

276. MFL (35.04) oppose SUB-S7 as requiring the installation of power and telecommunications connections within all zones, in their view, is unnecessary and often cost prohibitive. With the advancement in alternative power solutions and satellite telecommunications such as Starlink, provision for power and internet in the RLZ and GRUZ is argued by the submitter to be more appropriately determined on an as needed basis. MFL also consider it appropriate for non-network solutions to be supported where it can be demonstrated as being efficient. MFL therefore request that SUB-S7 is amended to provide a specific exemption for RLZ and GRUZ or that the following wording is added to the standard "*unless an appropriate non-network solution can be demonstrated*".

Analysis

277. I recommend that the submission from Chorus (15.01) is rejected as the standard requires all allotments to be provided with connection to a telecommunication system network and therefore already allows for fibre connections.

278. I do not agree with merging Sub-S7.a and SUB-S7.c as, in my view, these assessment matters address different things. SUB-S7.a requires an assessment of whether electricity and telecommunication supply is needed for the intended use; and SUB-S7.c requires an assessment of what methods are to be used to inform prospective purchases that an allotment has not been supplied with a connection required under SUB-S7. This includes any subdivision considered under SUB-S7.a as well as any subdivision where connections have not been supplied for other reasons not relating to the intended use, for example where it is cost prohibitive or alternative solutions have been installed. SUB-S7.c in my view is therefore broader in scope than SUB-S7.a. However, in considering the submission from the Telco Companies I recommend that SUB-S7.c is amended to remove the reference to whether telecommunication and electricity connections shall be made available to the allotment. I therefore recommend that the submission from the Telco Companies (24.01) is accepted in part.

279. I agree with MFL that the requirement for all allotments (other than allotments for access, roads, utilities or reserves) in the RLZ and GRUZ to be provided with telecommunication connections to the boundary is not efficient given the advancement in alternative satellite telecommunications such as Starlink. I therefore agree that allotments in the RLZ and GRUZ should not be required to have a telecommunication connection to the boundary of the allotment. However, with respect to an electricity supply, deleting the standard would not provide the ability to consider whether alternative power solutions are suitable to service the intended land use (SUB-7.b) or whether methods should be used to inform prospective purchasers that electricity connections have not been made (SUB-S7.c). I therefore do not consider it appropriate to remove the requirement for electricity connections to be supplied at the time of subdivision. I therefore recommend that the submission from MFL (35.04) is accepted in part.

Recommendation

280. I recommend, for the reasons given above, that SUB-S7 is amended to include new criteria for allotments in the RLZ and GRUZ to ensure allotments in these zones are not required to have telecommunication connection to the boundary of the allotment. I also recommend that SUB-S7.c is amended to remove the reference to whether telecommunication and electricity connections shall be made available to the allotment. The amendments recommended to SUB-S7 are set out in **Appendix 3**.
281. In terms of Section 32AA, the proposed amendments, in my view, are more effective at implementing SUB-P7, which requires infrastructure to have an adequate capacity to service the development, while being more efficient by removing the requirement for allotments in the RLZ and GRUZ to be provided with separate telecommunication connections to the boundary given the advancement in alternative satellite telecommunications such as Starlink.

Matter of Discretion SUB-MD2

Submissions

282. NZTA (14.52) generally support SUB-MD2. However, NZTA are concerned that SUB-MD2.a. only refers to the design, siting, layout, and construction of any infrastructure that is vested into MDC as owner or manager or if it connects to any road, reserve or other infrastructure owned or managed by MDC. There are however many instances where infrastructure, such as roads, are required to connect to the state highway network. In these instances, NZTA consider that it is important for them to understand the design, siting, layout and construction of this infrastructure as to how it can integrate with the state highway network in a safe, efficient and effective manner. NZTA therefore requests that this matter be broadened to include 'Road Controlling Authority' or 'Network Utility Operator'.

Analysis

283. I agree with NZTA that there are instances where land transport infrastructure is required to connect to the state highway network. I therefore consider it appropriate for SUB-MD2 to be expanded to include 'Road Controlling Authority' or 'Network Utility Operator'. My preference is to use 'Road Controlling Authority' as this aligns with the term used in TRAN-R1 that allows for the development, operation, maintenance, repair or replacement of land transport infrastructure within a land transport corridor where it is undertaken by, or on behalf, a road controlling authority. I therefore recommend that the submission from NZTA (14.52) be accepted.

Recommendation

284. I recommend, for the reasons given above, that the SUB-MD2 is amended to include the design, siting, layout and construction of any infrastructure which is connected to any road owned or managed by the MDC or any other road controlling authority. The amendments recommended to SUB-MD2 are set out in **Appendix 3**.

285. The scale of the change does not require a Section 32AA evaluation because it is a minor change to improve plan drafting and the change does not alter the general intent. The original s32 evaluation therefore still applies.

Matter of Discretion SUB-MD7

Submissions

286. OWL (29.11) support SUB-MD7 as notified.

287. NZTA (14.55) supports SUB-MD7 in part as it includes matters of discretion for reverse sensitivity. However, NZTA considers that 'minimise' should be replaced with 'remedy or mitigate' to align with the RMA effects hierarchy and to improve clarity.

288. NZ Pork (20.10) supports SUB-MD7 in part but considers that the matters of discretion should be extended to a consideration of reverse sensitivity effects on other activities including primary production activities (including intensive primary production).

289. Genesis (28.11) support SUB-MD7 in part but considers that explicit reference to avoiding reverse sensitivity effects on lifeline utility infrastructure is necessary to be consistent with SUB-P10. Meridian (30.07) also considers that SUB-MD7 should be extended to consider the need for separation from LUI.

Analysis

290. In my view, the term 'minimise' more appropriately reflects the purpose of SUB-MD7 to reduce the potential for reverse sensitivity effects. The terms 'mitigate', or 'remedy', in my view, do not work as well in this context. The term 'minimise' also aligns with the terminology used in ACT-O6 and the recommended amendments to SUB-O1. I therefore recommend that the submission from NZTA (14.55) is rejected.

291. Based on the recommended amendments to SUB-P10, I recommend that the submission from NZ Pork (20.10), for SUB-MD7 to expressly refer to primary production activities (including intensive primary production), is accepted. I also recommend that the submissions from Genesis (28.11) and Meridian (30.07) are accepted as while the term RSI likely includes any infrastructure that would also fall within the definition of LUI, I note that the NPSHPL refers to both RSI and LUI, which implies there may be circumstances where LUI may not fall within the definition of RSI.

Recommendation

292. I recommend, for the reasons given above, that the SUB-MD7 is amended to expressly refer to primary production activities (including intensive primary production) and LUI. The recommended amendments to SUB-MD7 are set out in **Appendix 3**.

293. In terms of Section 32AA, the recommended amendments are considered to be more effective at achieving SUB-O1 and SUB-P10 by incorporating primary production and LUI when considering the potential for subdivision to result in reserve sensitivity effects.

Definitions

Submissions

294. Meridian (30.02) has identified that PC27 does not include the definition 'reverse sensitivity' despite this term being used in the provisions. Meridian therefore requests that the definition of 'reverse sensitivity' used in PC23 is included in PC27. Meridian (30.01) also requests that the definition of 'lifeline utility infrastructure' used in PC26 is included in PC27, especially as they have requested the use of this term in SUB-MD7.

