

## **TAI POUTINI PLAN COMMITTEE**

### **Hearing of Submissions on the Proposed Te Tai O Poutini Plan**

#### **Recommendation Report of Hearing Panel**

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#### **Recommendation Report** **Ecosystems and Indigenous Biodiversity –** **Ngā Pūnaha Rauropi me te Kanorau Koiora**

##### **Hearing Dates:**

**18 and 19 November 2024 (Westport)**

**21 and 22 November 2024 (Hokitika)**

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#### **HEARING PANEL**

Dean Chrystal (Chair)

Sharon McGarry

Anton Becker

Maria Bartlett

Paul Rogers

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## **PART A – INTRODUCTORY MATTERS**

### **1. PRELIMINARY MATTERS**

#### **1.1. Introduction**

1. Matters to do with our appointment and other preliminary matters applicable to all Hearing Panel’s recommendations on the Proposed Te Tai o Poutini Plan (**pTTPP** or ‘the Plan’) are recorded and addressed in Recommendation Report 1.
2. This Recommendation Report relates to the Ecosystems and Indigenous Biodiversity (**ECO**) Chapter - Ngā Pūnaha Rauropi me te Kanorau Chapter in the Natural Environmental Values – Ngā Uara Taiao Aotūroa section of the pTTPP, including Schedule Four, associated definitions and the planning maps in relation to the mapping of Significant Natural Areas (**SNA**). The Report contains the Hearing Panel’s evaluations and recommendations to the TTPP Committee on the submissions and further submissions received on these sections of the Plan.
3. The Section 32 Report<sup>1</sup> provides separate evaluation of the options for the management of ecosystems and indigenous biodiversity through the combined Plan, including the regulatory framework, key resource management issues, and the evidence and research basis. This includes the consultation, information and analysis undertaken, and evaluation of the options.
4. The Section 42A Officer’s Report<sup>2</sup> (‘s42A Report’), authored by Ms Lois Easton, principal consultant with Kererū Consultants acting as the Reporting Officer, was circulated prior to the hearing. The s42A Report provided an analysis of submissions and further submissions received; and made recommendations on changes to the notified plan provisions (the changes were included in Appendix 1 and the recommendations on all submissions as to either accept, accept in part or reject in Appendix 2).
5. Ms Easton subsequently provided a supplementary statement to the s42A Report<sup>3</sup> which responded to the Resource Management Amendment Bill passing into law and the implications of that on the recommendations in the s42A Report.
6. The s42A Report assessed a total of 1160 submissions points and 558 further submission points on the Ecosystems and Indigenous Biodiversity topic. It provided summaries of all the submissions and further submissions received and the relief sought; an analysis of the proposed changes to provisions; and recommendations on changes to the plan provisions.
7. The matters raised by submitters were grouped in the s42A Report in relation to each of the following key issues:
  - a. Definitions;
  - b. General/Whole Chapter;
  - c. Objectives;
  - d. Policies;
  - e. Rules; and

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<sup>1</sup> Te Tai o Poutini Plan – Section 32 Evaluation Report Five

<sup>2</sup> Ecosystems and Biodiversity

<sup>3</sup> Supplementary Statement to Section 42A Report in relation to the RMA Amendments (Freshwater and Other Matters Act) dated 8 November 2024.

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- f. Schedules/Planning Maps
8. A s32AA evaluation for the recommended changes was provided at the end of the s42A Report.
  9. The Panel issued three minutes in relation to the Ecosystems and Indigenous Biodiversity topic that gave direction to various hearing participants. Minutes 36 and 40 (issued on 6 August 2024 and 8 August 2024 respectively) related to the timing of the hearing. Minute 54 (issued on 3 December 2024) requested the planning witnesses to caucus on a variety of matters. This resulted in the provision of a Joint Witness Statement (**JWS**).
  10. This Recommendation Report follows the same structure of the s42A Report and provides a brief summary of the issues raised in submissions and further submissions, the s42A Report analysis and recommendations, submitter evidence/statements and the Reporting Officer's reply evidence, before providing our evaluation and recommendation.
  11. This Recommendation Report should be read in conjunction with the s42A Report and the tracked change version of the notified Plan provisions (attached as Appendix 1 to this Report). The tracked change version of the TTPP provisions forms an integral part of the Panel recommendations and records all recommended amendments (additions and deletions) to the notified TTPP provisions made by the Panel. The tracked change version of the TTPP shows the Panel's recommended changes to the notified provisions in **bold and underlining** indicating additions and ~~striketrough~~ indicating deletions. If there is any discrepancy between this Recommendation Report and the tracked change version of the Plan, the tracked change version of the Plan shown in Appendix 1 of this Report must prevail.
  12. This Recommendation Report contains the reasons for the Panel's recommendations. These comprise either adoption of the reasoning and recommendations of the original section 42A Report or the Reporting Officer's reply evidence or a specific reasoning by the Panel.
  13. Where the Panel recommends the TTPP provisions should remain as notified, it is because:
    - (a) The Panel has adopted the reasoning and recommendation of the s42A Report or supplementary statement to retain the provision as notified; or
    - (b) The Panel has adopted the reasoning and recommendation to retain the provision as notified as recommended in the Reporting Officer's reply evidence; or
    - (c) The Panel has recommended to retain the provision as notified for reasons set out in this Recommendation Report.
  14. Where there is a recommended change to a notified provision of the TTPP, it is because:
    - (a) The Panel has recommended amendment to a provision for reasons set out in this Recommendation Report in response to a submission point, which the s42A Report did not recommend; or
    - (b) The Panel adopted the reasoning and recommendation of the s42A Report or supplementary statement to change the provision to that recommended in the s42A Report; or

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- (c) The Panel has adopted the reasoning and recommendation to that recommended in the Reporting Officer's reply evidence; or
  - (d) A consequential change has been necessary following on from a decision in either (a), (b) or (c).
15. Where there may be a different recommendation between the s42A Report and the Reporting Officer's supplementary statement or reply evidence (i.e. the recommendation by the Reporting Officer has changed as a result of hearing the evidence of submitters), unless the Panel decision specifically adopts the original s42A Report's reasoning and recommendations, the reasoning and recommendations in the (later) supplementary statement or reply to evidence has been adopted and it must be taken to prevail.
16. If there are circumstances where the Panel consider that alternative relief is more appropriate than that requested in submissions and further submissions to give effect to the RMA, NZCPS, national policy statements and/or RPS, but are still within the scope of the relief sought, the relevant recommendation clearly sets out the nature of the change and the reason for the change. This is recorded in this Recommendation Report.
17. If any changes are recommended to the provisions (since the Section 32A Report was completed) a further evaluation, if required pursuant to section 32AA of the RMA, has been undertaken. Any such circumstances are referred to in this Recommendation Report in sufficient detail to demonstrate a further evaluation was undertaken.
18. Clause 16(2) of the First Schedule of the RMA enables the Panel to recommend amendments to alter information, where such an alteration is of minor effect, or may correct any minor errors. The Panel's recommendation box below each section considered in Part C of this Report and the tracked change version of the notified Plan provisions (Appendix 1 of this Report) records any such minor amendments.