Analysis

295. I agree with Meridian that the 'reverse sensitivity' definition introduced to the MDP via PC23 should also apply to the provisions in PC27. The term 'reverse sensitivity' is referred to in SUB-P10 and SUB-MD7, and as such not having included it in the definitions is an error. Based on the recommended amendments to SUB-MD7, I also recommend that the definition of 'lifeline utility infrastructure' in PC26 is included in the definitions of PC27. I therefore recommend that the above submission points (30.01 and 30.02) are accepted.

Recommendation

296. I recommend for the reasons give above, that the terms 'reverse sensitivity' and 'life utility infrastructure' are added to the definitions within PC27. The amendments recommended to the definitions are set out in **Appendix 1**.

297. In my view, the recommended amendments to include the definitions of 'reverse sensitivity' and 'life utility infrastructure' in PC27, do not require further assessment under section 32AA as they do not alter the intent of SUB-P10 or SUB-MD7 and provide clarity for District Plan users.

13. Public Access Chapter (PA)

Health and Safety in the PA Chapter

Submissions

298. Transpower (11.04) oppose PA-O1 as in their view, it fails to recognise that there are situations where it is necessary to restrict public access to protect public health and safety. Transpower also request new policy direction (11.05) in the PA Chapter to recognise and provide for situations where it is necessary to restrict public access for the same reason.

299. OWL (29.01) partly oppose PA-O1 as the objective, in their view, needs to recognise that health and safety considerations may mean that public access to and along surface waterbodies is not appropriate and would conflict with OWL's obligations under the HSWA.

300. OWL (29.02) also oppose PA-P1 in part as they are concerned the policy as drafted directs that "*the provision of appropriate public access*" is required in the Ōpihi River between Ōpihi Gorge and Stoneleigh Road, which is included in PA-SCHED1. OWL therefore request that PA-P1 is

amended with the proviso “*where appropriate*” to provide for situations where public access may not be appropriate to meet the submitter’s obligations under the HSWA.

301. OWL (29.03) also oppose PA-P2 as they are concerned the policy may require public access to be provided along the various surface waterways listed in PA-SCHED2, where scheme infrastructure is located, conflicting with their health and safety obligations. OWL (29.04) also requests the inclusion of health and safety considerations in PA-S1 as a matter of discretion to align with the requested direction in PA-P1.
302. Grampians Station (36.01) oppose PA-O1 in part and request that the responsibilities of landowners and managers under the HSWA are specifically referenced in the provision.

Analysis

303. The direction in PA-O1 and associated policies do not override other legal requirements, including, the legal rights and obligations of landowners under the HSWA. The PA Chapter also does not force any landowner or manager to provide public access over existing private land with the mandatory requirement for public access only applying to allotments less than 4ha created by future subdivision adjoining a waterbody listed in PA-SCHED1. I therefore recommend that the submissions from Transpower (11.04), OWL (29.01, 29.02, 29.03, 29.04) and Grampians Station (36.01) are rejected.

Recommendation

304. I recommend, for the reasons outlined above, that no changes are made to PA-O1, PA-P1, PA-P2 and PA-S1 in response to the above submission points.

Indigenous Biodiversity and Cultural and Historical Values in the PA Chapter

Submissions

305. DOC (7.04 and 7.05) oppose PA-P1 and PA-P2 as, in their view, the policies do not recognise that providing public access can have adverse effects on indigenous biodiversity and cultural and historical values and are therefore inconsistent with Part 2 of the RMA and Policy 10.3.5 of the CRPS.

Analysis

306. I recommend that the submission from DOC is rejected as PA-P1 only requires “appropriate” public access, which, in my view, allows for the consideration of situations where public access may not be appropriate to protect natural values associated with the esplanade reserve or protect conservation values as directed in Section 229 of the RMA. The direction in PA-P2 also only encourages opportunities and mechanisms to enhance public access.

Recommendation

307. I do not recommend any changes to PA-P1 and PA-P2 in response to the above submission points.

Objective PA-O1, Policy PA-P1, Policy PA-P2 and Standard PA-S1

Submissions

308. TRoNT (19.09 and 19.10) and Fed Farmers (21.05) support PA-O1, PA-P1 and PA-P2 as notified. Fed Farmers (21.05) also support PA-S1 as notified.
309. TRoNT (19.11) support PA-S1 as it recognises and enables access to Mahika kai. A minor amendment is however sought to ensure the activity status reference where compliance is not achieved with the rule clauses is consistent with other parts of the MDP.
310. OWL (29.04) oppose PA-S1 in part as they are concerned the standard does not reflect the direction of PA-P1 and PA-P2. In particular, PA-P2 directs that special consideration will be given to the provision for allotments smaller than 4ha along water bodies in PA-SCHED2. However, this is not a mandatory direction for the provisions of public access. OWL therefore considers this to be an error that needs to be corrected. OWL also notes it is not clear what standard applies for the creation of allotments over 4ha in size or land use consent applications.
311. MFL (35.07) consider it more practical to require an esplanade strip as opposed to an esplanade reserve. MFL therefore request that PA-S1 is amended to refer to esplanade strips as opposed to reserves. The size of the esplanade strip is also requested to be reduced from 20m to 5m.

Analysis

312. As detailed in the Introduction to the PA Chapter, the mandatory requirement for public access in the District Plan only applies to those waterbodies listed in PA-SCHED1 where subdivision creates an allotment that is less than 4ha. Consideration of esplanade reserves or strips is however encouraged where allotments adjoin a waterbody listed in PA-SCHED1 (where the allotment is greater than 4ha); the waterbody is listed in PA-SCHED2; or where subdivision creates an allotment less than 4ha that adjoins a waterbody. While there are no standards within the PA Chapter that specifically relate to this direction, the SUB chapter includes a matter of discretion (SUB-MD8) that is specific to the provision of public access where mandatory public access is not required under PA-S1. I therefore do not agree with OWL that there is an error in the provisions as notified.
313. In considering the submission from OWL, I however consider that various amendments could be made to the PA Chapter to further align the provisions with the drafting intent. First, amendments are recommended to PA-P1 to make it clear the mandatory requirement for public access only applies to allotments less than 4ha which adjoin a waterbody listed in PA-SCHED1. Amendments are then recommended to PA-P2 to expand the areas requiring special consideration to include those waterbodies in PA-SCHED1. In my view, this will alleviate the concern raised by OWL that there is currently no policy direction for allotments more than 4ha adjoining a waterbody listed in PA-SCHED1. I also recommend that the reference to land use consent applications in PA-P2 is removed as the requirement/consideration of public access as directed in PA-S1 and SUB-MD8 is only required at the time of subdivision. I also recommend that the Introduction to the SUB Chapter is amended to make it clear the PA Chapter contains

objectives, policies and standards related to esplanade requirements at the time of subdivision as the SUB Introduction, as notified, refers to rules. I therefore recommend that the submission from OWL (29.04) is accepted in part.

314. Regarding the submission from MFL, PA-SCHED1 identifies areas where there is an expectation that an esplanade reserve of 20m will be taken where subdivision creates an allotment of less than 4ha, as the areas listed have been identified as having one or more of the values identified in PA-O1. The requirement for an esplanade reserve is also consistent with the terminology used in Section 230 of the RMA that directs that esplanade reserves are mandatory where allotments are created that are less than 4ha unless the District Plan reduces or waives this requirement. The PA Chapter waives the mandatory requirement for an esplanade reserve to be taken in all circumstances except for allotments less than 4ha adjoining a waterbody listed in PA-SCHED1. The request from MFL, in my view, is therefore inappropriate as it would waive the requirement for an esplanade reserve in all circumstances and would therefore be inconsistent with PA-O1.
315. I also note that where an allotment is over 4ha or adjoins a waterbody in PA-SCHED2 the consideration of an esplanade provision is managed through the SUB Chapter which enables consideration of whether an esplanade strip or reserve is appropriate. The matters of discretion in PA-S1 also enable consideration of whether an esplanade reserve of lesser width is sufficient to fulfil the purpose of the reserve, which, in my view, allows a reduction to the 20m width where appropriate. I therefore recommend that the submission from MFL (35.07) is rejected.
316. I recommend that the submission from TRoNT (19.11) is rejected as I consider that the drafting is consistent with that used elsewhere in the District Plan. I therefore recommend that the submission from Fed Farmers supporting PA-S1 is accepted.
317. As I am recommending amendments to PA-P1 and PA-P2, based on the submission from OWL, I recommend that the submissions from TRoNT (19.10) and Fed Farmers (21.05) supporting PA-P1 and PA-P2 are accepted in part.

Recommendation

318. I recommend, for the reasons given above, that PA-O1 is retained as notified and the following amendments are made to PA-P1, PA-P2 and PA-S1:
 - a. PA-P1 is amended to make it clear the policy direction only applies to allotments less than 4ha adjoining a waterbody listed in PA-SCHED1; and
 - b. PA-P2.1 is amended to apply to those water bodies in PA-SCHED1 in addition to those waterbodies listed in PA-SCHED2 and to delete the reference to land use consents applications.
319. I also recommend that the Introduction to the SUB Chapter is amended to make it clear the PA Chapter contains objectives, policies and standards related to esplanade requirements at the time of subdivision.

320. The recommended amendments to PA-P1 and PA-P2 are set out in **Appendix 4**, and the recommended amendments to the Introduction to the SUB Chapter are set out in **Appendix 3**.
321. In terms of Section 32AA, the proposed amendments will be more efficient and achieving the drafting intent by making it clear the policy direction in PA-P1 only applies to allotments less than 4ha adjoining a waterbody listed in PA-SCHED1, and by including those waterbodies in PA-SCHED1 in PA-P2.

Schedule PA-SCHED2

Submissions

322. OWL (29.05) oppose PA-SCHED2 in part and request minor amendments to the schedule to correct minor drafting errors. Most notably the Ōpūaha / Opuha River reference to State Highway 8 is requested to be replaced with State Highway 79 and the reference to the location currently under the Waterbody tab is recommended to be shifted to under the Location tab.

Analysis

323. I recommend that the submission from OWL is accepted, to correct minor drafting errors in PA-SCHED2 as notified.

Recommendation

324. I recommend, for the reasons given above, that PA-SCHED2 is amended to correct the drafting errors identified by OWL. The amendments recommended to PA-SCHED2 are set out in **Appendix 4**.
325. The scale of the change does not require a Section 32AA evaluation because it is a minor change to improve plan drafting and the change does not alter the general intent. The original s32 evaluation therefore still applies.

Definitions

Submissions

326. DOC (7.03) while not expressly submitting on the definitions, notes that the EPlan version of the MDP provides a hyperlink to the definition of 'access' which applies to legal access to properties from the road and is therefore inappropriate in the context of access to public space. DOC therefore request that the Council either restrict the use of the defined term 'access' to subdivision provisions or provide a new definition of 'public access'.

Analysis

327. I recommend that the submission from DOC is accepted, in order to correct a minor error in EPlan as notified. The term 'access' should only have a hyper link where it applies to legal access to properties from the road and not in the context of access to public space.

Recommendation

328. I recommend, for the reasons given above, that the EPlan is amended to remove the hyperlink to the definition of access when it is used in the context of public access.
329. The scale of the change does not require a Section 32AA evaluation because it is a minor change to improve plan drafting and the change better aligns with the intent of the PA Chapter provisions. The original s32 evaluation therefore still applies.

14. Transport Chapter

Policy TRAN-P1

Submissions

330. FENZ (5.03), TRoNT (19.03) and the MoE (27.02) support TRAN-P1 as notified.
331. NZTA (14.14) generally supports TRAN-P1 as the policy supports a transport system that is integrated with land use and consistent with the zone in which it is located. NZTA however considers that the policy should be amended to reflect the LTMA by requiring the maintenance of an effective transport network. A minor amendment to TRAN-P1 is therefore sought by NZTA to maintain “*effectiveness*” in addition to “*safety and efficiency*”.

Analysis

332. I agree with NZTA in expanding TRAN-P1 to include the “*effectiveness*” of the district’s transport network. This is not because of NZTA’s functions under the LTMA, which is a different statute to the RMA, but because I consider that it better reflects the outcome sought in TRAN-O1, which is not just about efficiency but the effective movement of people within and beyond the district. I therefore recommend that the submission from NZTA (14.14) is accepted and the submissions from FENZ (5.03), TRoNT (19.03) and the MoE (27.02) are accepted in part.

Recommendation

333. I recommend, for the reasons given above, that TRAN-P1 is expanded to include reference to “*effectiveness*”. The amendment recommended to TRAN-P1 is set out in **Appendix 5**.
334. The scale of the change does not require a Section 32AA evaluation because it is a minor change to improve plan drafting and does not alter the general intent. The original s32 evaluation therefore still applies.

Policy TRAN-P4

Submissions

335. TRoNT (19.03) support TRAN-P4 as notified.
336. NZTA (14.17) generally support TRAN-P4 as the policy enables the efficient use of existing land transport infrastructure and corridors by enabling works required for operation, maintenance

and upgrading of infrastructure. However, for consistency with other chapters, particularly the INF Chapter, NZTA request that the term “*improve*” is replaced with “*upgrade*.”

Analysis

337. Having reviewed the INF Chapter I agree with NZTA that the term ‘upgrade’ is more aligned with the terminology used in INF-P9 and INF-P10 that specifically relate to managing infrastructure activities, which is the purpose of TRAN-P4 in relation to land transport infrastructure. Replacing the term ‘improve’ with the term ‘upgrade’ would therefore provide greater consistency between the INF and TRAN chapters. The term ‘improve’, in my view, also implies that any works carried out are required to enhance the land transport network as opposed to the term ‘upgrade’ that would include any works carried out even if they do not necessarily improve or enhance land transport infrastructure. I also note that the term ‘upgrade’ is a defined term in PC26. I therefore recommend the submission from NZTA (14.17) is accepted and the submission from TRoNT (19.03) is accepted in part.

Recommendation

338. I recommend, for the reasons given above, that TRAN-P4 is amended to replace the term ‘improve’ with the term ‘upgrade’. The amendment recommended to TRAN-P4 is set out in **Appendix 5**. As a consequence, I also recommend that the definition of ‘upgrade’ included in PC26 is included in PC27. The amendments recommended to the Interpretation Section are set out in **Appendix 1**.
339. The scale of the change to TRAN-P4 does not require a Section 32AA evaluation because it is a minor change to improve plan drafting and does not alter the general intent. The original s32 evaluation therefore still applies. Including the term ‘upgrade’ in PC27, in my view, will also improve the efficiency of the provisions by providing greater clarity for plan users.