### 1.2. Terminology in this Report

19. Throughout this Report, the following abbreviations will be used:

BDC	Buller District Council
Councils	Buller District Council, Grey District Council, and Westland District Council
Director General	Director General of Conservation
DOC	Department of Conservation
Fish & Game	West Coast Fish and Game Council
Forest & Bird	Royal Forest & Bird Protection Society of NZ Inc
GDC	Grey District Council
Hort NZ	Horticulture New Zealand

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KiwiRail	KiwiRail Holdings Limited
Manawa	Manawa Energy Limited
MINZ	Mineral Extraction Zone
MOE	Ministry of Education
NESCF	National Environmental Standard for Commercial Forestry
NESETA	Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009
NESF	National Environmental Standard for Freshwater
NOSZ	Natural Open Space Zone
NPSFM	National Policy Statement for Freshwater Management 2020
NPSHPL	National Policy Statement for Highly Productive Land
NPSIB	National Policy Statement for Indigenous Biodiversity
NPSREG	National Policy Statement for Renewable Electricity Generation 2011
NZCPS	New Zealand Coastal Policy Statement
ONF	Outstanding Natural Feature
ONL	Outstanding Natural Landscape
ONLF	Outstanding Natural Landscapes and Features
Planning Standards	National Planning Standards
Poutini Ngāi Tahu	Te Rūnanga o Ngāi Tahu, Te Runanga o Ngāti Waewae, Te Rūnanga o Makaawhio
RLZ	Rural Lifestyle Zone
RMA or the Act	Resource Management Act 1991
RMAA	Resource Management (Freshwater and Other Matters) Amendment Act 2024
RPS	West Coast Regional Policy Statement

SASM	Sites and Areas of Significance to Māori
SNA	Significant Natural Area
Transpower	Transpower New Zealand Limited
TTPP	Te Tai o Poutini Plan
Waka Kotahi NZTA	NZ Transport Agency Waka Kotahi
WCRC	West Coast Regional Council
WDC	Westland District Council

### 1.3. Hearing Arrangements

20. The hearing was held at the NBS Theatre in Westport on the 18 and 19 of November 2024 and at the Hokitika RSA and St John Meeting Room in Hokitika on the 21 and 22 November 2024. Some submitters appeared remotely by audio visual link.
21. At the hearing, Ms Easton tabled a planning summary statement to her s42A Report and supplementary statement.

### 1.4. Appearances

22. The following submitters appeared at the hearing either in person or online:

**Te Rūnanga o Ngāi Tahu, Te Rūnanga o Ngāti Waewae, Te Rūnanga Makaawhio ('Poutini Ngāi Tahu')**

- Ms Rachael Pull, Senior Environmental Advisor

**Mr Graeme Walsh, for himself**

**Chorus New Zealand Limited, Spark New Zealand Trading Limited, One New Zealand Group Limited and Forty South ('the Telecommunications Companies')**

- Mr Graeme McCarrison, Environment and Planning Manager with Spark
- Mr Chris Horne, Resource Management Consultant with Incite Limited

**Manawa Energy Limited ('Manawa')**

- Ms Stephanie Styles, Associate Partner with Boffa Miskell Ltd

**Te Tumu Paeroa – The office of the Māori Trustee ('Te Tumu Paeroa')**

- Ms Ngahuia Huirama
- Ms Vanessa Griffiths

**West Coast Federated Farmers of New Zealand ('Federated Farmers')**

- Mr Simon Cameron, Farmer Haast
- Ms Kate Sannazzaro, Senior Policy Analyst
- Ms Eleanor Linscott, Regional Policy Manager - Southern

**Ms Frida Inta for herself and on behalf of the Buller Conservation Group**

**Nikau Deer Farm Limited** - Mr George and Mrs Caryl Coates

**Terra Firma Mining Limited** - Ms Lucy Smith

**Transpower New Zealand Limited ('Transpower')**

- Ms Sarah Shand, Environmental Planner with Transpower
- Ms Pauline Whitney, Planner with Boffa Miskell Ltd

**Director General of Conservation ('Director General')**

- Mr Matt Pemberton, Counsel
- Mr Murray Brass, Senior RMA Planner
- Ms Cassie Mealey, Technical Advisor Ecology
- Dr Jane Marshall, Technical Advisor Ecology

**Royal Forest and Bird Protection Society of New Zealand Inc. ('Forest and Bird')**

- Mr Peter Anderson, Counsel
- Ms Nicky Snoyink

**Groundswell**

- Mr Jamie McFadden
- Mr George Coates

**Mr Tangi Weepu**, for himself

**Mr Nicholas Johnston**, for himself

**Bathurst Resources Limited and BT Mining Limited ('Bathurst')**

- Ms Christina Sheard, Counsel
- Ms Claire Hunter, Director Mitchell Daysh Ltd
- Dr Gary Bramley, Terrestrial Ecologist with EcoLogical Solution Ltd

**Ms Lynne Lever**, for herself and Mr Greg Tinney

**Ms Suzanne Hills**, for herself

**West Coast Penguin Trust** - Ms Inger Perkins

**Ms Inger Perkins**, for herself

**Westpower Limited** - Mr Martin Kennedy, Planner

## **1.5. Overview of submitter evidence received**

23. Legal submissions were received as follows:

- (1) Mr Matt Pemberton, Counsel for Director General of Conservation (dated 9 August 2024);
- (2) Ms Christina Sheard/Mr Joshua Leckie, Counsel for Bathurst (dated 1 August 2024);
- (3) Mr Peter Anderson, Counsel for Forest and Bird (dated 11 November 2024)