Rules, Standards and Tables

Rule TRAN-R1

Submissions

340. TRoNT (19.04) support TRAN-R1 as notified.
341. Helios (8.01) oppose TRAN-R1 in part and highlight that consented land use activities may need to undertake repair works within a land transport corridor post construction for any damage caused by contractors during construction of the activity. Helios therefore request that TRAN-R1 is amended to include any works undertaken in accordance with an approved land use consent in addition to activities approved as part of a subdivision consent.
342. NZTA (14.18) generally support TRAN-R1 as the development, operation, maintenance, repair or replacement of existing land transport infrastructure is a PER activity subject to compliance with TRAN-S12. NZTA however request that ‘upgrades’ be included in the rule title, similar to the PER activity pathway for upgrading above ground infrastructure in PC26.

Analysis

343. While the terms 'development', 'maintenance' and 'repair' in my view encompass any upgrades to land transport infrastructure, I recommend that the submission from NZTA (14.18) is accepted to provide clarity for plan users. This also aligns with the proposed amendments to TRAN-P4 and the recommendation to include the term 'upgrade' in PC27.
344. I also agree with Helios that TRAN-R1 should be amended to include any works undertaken in accordance with an approved land use consent as works undertaken within a land transport corridor are not necessarily undertaken by a road controlling authority or as part of a subdivision consent application. In addition, I do not consider it to be efficient to require a DIS resource consent for any repair works to be carried out within the land transport corridor not by a road controlling authority where damage has resulted from contractors during construction of an approved land use consent activity. I therefore recommend that the submission from Helios (8.01) is accepted. A consequential amendment to TRAN-R2 is also recommended to enable earthworks not within a land transport corridor established in accordance with an approved land use consent for the same reasons.

345. Based on the above, I recommend that the submission from TRoNT (19.04) is accepted in part.

Recommendation

346. I recommend, for the reasons given above, that the title of TRAN-R1 is amended to include the term 'upgrade'. I also recommend that TRAN-R1 is amended to allow works undertaken in accordance with an approved land use consent. As a consequence, I also recommend that TRAN-R2 is amended to allow for works undertaken in accordance with an approved land use consent not within the land transport corridor. The amendments recommended to TRAN-R1 and TRAN-R2 are set out in **Appendix 5**.
347. In terms of Section 32AA, I consider the recommended amendments to be a more efficient approach to land transport infrastructure within and outside the land transport corridor, whilst still being effective at achieving the outcomes sought in the objective and policy direction.

TRAN-R2, TRAN-R4, TRAN-S11 and TRAN-Table 10

Submissions

348. TRoNT (19.04 and 19.07) support TRAN-R2 and TRAN-S11 as notified.
349. NZTA (14.19 and 14.35) seek no relief in respect of TRAN-R2 and support TRAN-S11 as notified.
350. FENZ (5.04, 5.06 and 5.15) support TRAN-R2, TRAN-R4 and TRAN-S11 subject to amendments to TRAN-Table 10. FENZ (5.16) generally support the dimensions proposed in TRAN-Table 10. FENZ however note that where an accessway length is greater than 50m FENZ need to utilise the accessway as hardstand and cannot operate from the road (as the hose length is not sufficient to reach the buildings). FENZ therefore request that the length (m) column in TRAN-Table 10 for accessways serving 1 site and 2-3 sites in the RESZ and RLZ, and for the accessways

serving 1-3 sites in the GRUZ is amended from “any length” to “0-50” to allow a suitable hardstand area for fire appliances in the event of an emergency. The number of sites column (applying to the RESZ, RLZ and GRUZ) with a length over 50m is also sought to be amended to 1-6 allotments in order to increase the minimum carriageway width.

Analysis

351. To provide a safe and accessible transport network that meets and is responsive to current and future needs, as sought by TRAN-O1, I agree with FENZ that it is necessary for accessways to be of a sufficient width to allow for fire appliances in the event of an emergency, where they cannot access buildings directly from the road. Mr McLachlan, is also generally supportive of the proposed amendments to TRAN-Table 10 but recommends that where there are only 1-3 sites off an accessway in the RESZ, RLZ and GRUZ, and the accessway is greater than 50m, the maximum legal width and carriageway width should be 5.0m and 4.0m respectively as opposed to the recommendation from FENZ (which requires a 6.5m legal width and a 4.5-5m carriageway width). I agree with the recommendation from Mr McLachlan as, in my view, it is not reasonable to require a legal width of 6.5m and a 4.5-5m carriageway width for an accessway only serving 1-3 allotments (given the likely traffic volumes). The proposed amendments from Mr McLachlan also ensure sufficient hose length from the road in the event of an emergency, addressing the concerns raised by FENZ.
352. Based on the above, I recommend that the submission from FENZ (5.16) in relation to TRAN-Table 10 is accepted in part and that the submissions from FENZ (5.04, 5.06 and 5.15), TroNT (19.04, 19.07) and NZTA (14.19, 14.35) regarding TRAN-R2, TRAN-R4 and TRAN-S11 are accepted.

Recommendation

353. I recommend, for the reasons given above, that no amendments are made to TRAN-R2, based on the above submissions, and that TRAN-R4 and TRAN-S11 are retained as notified. I also recommend that TRAN-Table 10 is amended to ensure accessways in the RESZ, RLZ and GRUZ are of a sufficient width to allow for fire appliances in the event of an emergency. The amendments recommended to TRAN-Table 10 are set out in **Appendix 5**.
354. In terms of Section 32AA, I consider the recommended amendments to be more effective at achieving the outcomes sought in TRAN-O1, by ensuring access ways are of a sufficient width to allow for fire appliances in the event of an emergency, while remaining efficient, by allowing a reduction in the legal and carriageway width where the accessway is over 50m but is only serving 1-3 allotments.

TRAN-R3, TRAN-R4, TRAN-S9, TRAN-S10, TRAN-Table 7, TRAN-Figure 3 and TRAN-Figure 7

Submissions

355. TroNT (19.07) support TRAN-S9 and TRAN-S10 as notified.

- 356. FENZ (5.05 and 5.13) support TRAN-R3 and TRAN-S9, as notified, subject to proposed amendments to TRAN-Table 7. Regarding TRAN-Table 7, FENZ (5.14) request that the minimum crossing width for residential activities is increased from 3m to 3.5m to sufficiently cater for fire appliances in the event of a fire. A consequential amendment to TRAN-Figure 3 to show a minimum crossing width of 3.5m is also sought by the submitter.
- 357. NZTA (14.20) support TRAN-R3 subject to proposed amendments to TRAN-S9 and TRAN-S10. NZTA (14.21) also support TRAN-R4 subject to amendments to TRAN-S10.
- 358. NZTA support the requirement for vehicle crossings to be designed in accordance with Council's Standards in TRAN-S9. NZTA (14.33) however seek various amendments to ensure an appropriate design of vehicle crossings onto state highways. In particular, NZTA seek that TRAN-S9.1.c is extended to require vehicle crossings on any sites where kerb and channel is not provided to comply with TRAN-Figure 3. NZTA also seek that TRAN-S9.1.d is amended so that the rule applies where vehicle crossings are located on a state highway where the postal speed limit is greater than 70km/hr and there is an average of 50 or fewer vehicle trips per day as opposed to 30.
- 359. NZTA (14.34) generally support TRAN-S10 as it generally meets NZTA's Planning Policy Manual and Austroads requirements. TRAN-Figure 7, in their view, however, does not currently show how to measure visibility. NZTA therefore suggest that the Council replace TRAN-Figure 7 with NZTA Diagram A – Accessway Sight Lines.