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24. For those appearing at the hearing the following evidence and/or statements were received:
- (1) Ms Claire Hunter, Planner for Bathurst (dated 30 July 2024);
  - (2) Mr Gary Bramley, Ecologist for Bathurst (dated 30 July 2024);
  - (3) Mr Murray Brass, Planner for the Director General (dated 29 July 2024);
  - (4) Dr Jane Marshall, Ecologist for the Director General (dated 29 July 2024);
  - (5) Ms Cassandra Mealey, Ecologist for the Director General (dated 29 July) 2024;
  - (6) Ms Kate Sannazzaro, Planner for Federated Farmers (dated 19 November 2024);
  - (7) Ms Eleanor Linscott, Planner Federated Farmers (dated 7 August 2024);
  - (8) Ms Pauline Whitney, Planner for Transpower (dated 29 July 2024);
  - (9) Mr Martin Kennedy, Planner for Westpower (dated 29 August 2024);
  - (10) Ms Nicky Snoyink, for Forest and Bird (dated 21 November 2024);
  - (11) Ms Frida Inta, for herself and Buller Conservation Group (dated 10 November 2024);
  - (12) Ms Inger Perkins, for herself and the West Coast Penguin Trust (dated 22 November 2024);
  - (13) Ms Rachael Pull, Senior Environmental Advisor for Poutini Ngāi Tahu (dated 26 July 2024);
  - (14) Mr James McKinnel, for Birchfield Coal Mines Limited (dated 29 July 2024);
  - (15) Ms Stephanie Styles, Planner for Manawa (dated 29 July 2024);
  - (16) Mr Chris Horne, Planner for Chorus New Zealand Limited, Spark New Zealand Trading Limited, One New Zealand Group Limited and Fortysouth (dated 26 July 2024);
  - (17) Ms Lucy Smith, for Terra Firma Mining Limited (dated 29 July 2024);
  - (18) Mr Jamie McFadden, for Groundswell NZ, undated;
  - (19) Mr Greg Shaw, for Te Tumu Paeroa (dated 19 July 2024);
  - (20) Mr and Mrs Coates, for Nikau Deer Farm, undated; and
  - (21) Ms Suzanne Hills, for herself (dated 21 November 2024).
25. The following evidence/statements were tabled without hearing appearances:
- (a) Mr Steve Tuck, Planner for Silver Fern Farms Limited (dated 17 July 2024);
  - (b) Ms Michelle Grinlinton-Hancock, Planner for KiwiRail Holdings Limited (dated 29 July 2024);

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(c) Mr Max Dickens, for West Coast Regional Council (dated 15 August 2024); and

(d) Mr Phil McKinnel, for Birchfield Coal Mines Limited, dated 18 November 2024.

### 1.6. Right of Reply

26. Ms Easton provided a written Right of Reply (dated 7 March 2025) that responded to matters raised at the hearing and included an updated Appendix 1 showing tracked changes (and a clean version) to the notified provisions.

### 1.7. Procedural Steps and Issues

27. At the commencement of the hearing, Commissioner Becker disclosed that he has a sphagnum moss business in the Grey District. He declared he would not take part in any recommendations relating to sphagnum moss harvesting.

### 1.8. Site Visits

28. No site-specific visits relating to the ECO Chapter were undertaken. However, we undertook extensive site visits throughout the West Coast from Karamea to Jackson Bay throughout the hearing process.

## PART B - STATUTORY REQUIREMENTS AND DOCUMENTS

29. The Ecosystems and Indigenous Biodiversity Chapter one of four chapters within the Natural Environment Values – Ngā Uara Taiao Aotūroa section of seven sections located in Part 2 – District-Wide Matters – Te Wāhanga 2 – Ngā Kaupapa ā-Rohe Whānui of the Plan.
30. The Section 32 Report outlined the relevant statutory considerations applicable to ecosystems and indigenous biodiversity; and the relationships between the sections of the RMA and higher order documents.
31. The section 42A Report highlighted the relevant section 6, 7 and 8 of the RMA, the New Zealand Coastal Policy Statement 2010 (**NZCPS**), National Policy Statement for Indigenous Biodiversity 2023 (**NPSIB**), National Policy Statement for Renewable Electricity Generation 2011 (**NPSREG**), Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009 (**NESETA**), Resource Management (National Environmental Standards for Commercial Forestry) Amendment Regulations 2023 (**NESCF**), and the National Planning Standards.
32. The section 42A Report noted the NPS-IB was not gazetted at the time the pTTPP was prepared and therefore the Plan did not give full effect the NPSIB. However, the Panel must give effect to the NPSIB to the extent possible within the scope of submissions.
33. The NPSIB clause 4.4 Existing policy statements and plans states:
- (1) *To the extent that policy statements and plans already (at the commencement date) give effect to this National Policy Statement, local authorities are not obliged to make changes to wording or terminology merely for consistency with it.*
  - (2) *In case of dispute, the onus is on the local authority to show that, despite the different wording or terminology used, their policy statement or plan did implement this National Policy Statement.*

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*(3) However, if a local authority chooses to amend an operative policy statement or plan by merely **changing wording or terminology for consistency with this National Policy Statement, the amendment is to be treated as the correction of a minor error** (and therefore, under clause 20A of Schedule 1 of the Act, the amendment can be made without using a process in that Schedule). [Our emphasis]*

34. Clearly, the NPSIB anticipates that wording changes to plans in order to achieve consistency with the directions should be made where appropriate using clause 20A of the RMA Schedule 1.
35. The Panel acknowledges that the NPSIB does not apply to the development, maintenance or upgrade of renewable electricity generation assets and activities, and electricity transmission network assets and activities.
36. Clause 1.3 of the NPSIB states that it applies to indigenous biodiversity in the terrestrial environment, including specified highly mobile fauna, whether or not they use areas outside the terrestrial environment for part of their life cycle. It states that provisions relating to promoting restoration and increasing indigenous vegetation cover extend to include natural wetlands; and if an SNA contains a natural inland wetland, the wetland may be treated as part of the SNA it is located in.
37. The Panel also acknowledges that under clause 1.4 of the NPSIB, the NPSIB applies in the terrestrial coastal environment, as well as the NZCPS, and that if there is a conflict between the provisions, then the NZCPS prevails. Similarly, if there is a conflict between the NPSIB and the NPSFM, the latter prevails.
38. Clause 1.5 of the NPSIB sets out the decision-making principles as follows:
  - (1) This National Policy Statement prioritises the mauri and intrinsic value of indigenous biodiversity and recognises people's connections and relationships with indigenous biodiversity.*
  - (2) It recognises that the health and wellbeing of people and communities are dependent on the health and wellbeing of indigenous biodiversity and that in return people have a responsibility to care for and nurture it. It acknowledges the web of interconnectedness between indigenous species, ecosystems, the wider environment, and the community, at both a physical and metaphysical level.*
  - (3) Consistent with this, the decision-making principles that must inform the implementation of this National Policy Statement are as follows:*
    - (a) prioritise the mauri, intrinsic value and wellbeing of indigenous biodiversity:*
    - (b) take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi):*
    - (c) recognise the bond between tangata whenua and indigenous biodiversity based on whakapapa relationships:*
    - (d) recognise the obligation and responsibility of care that tangata whenua have as kaitiaki of indigenous biodiversity:*
    - (e) recognise the role of people and communities (including landowners) as stewards of indigenous biodiversity:*
    - (f) enable the application of te ao Māori and mātauranga Māori:*

*(g) form strong and effective partnerships with tangata whenua.*

39. The Panel's consideration and recommendations follow these decision-making principles in giving effect to the NPSIB and RPS, and ultimately RMA s6(c) and (e) and s7(a), (aa), (d), (f) and (h).