Analysis

- 360. To provide a safe and accessible transport network that meets and is responsive to current and future needs, as sought by TRAN-O1, I agree with FENZ that it is necessary for vehicle crossings to be of a sufficient width to allow for fire appliances in the event of an emergency. Mr McLachlan has also raised no concerns with the recommended increase and supports the recommendation from FENZ. I therefore recommend that the submission from FENZ (5.14) to increase the minimum vehicle crossing width from 3m to 3.5m is accepted, as well as their recommendation to amend TRAN-Figure 3.
- 361. Mr McLachlan is also supportive of NZTA proposed amendments to TRAN-S9. I therefore recommend that this submission point (14.33) is accepted. I also agree with NZTA that TRAN-Figure 7 does not outline how to measure visibility. I therefore recommend that TRAN-Figure 7 is amended to add the following advice note "*sight distance shall be measured 1.10m (motorists eye level) above the finished surface of the vehicle crossing and 1.10m above the road*" in accordance with NZTA Diagram A – Accessway Sight Lines. I therefore recommend that the NZTA (14.34) submission on this point is accepted.

Recommendation

- 362. I recommend, for the reasons given above, that TRAN-R3, TRAN-R4 and TRAN-S10 are retained as notified and that the following amendments are made to TRAN-S9, TRAN-Table 7, TRAN-Figure 3 and TRAN-Figure 4:

- a. TRAN-S9 is amended to reflect the submission from NZTA;
- b. TRAN-Table 7 is amended to increase the minimum vehicle crossing width for residential activities from 3m to 3.5m;
- c. TRAN-Figure 3 is amended to show a minimum vehicle crossing width of 3.5m; and
- d. An advice note is added to TRAN-Figure 7 to set out how to measure visibility.

363. The amendments recommended to TRAN-S9, TRAN-Table 7, TRAN-Figure 3 and TRAN-Figure 7 are set out in **Appendix 5**.

364. In terms of Section 32AA, I consider the recommended amendments to be more effective at achieving the outcomes sought in TRAN-O1, by ensuring vehicle crossings are of a sufficient width to allow for fire appliances in the event of an emergency and by clarifying how to measure visibility.

TRAN-R3 to TRAN-R6

Submissions

365. TRoNT (19.05) oppose TRAN-R3 to TRAN-R6 in part as the activity status, in their view, when compliance with the permitted standards is not achieved is missing. TRoNT therefore request minor amendments to TRAN-R3 to TRAN-R6 to include the activity status for when compliance is not achieved.

Analysis

366. TRAN-R3 to TRAN-R6 do not have conditions that are to be met in addition to the Transport Standards. An activity status for when compliance with the conditions has not been met is therefore not required, as distinct from TRAN-R1, TRAN-R2, TRAN-R7 and TRAN-R8, which do include additional conditions and therefore set out the activity status where any condition is not met. TRAN-R3 to TRAN-R6 instead direct plan users to refer to the relevant standard(s) when compliance with the standards is not achieved. TRAN-R3 for example is required to comply with TRAN-S9 and TRAN-S10. Within those standards themselves, a breach of the standard is set out as being RDIS. This drafting approach has been used consistently across the MDP, including all chapters that form part of Stage 3 of the MDPR as well as those introduced (and operative) through PC21. I therefore recommend that the submission from TRoNT (19.05) is rejected.

Recommendation

367. I recommend, for the reasons given above, that no changes are made to TRAN-R3 to TRAN-R6 in considering the above submission point.

TRAN-R5, TRAN-R6 and TRAN-S8

Submissions

368. MoE (27.04) support TRAN-R6 as notified.

- 369. TroNT (19.07) support TRAN-S8 as notified.
- 370. FENZ (5.07 and 5.08) support TRAN-R5 and TRAN-R6 subject to amendments to TRAN-S8. In terms of TRAN-S8, FENZ (5.12) request a fifth clause to ensure landscaping does not obscure emergency signage or obstruct access to emergency panels, hydrants, shut off valves, or other emergency response facilities.
- 371. NZTA (14.23) support TRAN-R5 subject to amendments to TRAN-S8. NZTA (14.32) oppose TRAN-S8 as they consider that there should be no trees planted adjacent to the state highway. NZTA therefore request that TRAN-S8.2 is amended to ensure for any sites fronting a state highway, the landscaping strip must contain only a combination of low-growing shrubs and ground cover as opposed to a combination of trees, shrubs and ground cover as currently notified. Where trees are proposed adjacent to a state highway, NZTA consider a consenting pathway to be appropriate to facilitate agreement of landscaping plans along the highway network. NZTA also request clarification on whether this standard only applies for sites containing five or more car parking spaces.
- 372. NZTA (14.24) support TRAN-R6 as notified, subject to acceptance of their submissions on the various standards.

Analysis

- 373. I do not consider it necessary to include amendments to TRAN-S8 to ensure landscaping does not obscure emergency signage or obstruct access to emergency panels, hydrants, shut off valves, or other emergency response facilities. This is not something I have seen in other District Plans, would be difficult for Council to enforce and, in my view, does not relate to an outcome sought in the District Plan. I therefore recommend that FENZ's submission to TRAN-S8 (5.12) is rejected. FENZ's submission did not include recommendations to TRAN-R5 or TRAN-R6 in the event that the proposed amendments to TRAN-S8 were not supported. No amendments to these rules are therefore recommended in response to their submission.
- 374. TRAN-S8, as notified, applies to sites containing five or more car parking spaces used for non-residential activity and is intended to break up the appearance of hard surfacing to mitigate adverse visual amenity effects while ensuring landscaping is maintained to not obscure visibility or to impede the movement of vehicles, cyclists or pedestrians. The standard is a revision of Standard 2.k in the Operative Transportation Chapter that stipulates that:
 - a. *Landscaping shall not adversely affect the visibility of motorists leaving a site or create an unsafe environment for persons using the car park or the adjacent footpath.*
 - b. *All car parking areas containing five or more spaces shall have a landscape strip of 1.5m deep along the road frontage.*
- 375. However, based on submission from NZTA I agree that trees have the potential to adversely affect traffic safety by obscuring visibility and therefore may not be appropriate within the road boundary setback. I therefore recommend that the prescriptive tree requirements in TRAN-S8

requiring trees within the road boundary setback are removed. I also recommend that TRAN-S8.b is replaced with a new matter of discretion that assesses whether any reduction in landscaping which adjoins a road boundary is appropriate to address a traffic safety matter. I therefore recommend that the submission point from NZTA (14.32) is accepted in part.

Recommendation

376. I recommend, for the reasons given above, that TRAN-S8 is amended to remove the requirement to plant trees within the road boundary setback where an allotment contains five or more car parking spaces for non-residential activity. I also recommend that TRAN-S8.b is replaced with a new matter of discretion which assesses whether any reduction in landscaping which adjoins a road boundary is appropriate to address a traffic safety matter. The amendments recommended to TRAN-S8 are set out in **Appendix 5**.
377. In terms of Section 32AA, the proposed amendments, in my view, are more effective at achieving a safe and effective transport network by ensure landscaping does not obscure the visibility of motorists as sought in SUB-O1.

TRAN-R7, TRAN-Table 1 and TRAN-Table 2

Submissions

378. TRoNT (19.06) support TRAN-R7 as notified.
379. The Fuel Companies (2.04) support the intent in the s32 report that the thresholds apply only where new or expanded service stations are proposed but is concerned that the rule may be interpreted as being applicable to additions, alterations and maintenance activities where there will be no material change in vehicle movements. The Fuel Companies therefore request that TRAN-R7 is amended to refer to any activity that 'in itself' generates vehicle trips that meet or exceed the thresholds outlined in TRAN-Table 1.
380. FENZ (5.09) consider that emergency service facilities should not be subject to the vehicle trip generation standards as they are not high trip generators and will only generate vehicle movement during shift change, during emergency response or when training activities are being undertaken onsite. FENZ therefore request that an exemption is included TRAN-R7 to ensure emergency service facilities are exempt from the standard. FENZ (5.10 and 5.11) support TRAN-Table 1 and TRAN-Table 2 subject to amendments to TRAN-R7 outlined above.
381. NZTA (14.25) support the rule for high trip generating activities along with the matters of discretion for both basic and full ITAs. The use of ITAs in their view are critical assessment tools to allow for the appropriate consideration of effects on the transport network; including where upgrades or improvements are required. NZTA however recommended TRAN-Table 1 is replaced with a new table that is based on the approach adopted by Thames-Coromandel District Council, as described by the Environment Court (2019). This approach is based on equivalent car movements (ECM) and corresponding requirements for a basic, full or no ITA, as detailed in the matrix below:

Equivalent Car movements per day	Access to a road classified as:			
	Local	Collector	Arterial	Strategic
0-100	n/a	n/a	n/a	n/a
101-200	n/a	Basic	Basic	Full
201-400	Basic	Basic	Full	Full
>400	Full	Full	Full	Full

382. Related to this, NZTA (14.12) request that the definition of vehicle trip is replaced with an 'equivalent car movement' definition that outlines the following principles:

- one car to and from a property = two ECM
- one truck to and from a property = six ECM
- one truck and trailer to and from property = 10 ECM.

Analysis

383. The RMA already applies existing use rights under s10, to existing lawfully established activities. Any lawfully established service station in the District is therefore not subject to TRAN-R7 unless the effects of the activity, as a result of an expansion, are different in character, intensity and scale, such as adding additional fuelling stations. In my view, it is necessary to assess the cumulative effects of an activity in order to maintain the safety and efficiency of the District's transport network as directed in TRAN-P1 and to manage adverse effects as directed in TRAN-P3. While an expansion in itself may not exceed the PER thresholds, it may result in the threshold being exceeded overall and therefore has the potential to have adverse cumulative effects. I therefore recommend that the submission from the Fuel Companies (2.04) is rejected.

384. Mr McLachlan has reviewed the submission from NZTA and has raised no concerns with the alternative method to determine whether a basic, full or no ITA is required. In my opinion, it is also more appropriate to rely on equivalent car movement as opposed to a gross floor area. While a large gross floor area suggests that there may be more traffic movements associated with an activity there may be instances where a building is larger in scale, but the activity itself does not generate high traffic volumes. There may also be instances where a building is smaller in scale but generates higher traffic volumes warranting a basic or full ITA. I therefore recommend that the submission from NZTA (14.25) to TRAN-Table 1 is accepted, as well as their submission to replace the term 'vehicle trip' with an 'equivalent car movement' definition (14.12). As a consequence, I recommend that the title of TRAN-R7 is amended to refer to ECM as opposed to vehicle trips and that amendments are made to TRAN-P2, TRAN-R7, TRAN-Table1, TRAN-Table 2, and TRAN-S9 to remove the reference to 'vehicle trips' from the provisions (replacing the term 'trip' with either 'movements' or 'traffic'). For completeness, as changes are recommended to be made to TRAN-P2, I recommend that the submissions from NZTA (14.15) and TRoNT (19.14) in support of TRAN-P2 are accepted in part.

385. An exemption for emergency service facilities, in my view, is not necessary as the ECM matrix I have recommended allows up to 100 ECM per day without the requirement to submit an ITA.

No fire stations in the Mackenzie District, in my opinion, are likely to exceed this threshold. I therefore recommend that the submission from FENZ (5.09) is rejected.

386. As I am recommending amendments to TRAN-R7 I recommend that the submission from TRoNT (19.06) is accepted in part.

Recommendation

387. I recommend, for the reasons given above, that TRAN-Table 1 is replaced with a new table based on ECM as per the submission from NZTA. As a consequence, I recommend that the heading of TRAN-R7 is amended to refer to ECM as opposed to 'vehicle trips'. The amendments recommended to TRAN-R7 and TRAN-Table 1 are set out in **Appendix 5**.

388. I also recommend that the definition of 'vehicle trip' is replaced with a new 'equivalent car movement' definition. The amendments to the Interpretation Section are set out in **Appendix 1**. As a consequence, amendments are recommended to be made to the TRAN-P2, TRAN-R7, TRAN-Table1, TRAN-Table 2, and TRAN-S9 to remove the reference to 'vehicle trips' from the provisions. The amendments recommended to TRAN-P2, TRAN-R7, TRAN-Table1, TRAN-Table 2, and TRAN-S9 are set out in **Appendix 5**.

389. In terms of Section 32AA, the proposed amendments, in my view, will be more effective at achieving the outcomes sought in TRAN-O1 by being focussed on equivalent car movements (as opposed to a gross floor area).

Rule TRAN-R8

Submissions

390. The Fuel Companies (2.03) support the inclusion of a permitted pathway for electric vehicle charging stations. A minor amendment is however sought to the title of the standard to ensure it refers specifically to electric vehicle charging stations for clarity purposes.

391. NZTA (14.26) generally support TRAN-R8 but request an additional clause to ensure any advertising (including by means of small electrical billboard type advertising) on charging stations is not visible from an adjacent highway.

Analysis

392. I recommend that the alternative wording from the Fuel Companies (2.03) is accepted for clarity purposes, as including the term 'vehicle' better captures the purpose of the rule.

393. The NP Standards direct that if provisions for managing signs are addressed, they must be located in the relevant Signs Chapter. I therefore consider it more appropriate for any signage associated with electric vehicle stations to be assessed under the operative signage rules that are currently being reviewed in Stage 4 of the MDPR. I therefore recommend that the submission point from NZTA (14.26) is rejected.

Recommendation

394. I recommend, for the reasons given above, that the title of TRAN-R8 is amended to refer to electric vehicle charging stations. The amendments recommended to TRAN-R8 are set out in **Appendix 5**.
395. The scale of change does not require a section 32AA evaluation because it is a minor change to improve drafting and does not alter the general intent and therefore original s32 evaluation still applies.

Standard TRAN-S3

Submissions

396. TRoNT (19.07) support TRAN-S3 as notified.
397. NZTA (14.27) generally support TRAN-S3 but request an additional clause to require, for any site adjacent to a state highway, that mobility parking is provided on site and not within the adjacent road reserve.

Analysis

398. I agree with NZTA that mobility parking associated with any land use activity should be provided on site and not within the adjacent road reserve. This is consistent with TRAN-S1 that directs all general parking spaces are to be on site. However, to achieve the outcome sought by NZTA I do not consider it necessary to add an additional clause but rather make a minor amendment to clause 1 to ensure all activities provide on site the number of mobility parking spaces specified in TRAN-Table 5.
399. Based on the above, I recommend that the submissions from NZTA (14.27) and TRoNT (19.07) are accepted in part.