40. Clause 1.7 of the NPSIB states:

*Maintaining indigenous biodiversity requires:*

*(a) the maintenance and at least no overall reduction of all the following:*

*(i) the size of populations of indigenous species:*

*(ii) indigenous species occupancy across their natural range:*

*(iii) the properties and function of ecosystems and habitats used or occupied by indigenous biodiversity:*

*(iv) the full range and extent of ecosystems and habitats used or occupied by indigenous biodiversity:*

*(v) connectivity between, and buffering around, ecosystems used or occupied by indigenous biodiversity:*

*(vi) the resilience and adaptability of ecosystems; and*

*(b) where necessary, the restoration and enhancement of ecosystems and habitats.*

41. The objective (clause 2.1) of the NPSIB, to be achieved through the 17 policies (clause 2.2), is as follows:

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

*(b) to achieve this:*

*(i) through recognising the mana of tangata whenua as kaitiaki of indigenous biodiversity; and*

*(ii) by recognising people and communities, including landowners, as stewards of indigenous biodiversity; and*

*(iii) by protecting and restoring indigenous biodiversity as necessary to achieve the overall maintenance of indigenous biodiversity; and*

*(iv) while providing for the social, economic, and cultural wellbeing of people and communities now and in the future.*

42. The Panel notes the NES-CF replaced the Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017 (**NESPF**). The s42A Report highlights that the NES-CF specifies the activity status for new plantation forestry within an SNA as a restricted discretionary activity. However, it does enable a district plan to have more stringent rules to give effect to the National Policy Statement for Freshwater Management

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(NPSFM) and Policies 11, 13, 15 and 22 of the New Zealand Coastal Policy Statement (NZCPS).

- 43. The section 42A Report noted the Resource Management (Freshwater and Other Matters) Amendment Bill was introduced in May 2024. It noted that if passed into law clauses 2.2 Policy 6, clause 3.8 (1), (6) and (8), and clause 3.9(1) of the NPS-IB will not apply for a 3-year period until mid-2027. The s42A Report noted that it was unclear whether the relevant provisions of the West Coast Regional Policy Statement (RPS) would be affected. Since the s42A Report was released, the Resource Management (Freshwater and Other Matters) Amendment Act 2024 (**RMAA**) was enacted, adding section 78 to the RMA as anticipated.
- 44. The National Planning Standards mandatory direction 7.19 requires provisions relating to the identification of SNA, maintenance of biological diversity and intrinsic values of ecosystems and indigenous biodiversity to be located in the Ecosystems and Indigenous Biodiversity Chapter of the Plan. We are satisfied the Plan structure is consistent with this national direction.
- 45. Clause 10 of the First Schedule of the RMA states that it is not necessary to provide decisions on individual submissions. Recommendations of the Panel are made within the scope of requested relief, either individual submissions or groups of submissions making similar requests, as specified in reasons for recommendation.

**PART C – SUBMISSIONS, EVIDENCE, EVALUATION AND RECOMMENDATIONS**

**2. TIMELINE**

- 46. In making our recommendations on the ECO Chapter of the pTTPP, the Panel has had regard to the s42A Report, the submissions and further submissions, and evidence/statements provided for the hearing, within the context of the guidance and direction of higher order statutory documents. In the context of this Recommendation Report, the timing of when documents have effect is relevant and sets the framework within which our recommendations are made.
- 47. The following table sets out the timing of the pTTPP process alongside the timing of the development of the NPSIB, and the amendments to the RMA that influence the application of the NPSIB in terms of plan making:

TTPP	HIGHER ORDER DOCUMENTS AND LEGISLATION
	<i>November 2019 – March 2020</i> Public consultation on the proposed NPSIB
	<i>24 July 2020</i> RPS Operative
	<i>31 August 2020</i> Summary of submissions (NPSIB)
<i>July 2022</i> Plan notified	<i>June 2022 – July 2022</i> Exposure draft released (NPSIB)
<i>30 September 2022</i>	

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Submissions close		
<i>11 January 2023</i> Minute 14 – Responds to request to delay the hearing due to Government’s intention to review the NPSIB and the mapping of SNA.		
<i>May 2023</i> Further submissions close		
		<i>7 July 2023</i> NPSIB gazetted
		<i>May 2024</i> Resource Management (Freshwater and Other Matters) Amendment Bill
<i>12 July 2024</i> S42A Report available		
<i>6 August 2024</i> Minute 36 – Responds to a further request to delay the hearing		
<i>8 August 2024</i> Minute 40 – Reschedules the hearing		
		<i>24 October 2024</i> Resource Management (Freshwater and Other Matters) Amendment Act Section 78 – Time limited modifications to NPSIB
		<i>October 2024</i> NPSIB amended by Section 30 of the Resource Management (Freshwater and Other Matters) Amendment Act 2024
<i>18, 19, 21 and 22 November 2024</i> Ecosystems and Indigenous Biodiversity hearings held. <u>Documents presented at hearing</u> (a) Introductory statement from reporting planner (b) Supplementary Statement from Reporting Officer (c) Wynn Williams legal advice (dated 8 November 2024 and 22 November 2024) (d) Evidence/statements and legal submissions from submitters		

<i>3 December 2024</i> Minute 54 – Directing planner caucusing		
<i>17 February 2025</i> Joint Witness Statement provided		
<i>7 March 2025</i> Reporting Officer’s Right of Reply provided		

48. Principally, this timeline is relevant in the context of defining and identifying SNA and how the requirements of the relevant documents apply to the pTTPP given the overlap in their development. The operative Grey District Plan has identified SNA, while the operative Buller District Plan and Westland District Plan have not.
49. The RPS includes ecological criteria for identifying significant terrestrial and freshwater indigenous biological diversity (Appendix 1) and ecological criteria for identifying significant wetlands (Appendix 2). The pTTPP includes identified SNA in the Grey District Plan in Schedule Four. The Panel must give effect to the RPS where this is consistent with the direction of the NPSIB. If there are gaps or inadequacies in the RPS, we must give effect to the NPSIB as the higher order statutory document.
50. The RMAA applied to the timeframes set out in the NPSIB. Specifically, s78 suspends the application of certain provisions of the NPSIB (regarding the assessment and identification of SNA) for a three-year period. Notwithstanding this, s78(6) sets out exclusions for that suspension, that apply in this instance.
51. The suspension did not apply to the SNA already mapped in the Grey District by virtue of s78(6)(a), as they were included in the pTTPP when it was notified. There is no delay to identifying SNA in the Buller and Westland Districts because s78(6)(b)(i) provides that where proposed plans were notified before the commencement of the RMAA (which is the case for the pTTPP) the suspension is not applied.
52. The Panel is required to give effect to the NPSIB, as soon as reasonably practicable, within the scope of the Plan as notified and the submissions received.
53. The Panel is also required to give effect to the RPS, which was made operative before the pTTPP was notified. The RPS requires the identification and mapping of SNA using the terrestrial criteria in Appendix 1. While the criteria for the identification of SNA differs between the RPS and the NPSIB, evidence provided at the hearing concluded these are effectively equivalent and are not in conflict.

### **3. DEFINITIONS**

#### **Submissions and Further Submissions**

54. Fifty-eight submission points and 36 further submission points relating to the definitions in the Interpretation Chapter were summarised in a Table on pages 18-27 of the s42A Report. All 58 submission points sought amendments. Twenty further submissions opposed various submissions, and 16 further submissions supported various submissions.
55. The Panel has considered the submissions and further submissions received and adopts the summaries in the s42A Report.

## **Section 42A Report**

### *Significant Natural Area*

56. Ms Easton did not support the Director General's (S602.016) request to amend the definition of SNA by deleting the reference to assessment and adding reference to future NPS/NES criteria.
57. Ms Easton did not support submission points<sup>4</sup> that sought use of the RPS definition because it required an assessment of vegetation to determine whether it met the criteria. She noted that most of the vegetation on the West Coast had not been assessed using these criteria and it was therefore not possible to determine if the vegetation was significant or not. She noted that, in line with the principles in clause 3.8(2) of the NPSIB, the assessment should be undertaken prior to being identified as an SNA.
58. Ms Easton did not support the Forest and Bird (S560.077) request to include reference to both mapped areas (i.e. SNA identified in Schedule Four) and unmapped areas meeting the RPS criteria; or the request for an explanation to the definition that SNA is a generic term referring to both mapped and unmapped areas meeting the criteria.
59. Ms Easton highlighted that since the submissions were made on the pTTPP, the NPSIB had come into effect and included a definition for SNA as follows:

*SNA, or significant natural area, means:*

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

60. Ms Easton advised that the process for working with landowners to protect biodiversity under clause 3.8(2) remained in effect under the NPSIB. She therefore considered that onsite assessment (as identified in the pTTPP definition) was an important part of the process and was in accordance with the direction provided in the NPSIB. She considered including unmapped SNA was inappropriate and did not recommend any amendments to the notified definition of SNA.
61. The s42A Report recommended that no changes were made to the notified definition for 'Significant Natural Area'.

### *Area of Significant Indigenous Biodiversity*

62. Ms Easton acknowledged the support from Federated Farmers (S524.004) to retain the definition as notified.

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<sup>4</sup> Forest and Bird (S560.411, S560.007, S560.077), Federated Farmers of New Zealand (S524.021) and Katherine Gilbert (S473.015)

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63. In response to the similar submission points from John Caygill (S290.007) and Forest and Bird (S560.057) that sought to replace ‘*area of significant indigenous biodiversity*’ with ‘*significant natural area*’, Ms Easton did not support the relief sought. She considered the subdivision provisions were intended to provide an incentive to protect areas of significant indigenous biodiversity, including while the SNA identification process was underway.
64. The s42A Report recommended no changes to the notified definition of ‘*Area of Significant Indigenous Biodiversity*’.
65. In response to Panel questions, Ms Easton clarified that this definition was intended to enable the protection of significant indigenous biodiversity values that may not be within SNA.

### *Indigenous Vegetation Clearance*

66. Ms Easton did not support Federated Farmers (S524.001) request to specifically exclude the grazing of pasture in areas of indigenous vegetation because she considered it could lead to landowners believing that the establishment of new areas of pasture and grazing within indigenous vegetation was appropriate. She noted that existing use rights apply for any lawful grazing areas within indigenous vegetation.
67. Ms Easton supported the Director General’s (S602.014) request to add the words “*damage or destruction*” and “*mob stocking*” to the definition. In response to Panel questions, she clarified that “*mob stocking*” referred to deliberately putting animals into bush areas to graze. She didn’t consider this needed defining given it was a commonly used term.
68. Ms Easton also supported Forest and Bird’s (S560.065) request to include ‘*damage and destruction*’, including by “*smothering*” in addition to clearance and removal. However, she did not support the part of the submission that sought to add a sentence to clarify that ‘*indigenous vegetation*’ had the same meaning as ‘*native vegetation*’ because recommendations in the Introduction and General Provisions hearing stream included replacing ‘*native vegetation*’ with ‘*indigenous vegetation*’ throughout the Plan.
69. In response to the submission points made by Ms Frida Inta (S553.025) and Buller Conservation Group (S552.025) that sought to include a specific exclusion for ‘*the clearance of indigenous vegetation forming an understory within an exotic plantation forest*’, Ms Easton supported the relief sought. She considered this was consistent with the NPSCF, which regulated this activity under clause 93. However, she did not support including ‘*destroying*’ and ‘*felling*’ because she considered this was unnecessary given the additions recommended above in response to the Director General and Forest and Bird.
70. The s42A Report recommended amending the definition as follows:

#### **INDIGENOUS VEGETATION CLEARANCE**

*means the clearing, or removal, **damage or destruction** of indigenous vegetation by any means, including cutting, crushing, **smothering, mobstocking**, cultivation, irrigation, chemical application, drainage, stopbanking, overplanting, or burning **but excluding the clearance of indigenous vegetation forming an under storey within an exotic plantation forest.***

*Poutini Ngāi Tahu Activities and Cultural Harvest*

71. Ms Easton supported in part Poutini Ngāi Tahu's (620.040) request to include a definition for 'cultural harvest'; and Forest and Bird's (560.062) request to include a definition for 'cultural harvest' that ensures biodiversity values are protected.
72. Ms Easton noted she had partly addressed this matter in the hearing for Introduction and General Provisions, in relation to the definition of 'Poutini Ngāi Tahu Activities' and Poutini Ngāi Tahu's request to use this term instead of 'cultural activities', 'cultural harvest' and 'Poutini Ngāi Tahu cultural purposes'. In the Introduction and General Provisions s42A Report, Ms Easton supported consolidating 'cultural activities' and 'Poutini Ngāi Tahu cultural purposes' within the definition for 'Poutini Ngāi Tahu Activities' but excluding 'cultural harvest'. She noted 'cultural harvest' was a key permitted activity in the ECO rules and its replacement with 'Poutini Ngāi Tahu Activities' would widen the rules considerably. She was concerned that the definition Poutini Ngāi Tahu sought for 'Poutini Ngāi Tahu Activities' included mining of pounamu and aotea and the clearance of native vegetation (including for cultural redress land). She highlighted that the rules were very permissive, including in very sensitive locations such as the coastal environment, Outstanding Natural Landscapes and the margins of waterbodies. She recommended the definition of 'Poutini Ngāi Tahu Activities' needed to be looked at within the context of the relevant chapters in which the rules reside, rather than a wholesale change.
73. On this basis, Ms Easton supported Poutini Ngāi Tahu's request to add 'Poutini Ngāi Tahu Activities' related to the clearance of vegetation for the purpose of Pou whenua installation. However, she considered the part of the submission point relating to the cultural redress land was vague. She suggested taking guidance from the NPSIB which had specific provisions around 'Specified Māori Land', including a definition for the term. Ms Easton recommended consequential changes to definitions to ensure that Poutini Ngāi Tahu land was 'specified Māori land'.
74. The s42A Report recommended no amendment to the definition for 'Poutini Ngāi Tahu Activities' but recommended consequential amendments to add definitions for 'Cultural Harvest', 'Poutini Ngāi Tahu Land' and 'Specified Māori Land' as follows:

**CULTURAL HARVEST**

**means indigenous vegetation clearance for cultural use and in accordance with tikanga and kaitiakitanga, mahinga kai, collection or mining of Pounamu, Aotea stone or rock where this is undertaken by Poutini Ngāi Tahu. This includes clearance of vegetation by Poutini Ngāi Tahu for the maintenance of Poutini Ngāi Tahu Land.**

**POUTINI NGĀI TAHU LAND**

**means specified Māori Land that is owned or managed by Poutini Ngāi Tahu.**

**SPECIFIED MĀORI LAND**

**means, in relation to the ecosystems and biodiversity chapter, land that is any of the following:**

- a. **Māori customary land and Māori freehold land (as defined in Te Ture Whenua Māori Act 1993):**
- b. **land set apart as a Māori reservation under Part 17 of Te Ture Whenua Māori Act 1993 or its predecessor, the Māori Affairs Act 1953:**

- c. land held by or on behalf of an iwi or a hapū if the land was transferred from the Crown, a Crown body, or a local authority with the intention of returning the land to the holders of mana whenua over the land:
- d. land vested in the Māori Trustee that is constituted as a Māori reserve by or under the Māori Reserved Land Act 1955, and remains subject to that Act:
- e. land that forms part of a natural feature that has been declared under an Act to be a legal entity or person (including Te Urewera land within the meaning of section 7 of the Te Urewera Act 2014):
- f. the maunga listed in section 10 of the Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014:
- g. Treaty settlement land, being land held by a post-settlement governance entity (as defined in the Urban Development Act 2020) where the land was transferred or vested and held (including land held in the name of a person such as a tipuna of the claimant group, rather than the entity itself):
  - i. as part of redress for the settlement of Treaty of Waitangi claims; or
  - ii. by the exercise of rights under a Treaty settlement Act or Treaty settlement deed.

75. In response to Panel questions regarding scope within the submissions to add new definitions for 'Poutini Ngāi Tahu Land' and 'Specified Māori Land', Ms Easton noted the submission point from Te Tumu Paeroa.

#### *Ecological District/Region*

76. Ms Easton supported in part Frida Inta (S53.024) and Buller Conservation Group's (S552.024) request to add a new definition for 'Ecological District/Region' and recommended using the NPSIB definition as follows:

means the ecological districts as shown in McEwen, W Mary (ed), 1987. Ecological regions and districts of New Zealand. Wellington: Department of Conservation.

#### *Effects Management Hierarchy*

77. Ms Easton supported Te Mana Ora (S190.002) and the Director General's (S602.019) request to the NPSIB definition of 'Effects Management Hierarchy' as follows:

means an approach to managing the adverse effects of an activity on indigenous biodiversity that requires that:

- a) adverse effects are avoided where practicable; then
- b) where adverse effects cannot be avoided, they are minimised where practicable; then
- c) where adverse effects cannot be minimised, they are remedied where practicable; then
- d) where more than minor residual adverse effects cannot be avoided, minimised, or remedied, biodiversity offsetting is provided where possible; then

- e) **where biodiversity offsetting of more than minor residual adverse effects is not possible, biodiversity compensation is provided; then**
- f) **if biodiversity compensation is not appropriate, the activity itself is avoided.**

#### *Ecological Terms Used in Policy ECO – P6*

78. Ms Easton did not support submission points<sup>5</sup> that sought to add definitions for ‘further measurable loss’ and ‘reasonably measurable reduction in the local population’ because these terms were only used in Policy ECO-P6 and her recommended amendments to the wording of that policy deleted these terms.
79. In response to the submission points<sup>6</sup> that sought for the ecological terms in Policy ECO-P6 to be defined, Ms Easton supported the relief sought in so far as providing a new definition for ‘Threatened Environment Classification’. She acknowledged wider confusion about the meaning of this term in other submissions and recommended a definition as follows:

#### **THREATENED ENVIRONMENT CLASSIFICATION**

**means the threatened environments as shown in Walker S, Cieraad E, Barringer J 2015, The Threatened Environment Classification for New Zealand 2012: a guide for users, Landcare Research Report LC2184.**

#### *Compensation and Offset*

80. In response to the submission points from the Director General (S602.018), Frida Inta (S53.004) and Buller Conservation Group (S553.004) that sought a definition for ‘compensation and offset’, Ms Easton supported the submissions in part. She noted the wording suggested by the Director General pre-dated the NPSIB, which included definitions for ‘biodiversity offset’ and ‘biodiversity compensation’. She therefore recommended adding the NPSIB definitions for ‘biodiversity compensation’ and ‘biodiversity offset’ as follows:

#### **BIODIVERSITY COMPENSATION**

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

#### **BIODIVERSITY OFFSET**

**means a measurable conservation outcome that meets the requirements in Appendix 3 of the National Policy Statement for Indigenous Biodiversity and results from actions that are intended to:**

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<sup>5</sup> Buller District Council (S538.006), Chris & Jan Coll (S566.373, S558.384), Chris J Coll Surveying Limited (S566, S566.384), Laura Coll McLaughlin (S474.373) and William McLaughlin (S567.043, S567.044)

<sup>6</sup> Chris & Jan Coll (S558.092), Chris J Coll Surveying Limited (S566.092), Laura Coll McLaughlin (S474.092), Peter Langford (S615.044), Karamea Lime Company (S614.044), Koiterangi Lime Co LTD (S577.035), Catherine Smart-Simpson (S564.028), William McLaughlin (S567.174), Steve Croasdale (S516.035) and Geoff Volckman (S563.023)

- a. **redress any more than minor residual adverse effects on indigenous biodiversity after all appropriate avoidance, minimisation, and remediation measures have been sequentially applied; and**
- b. **achieve a net gain in type, amount, and condition of indigenous biodiversity compared to that lost.**

#### *Net Gain*

81. Ms Easton did not support the Director General's (S602.020) request for a new definition for 'net gain', because the suggested definition had been superseded by the NPSIB and was only used once in the Plan.
82. The s42A Report, therefore, did not recommend including a definition for 'net gain'.