Recommendation

400. I recommend, for the reasons given above, that the TRAN-S3 is amended to ensure all mobility parking spaces are provided on site. The amendment recommended to TRAN-S3 is set out in **Appendix 5**.
401. In terms of Section 32AA, the proposed amendment will be more effective at maintaining the safety and efficiency of the District's transport network by requiring mobility parking spaces to be located on site as opposed to the adjoining road corridor ensuring that the road corridor is not compromised.

Standard TRAN-S6 and Figure TRAN-Figure 2

Submissions

402. TRoNT (19.07) support TRAN-S6 as notified.

403. NZTA (14.30) generally support TRAN-S6 as they consider the minimum dimensions to be reasonable and support loading spaces being tied to the largest type of vehicle that will be on-site at any one time. NZTA however note that clause (2)(a) refers to a 3.5m minimum width adjacent to the kerb, while Figure 2 states a 3.6m minimum width. NZTA therefore request that Figure 2 is amended to correctly show a minimum width requirement of 3.5m.

Analysis

404. I recommend that the submission from NZTA (14.30) be accepted as it will correct a minor error in TRAN-Figure 2 as notified. As a consequence, I recommend that the submission from TRoNT (19.07) is accepted in part.

Recommendation

405. I recommend, for the reasons given above, that TRAN-Figure 2 is amended to show a minimum width of 3.5m adjacent to a kerb consistent with TRAN-S6. The amendment recommended to TRAN-Figure 2 is set out in **Appendix 5**.

406. The scale of change does not require a section 32AA evaluation because it is a minor change to improve drafting and does not alter the general intent. The original s32 evaluation therefore still applies.

Standard TRAN-S7

Submissions

407. TRoNT (19.07) support TRAN-S7 as notified.

408. NZTA (14.31) support TRAN-S7 in part but seek clarification whether 'metalled and sealed' as outlined in the definition of 'all weather standard' means seal on top of a metalled surface. NZTA considers that for the RESZ, CMUZ and GIZ, all parking and loading areas should be formed, sealed and appropriately drained and that metalled surfaces should not be allowed to pass the 'all weather standard'.

Analysis

409. To address the submission from NZTA the definition of 'all weather standard' includes sealed and metalled surfaces, noting TRAN-S7 has been purposely drafted to include different criteria for parking and loading areas that are to be formed to an 'all weather standard' (including metalled surfaces) and for parking and loading spaces that are to be formed, sealed, and drained. If metalled surfaces are removed from the definition of 'all weather standard' this distinction will be removed and all parking and loading spaces will be required to be formed and sealed (no matter their scale and/or location).

410. Based on advice from Mr McLachlan it is my understanding that the primary concern of allowing metalled surfaces is the risk of gravel being carried out onto the carriageway of a sealed road (refer to **Appendix 6**). To mitigate this risk Mr McLachlan recommends that the area over which vehicles obtain access to the parking area in the RESZ, GRUZ, GIZ and RLZ is sealed from the

vehicle access point for 5.5m into the site. Provided the first 5.5m is sealed Mr McLachlan has no concerns with parking and loading spaces comprising of metalled surfaces in these zones. McLachlan agrees with NZTA that parking and loading areas in the CMUZ should be formed and sealed.

411. Based on the advice from Mr McLachlan, and to address the concerns of NZTA, I recommend various amendments to TRAN-S7 to ensure where parking spaces contain less than four carparks and are formed to an 'all weather standard' the area over which vehicles obtain access to the parking area must be sealed from the vehicle access point for 5.5m into the site. I also recommend that parking spaces in CMUZ are to be formed, sealed, marked and drained. The submission from NZTA (14.31) is therefore recommended to be accepted in part.

Recommendation

412. I recommend, for the reasons given above, that TRAN-S7 is amended to require the area over which vehicles obtain access to the parking area to be sealed from the vehicle access point for 5.5m into the site in the RESZ where there are less than four on-site parking spaces. I also recommend that an additional rule requirement is applied to parking spaces in the CMUZ to ensure all parking spaces are formed, sealed, marked and drained. As a consequence of the above changes, amendments are also recommended to TRAN-S7.3, S7.5 and S7.7 to ensure a consistent approach is being applied throughout the Mackenzie District. The amendments recommended to TRAN-S7 are set out in **Appendix 5**.
413. In terms of Section 32AA, the proposed amendments, in my view, will be more effective at maintaining the safety and efficiency of the District's transport network (TRAN-O1) and at achieving the direction in TRAN-P1.

Table TRAN-Table 3

Submissions

414. MFL (35.06) seek an amendment to TRAN-Table 3 as they consider that specific provision has not been made for residential visitor accommodation activity. MFL recommend that the requirement applying to commercial visitor accommodation of "*1 space per 5 visitors accommodated plus 1 space per 2 staff*" is also applied to residential visitor accommodation activities.
415. MoE (27.05) oppose TRAN-Table 3 and request it is deleted as it sets out minimum carparking standards. They consider that this is inconsistent with Policy 3.38 of the NPSUD which states that where "*a tier 1, 2, or 3 territorial authority contains objectives, policies, rules, or assessment criteria that have the effect of requiring a minimum number of car parks to be provided for a particular development, land use, or activity, the territorial authority must change its district plan to remove that effect, other than in respect of accessible car parks*".
416. MoE consider the Council to be a tier 3 territorial authority and therefore request that the minimum car parking standards are deleted in line with the NPSUD.

Analysis

417. I recommend that the submission from the MoE (27.05) is rejected as the NPSUD applies only to territorial authorities with all or part of an “urban environment” as defined in the NPSUD as having, or intended to have, a housing and labour market of at least 10,000 people. No area within the Mackenzie District meets this requirement with the highest residential population being in Twizel, at 1,455 people³, nor are parts of the District considered to be part of a wider housing and labour market (including other areas outside the Mackenzie District) that would meet this threshold. I therefore consider that the NPSUD is not applicable to the Mackenzie District. I note that this was also confirmed in legal submissions provided by the Council for PC21. As such, there is no requirement to remove the minimum carparking requirements from the MDP. I also note that public transport options in the Mackenzie District are limited, there is therefore more reliance on private vehicles and carparking. No changes to the TRAN-Table 3 are therefore recommended in response to their submission.
418. Residential visitor accommodation is defined in the MDP as “*the use of a residential unit for visitor accommodation including any residential unit used as a holiday home*”. The minimum number of carparking spaces required for residential visitor accommodation activity are therefore the same as those for any residential unit, which in TRAN-Table 3 translates to two car parking spaces per residential unit, including a minor unit, unless the residential unit is less than 150m² and contains no more than two bedrooms, where the minimum number of parking spaces can be reduced to one parking space per residential or minor unit. However, I recommend that the submission from MFL (35.06) is accepted in part to provide clarity for District Plan users that residential visitor accommodation activities are to be assessed as a residential unit and not as a commercial visitor accommodation activity.
419. For completeness it is noted that a correction pursuant to Clause 16(2) to Schedule 1 of the RMA was notified on 8 December 2023 which amended the commercial visitor accommodation parking requirements from “1 space per 5 visitors accommodated plus 1 space per 2 staff” to “1 space per unit plus 1 space per 2 staff.”