#### *Indigenous Vegetation/Indigenous Biodiversity/Significant Indigenous Biodiversity*

83. In response to the submission points<sup>7</sup> that sought variations on the addition of a definition related to indigenous vegetation or biodiversity, Ms Easton supported the relief sought by Frida Inta, Buller Conservation Group and Manawa Energy. She also supported the other submissions in part.
84. Ms Easton advised that she had considered the terms in the context of the NPSIB and as 'indigenous biodiversity' and 'indigenous vegetation' were defined in the NPSIB she preferred using these terms for consistency. She recommended adding new definitions from the NPSIB as follows:

##### **INDIGENOUS BIODIVERSITY**

**means the living organisms that occur naturally in New Zealand, and the ecological complexes of which they are part, including all forms of indigenous flora, fauna, and fungi, and their habitats.**

##### **INDIGENOUS VEGETATION**

**means vascular and non-vascular plants that, in relation to a particular area, are native to the ecological district in which that area is located.**

#### *Improved Pasture*

85. In response to the submission points made by NZ Agricultural Aviation Association (S166.008) and Federated Farmers (S524.010) that sought a new definition for 'improved pasture' be added to the Plan, Ms Easton supported the relief sought. She considered this was consistent with the NPSIB and recommended adding the NPSIB definition as follows:

##### **IMPROVED PASTURE**

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

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<sup>7</sup> Forest and Bird (S560.082, S560.505), Frida Inta (S553.074), Buller Conservation Group (S552.074), Manawa Energy (S438.020), Federated Farmers of New Zealand (S524.004), Suzanne Hills (S443.003)

## **Hearing and Submitter Evidence/Statements**

### *Significant Natural Areas*

86. Mr Murray Brass's planning evidence for the Director General reiterated the amendments sought to the definition of 'Significant Natural Area'. In the absence of those changes applying (given the s42A Report recommendation), Mr Brass acknowledged the recommendations to use other terms ('*area of significant indigenous biodiversity*' or '*area of significant indigenous vegetation and significant habitat of indigenous fauna*') in the ECO Chapter and considered this may potentially address the submission point.
87. However, Mr Brass noted that following the gazettal of the NPSIB, the retention of the notified definition would create a misalignment with the plan provisions because any SNA identified in accordance with ECO-P1 (which refers to the NPSIB) would not be an SNA in accordance with the definition of the plan. To address this, Mr Brass recommended alternative wording for the definition as follows:

*means*

- (a) *areas that have been assessed as an area of significant indigenous vegetation or significant habitat of indigenous fauna in accordance with the criteria set out in the West Coast Regional Policy Statement **or the National Policy Statement for Indigenous Biodiversity**; or*
- (b) *areas that have been identified as Significant Natural Areas in any West Coast Regional or District Plan.*

88. Ms Nicky Snoyink, for Forest and Bird, reiterated the submission points that sought to align the definition with the RPS. She acknowledged the complications that had arisen due to the timing and requirements of the NPSIB and the Resource Management Amendment Bill. Nevertheless, she considered the NPSIB criteria for defining an SNA would also be appropriate, similar to Mr Brass's evidence. However, she did not agree with the alternative wording proposed by Mr Brass and preferred the following:

*means*

- (a) **any area that is notified or included in the TTPP following an assessment in accordance with Appendix 1 of the NPSIB; and**
- (b) **until (a) has been achieved through district wide assessments and mapping in accordance with Policy ECO-P1, also means:**
  - i. **an area of significant indigenous vegetation, and/or significant habitats of indigenous fauna which has been identified using the criteria listed in Appendix 1 or 2 of the RPS and included on maps of this Plan or a regional Plan; or**
  - ii. **an area which although not included on maps (or in Schedule 4) in the TTPP or a regional plan nevertheless meets one or more of the criteria listed in Appendix 1 or 2 of the RPS; and**
  - iii. **an area identified in Schedule Four of this Plan.**

**Note: that the NPSIB Appendix 1 criteria can be used as an alternative to that in the RPS.**

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89. Ms Kate Sannazzaro, for Federated Farmers, supported using the NPSIB definition for 'Significant Natural Area' in the Plan.
90. Ms Eleanor Linscott, for Federated Farmers, agreed with the s42A Report in the context that an assessment of an area should be carried out prior to it being identified as an SNA and was consistent with the definition in the NPSIB. She supported Ms Easton's position that unmapped SNA should not be included and regulated in the Plan.
91. Mr Martin Kennedy, for Westpower Limited, acknowledged and agreed with the s42A Report recommendation.
92. Ms Suzane Hills supported the definition of SNA proposed by Forest and Bird as it covered both the RPS and the NPSIB.
93. Ms Pauline Whitney, for Transpower, acknowledged that no submission had been made with regard to the definition of 'Significant Natural Area'. Nevertheless, she pointed out that the lack of identification of SNA (outside of the Grey District) created uncertainty and had implications for linear infrastructure such as the National Grid.

### *Area of Significant Indigenous Biodiversity*

94. Ms Snoyink, for Forest and Bird, reiterated the relief sought in their submission to delete the definition for 'area of significant indigenous biodiversity'. Her statement maintained that this relief was appropriate.

### *Indigenous Vegetation Clearance*

95. Ms Linscott did not agree with Ms Easton's reasons for excluding the addition to allow the grazing of pasture within areas of indigenous vegetation. She considered the permitted activity rule did not clearly provide for grazing as it was unclear if it was 'maintenance, operation or repair'. Having reviewed the wording of the submission, she supported some of the other recommended amendments and suggested the definition of 'indigenous vegetation clearance' as follows:

*means the clearing, or removal, **damage or destruction** of indigenous vegetation by any means, including cutting, crushing, **smothering, mobstocking**, cultivation, irrigation, chemical application, drainage, stopbanking, overplanting, or burning **but excluding the grazing of pasture or improved pasture species and the clearance of indigenous vegetation forming an under storey within an exotic plantation forest.***

96. Ms Sannazzaro also did not agree with Ms Easton's reasons for not including the requested exclusion to enable grazing of pasture within areas of indigenous vegetation. She noted that indigenous species self-propagate in West Coast pasture, and therefore if livestock were to graze in areas of pasture where this has occurred, it could be considered as 'clearing or removing indigenous vegetation by any means'. She considered Ms Linscott's suggested wording would improve clarity and be consistent with policies in the NPSIB, the RPS and Strategic Objective AG – O2 of the Plan. She also pointed to the definition of 'vegetation clearance' in the NESF that specifically excluded grazing. She suggested qualifying pasture in the definition by preceding it with 'established'.
97. Ms Snoyink supported adding 'mob stocking' but noted that it was not included in Appendix 1 of the s42A Report. She reiterated the request for indigenous vegetation clearance to have the same meaning as it applied to native vegetation and for 'vegetation clearance' to

be defined to provide protection of habitat values in significant areas which may rely on exotic vegetation. She also supported adding 'destruction' and 'smothering' in the definition but considered the plan provisions were inadequate to implement the Council's responsibilities for the protection of exotic vegetation in SNA.