Recommendation

420. I recommend, for the reasons given above, that TRAN-Table 3 is amended to include any residential unit used for residential visitor accommodation activity within the first two rows of the table. The amendments recommended to TRAN-Table 3 are set out in **Appendix 5**.
421. The scale of change does not require a section 32AA evaluation because the change does not alter the effect of the rule but does provide greater clarity over its application. Therefore, the original s32 evaluation still applies.

³ 2018 Census data

Definitions

Submissions

422. NZTA (14.01) support the intent of the definition of 'accessway' but seeks clarification on whether the wording net area of the site or sites has the same meaning as net site area used in the NP Standards definition.
423. NZTA (14.02) oppose the definition of 'all weather standard' as, in their view, it is unclear whether metalled surfaces would be considered pavement, or whether there is a requirement for metalling and sealing in order to meet the 'all weather standard'. NZTA request that in relation to 'all weather standard' only sealed surfaces such as asphalt or concrete are included and metalled surfaces are not included.
424. NZTA (14.05) generally support the definition of 'land transport corridor', however seek an amendment to the definition to include any road reserve containing a proposed formed road to ensure any road construction within a proposed road reserve also falls within the definition of 'land transport corridor'.
425. NZTA (14.06) generally support the definition of 'land transport infrastructure'; but seek the following amendments for clarity purposes:
 - a. Clause (c) is amended to include the term 'surfacing';
 - b. Clause (e) is amended to include 'weather stations'; and
 - c. Clause (c) and (j) are amended to include the 'culverts'.
426. NZTA (14.07) generally support the definition of 'local road' however wish to reserve the opportunity to provide further submissions and/or evidence at a hearing in case this provision changes as a result of submissions.
427. NZTA (14.10) supports the intent of the definition of 'transport network'. NZTA however request that the definition is expanded to expressly include any ancillary structure or equipment associated with the transport network.
428. NZTA (14.08) request a new 'road controlling authority' definition as TRAN-R1 refers to works undertaken or on behalf of the 'road controlling authority'. NZTA have also requested an amendment to SUB-MD2 which also relies on this definition.

Analysis

429. In my view, the net area of the site or sites within the definition of 'accessway', would have the same meaning as net site area used in the NP Standards definition (which means the total area of the site excluding any part of a site providing legal access to another site or any part of a rear site that provides legal access to that site). While NZTA has not recommended any amendments

to the definition of 'accessway' in their submission, I recommend a minor amendment to make this clear.

430. For the reasons outlined above, I do not agree with NZTA that metalled surfaces should be removed from the definition of 'all weather standard'. I therefore recommend that this submission point (14.02) is rejected.
431. I do not agree with NZTA that the definition of 'land transport corridor' should be amended to include any road reserve containing a proposed formed road. TRAN-R2, as notified, provides for land transport infrastructure not within a 'land transport corridor' as a PER activity, where it is established in accordance with an approved subdivision, or (based on recommendations outlined above) land use consent. It is, therefore, my view, that it is unnecessary to amend the definition of 'land transport corridor' to enable any road construction within a proposed road reserve as sought by the submitter as these activities are already provided for in the plan. I also note that if shifted, the formation of a proposed road would not need to be considered through the subdivision or land use consent process, where constructed by a road controlling authority under TRAN-R1, which, in my view, is necessary to achieve the outcomes sought. I therefore recommend that this submission point (14.05) is rejected.
432. I recommend that the amendments sought by NZTA to the definition of 'land transport infrastructure' (submission point 14.06) and 'transport network' (submission point 14.10) are accepted, to provide clarity for plan users.
433. NZTA's support of the definition of 'local road' is noted. No amendments are recommended to this definition in light of submissions. I therefore recommend that this submission point (14.07) be accepted.
434. I do not consider it necessary to include a definition of 'road controlling authority' as this is clearly defined in the Land Transport Act 1998. The submission from NZTA (14.08) on this point is therefore recommended to be rejected.

Recommendation

435. I recommend, for the reasons given above, that the definitions of 'all weather standard', 'land transport corridor' and 'local road' are retained as notified, and the definitions of 'land transport infrastructure' and 'transport network' are amended as sought in the submission from NZTA. I also recommend a minor amendment to the definition of accessway. The recommended amendments are set out in **Appendix 1**.
436. The scale of the changes do not require a section 32AA evaluation because they are minor changes to improve plan drafting and do not alter the general intent. Therefore the original s32 evaluation still applies.

15. Other Submissions

Submissions

437. Robin McCarthy (1.01) supports multi-commercial operator use of Tekapo Airport and requests that the Council acquires the Tekapo Airport to ensure compliance with its Aviation Strategy and to ensure competition in aviation services under the Commerce Act.
438. Springwater Trust (4.01) request that the Council:
 - a. do not allow any further building on any allotments currently without a building consent until the Lyford Lane waste-water issue is resolved; and
 - b. do not allow any further subdivision of any land that relies on the Twizel water supply, until the Lyford Lane waste-water issue is resolved.
439. Springwater Trust also request that PC27 is amended to contain an overriding provision that no further building consents or subdivision should be approved that rely on the Twizel water supply until the Lyford Lane waste-water issue is resolved and that as a matter of urgency the proposal to upgrade wastewater servicing for Lyford Lane to protect the Twizel townships drinking water is resolved.
440. Timothy Bartlett (18.01) opposes the deletion of the Twizel Water Supply Protection Area and the insertion of the new Community Drinking Water Supply Protection Area overlay as he considers that the Twizel Water Supply Protection Area should be retained, as Twizel needs to have their own dedicated water supply. In his view, it is also inappropriate to generalise the overlay to a Community Drinking Water Supply which is open to different interpretation.

Analysis

441. I recommend that the submission from Robin McCarthy (1.01) is rejected, on the basis that his request sits outside the jurisdiction of the District Plan. I also note that the provisions applying to the Tekapo Airport are being reviewed in Stage 4 of the MDPR and are not in scope of PC27.
442. Regarding the submission from Springwater Trust, Mr McLachlan has confirmed that the Council is in the planning stages of undertaking upgrades to extend reticulated wastewater services to the existing dwellings and four existing undeveloped allotments within Lyford Lane. The purpose of extending reticulated services is to protect the Twizel Community Drinking Water Supply from possible contamination in the future. This is one reason why further residential development in Lyford Lane has been strongly discouraged in the MDP, including in PC27, with further subdivision of Lyford Lane being a NC activity. I therefore consider that there are already appropriate measures in the place to protect Twizel community water drinking supply from the effects of subdivision and that there is no need to prohibit further subdivision of any land that relies on the Twizel water supply. I therefore recommend that the submission from Springwater Trust (4.01) is rejected.

443. PC27 proposes to delete the Twizel Water Supply Protection Area and apply a new Community Drinking Water Supply Protection Areas overlay, which includes the current Twizel Water Supply Protection Area as well as an expansion to it, and other additional areas. The overlay replicates the CRC Community Drinking Water Protection Zone and delineates areas where additional measures may need to be undertaken (as part of subdivision) to avoid impacts on the safety of drinking water supplies for human consumption. While the name of the overlay is no longer specific to Twizel, the boundaries of the overlay are clearly mapped in the EPlan to make it clear when the provisions relating to community drinking water supplies apply (avoiding any generalisation). I therefore recommend that the submission from Timothy Bartlett (18.01) is rejected.

Recommendation

444. No changes to PC27 are recommended in relation to the submissions from Robin McCarthy (1.01), Springwater Trust (4.01), or Timothy Bartlett (18.01).