98. Ms Frida Inta's statement presented at the hearing on behalf of herself and Buller Conservation Group considered that despite the amendments recommended in the s42A Report the definition lacked clarity and was inadequate. She considered the s42A Report did not address questions raised in the Buller Conservations Group submission regarding whether the maturity, size or rarity of vegetation should be relevant in the context of indigenous vegetation clearance.
99. Mr Kennedy agreed with the s42A Report recommendation for this definition.
100. Ms Hills supported the expansion of the definition to include clearing or damaging vegetation, including by mob stocking.

#### *Poutini Ngāi Tahu Activities and Cultural Harvest*

101. Ms Rachael Pull's evidence for Poutini Ngāi Tahu considered the recommendations in the s42A Report only partly addressed the submission point and also created additional concerns. She suggested that the notified definition for 'Poutini Ngāi Tahu Activities' was adequate to provide for the installation of pou as structures that recognise the special relationship between Poutini Ngāi Tahu and places of cultural importance.
102. Ms Pull supported the addition of a new definition for 'cultural harvest'. However, she suggested deleting the last sentence of the definition as all provisions in the Plan referring to cultural harvest referenced Poutini Ngāi Tahu and therefore duplication of this reference was not necessary in the definition. Ms Pull's preferred wording was as follows:

#### **CULTURAL HARVEST**

**means indigenous vegetation clearance for cultural use and in accordance with tikanga and kaitiakitanga, mahinga kai, collection or mining of Pounamu, Aotearoa stone or rock where this is undertaken by Poutini Ngāi Tahu. ~~This includes clearance of vegetation by Poutini Ngāi Tahu for the maintenance of Poutini Ngāi Tahu Land.~~**

103. Ms Pull noted inefficiencies between various hearing streams and identified that the proposed definition for 'Poutini Ngāi Tahu land' had been discussed multiple times. However, she did not agree with the recommended definition and noted the s42A Report incorrectly stated that Poutini Ngāi Tahu land was a subset of Specified Māori Land. She considered the recommended definition for Poutini Ngāi Tahu land did not achieve the NPSIB obligations on Specified Māori land and that it unduly limited Poutini Ngāi Tahu. Therefore, she requested the recommended new definition for 'Poutini Ngāi Tahu Land' not be included in the Plan.
104. The hearing statement from Te Tumu Paeroa sought to ensure appropriate recognition of the owners of Māori freehold land. It supported incorporating parts of the NPSIB where possible but raised concern how 'Specified Māori land' would apply in the Plan. It was concerned that using this term to define 'Poutini Ngāi Tahu Land' inappropriately narrowed the intended application of the recommended 'Specified Māori land' as directed in the

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NPSIB given this term includes Māori freehold land. It noted the NPSIB requires '*Specified Māori land*' to be managed differently.

105. Ms Snoyink supported the first part of the recommended definition for '*cultural harvest*' because it gave effect to the RPS. She did not support the last sentence and requested it be deleted.

### *Ecological District/Region*

106. Mr Kennedy confirmed he agreed with the s42A Report recommendation for this definition.

### *Effects management hierarchy*

107. Mr Kennedy also confirmed that he agreed with the s42A Report recommendation for this definition.
108. Ms Pauline Whitney, for Transpower, acknowledged the addition of the definition for '*effects management hierarchy*' and confirmed no opposition to its inclusion.

### *Compensation and Offset*

109. Ms Cassandra Mealey, for the Director General, supported adoption of the definitions for '*Biodiversity Compensation*' and '*Biodiversity Offset*' from the NPSIB.
110. Ms Snoyink supported the addition of the definitions for '*biodiversity compensation*' and '*biodiversity offset*' and noted that the application of these terms needed to give effect to the RPS.
111. Mr Kennedy confirmed he agreed with the s42A Report recommendation for this definition.

### *Indigenous Vegetation/Indigenous Biodiversity/Significant Indigenous Biodiversity*

112. Ms Linscott noted the s42A Report recommendation to not include a definition for '*significant indigenous biodiversity*' but instead for '*indigenous biodiversity*' as the significance can be determined during an assessment process. She considered there was an error in the s42A Report as the assessment requirement referred to the criteria of the RPS and not the NPSIB.
113. Ms Snoyink supported the addition of the definition for '*indigenous vegetation*', noting that the wording was very similar to what was requested in the submission.

## **Reporting Officer Reply Evidence**

### *Significant Natural Areas*

114. Following the hearing, the Panel issued (3 December 2024) Minute 54 requesting that the expert planning witnesses caucus on a range of matters, including definitions. A Joint Witness Statement (**JWS**) was subsequently provided (dated 17 February 2025).

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115. The JWS records the planners<sup>8</sup> agreed to make some changes to the definition of 'Significant Natural Area' as follows:

*means*

- ~~(a) areas that have been assessed as an area of significant indigenous vegetation or significant habitat of indigenous fauna in accordance with the criteria set out in the West Coast Regional Policy Statement; or~~
- (b) areas that have been identified as Significant Natural Areas in any West Coast Regional or District Plan

116. Ms Easton's Right of Reply reiterated the amended definition arrived at in the JWS. She sets out that it was agreed that clause (a) of the notified plan definition was no longer appropriate and should be deleted.

117. In response to questions from the Panel relating to significant wetlands identified in the West Coast Regional Land and Water Plan (LWRP), Ms Easton recommended adding the following sentence to the definition for SNA:

*means*

- ~~(a) areas that have been assessed as an area of significant indigenous vegetation or significant habitat of indigenous fauna in accordance with the criteria set out in the West Coast Regional Policy Statement; or~~
- (b) areas that have been identified as Significant Natural Areas in any West Coast Regional or District Plan. **For the avoidance of doubt, only the wetlands identified in Schedule 1 of the West Coast Regional Land and Water Plan are considered to be Significant Natural Areas.**

### *Area of Significant Indigenous Biodiversity*

118. Annexure 1 of the JWS records the planners agreed to delete 'in relation to the Subdivision Rule' from the definition for 'Area of Significant Indigenous Biodiversity'.
119. Ms Easton's Right of Reply noted that the planners agreed that given the definition of SNA would be much narrower (confined to existing identified SNA), that the 'Area of Significant Indigenous Biodiversity' definition was very useful in terms of the policies, and therefore it should be retained (with slight amendment).
120. Ms Easton pointed out that the planner caucusing did not discuss whether the definition of 'Area of Significant Indigenous Biodiversity' should refer to the RPS (as per the notified plan) or the NPSIB. However, it was her view that for the purposes of how this definition was proposed to be used in the policies, that reference to the RPS criteria was more appropriate. She also noted that Appendix 1 of the RPS was 'criteria for identifying significant terrestrial and freshwater indigenous biological diversity' and therefore considered the definition should use 'significant indigenous biodiversity' instead of 'Significant Natural Area' in clause (b). In her Right of Reply Ms Easton recommended further amendments as follows:

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<sup>8</sup> Ms Lois Easton, Mr Martin Kennedy, Ms Stephanie Styles, Ms Rachael Pull, Mr Chris Horne, Ms Pauline Whitney, Ms Kate Sannazzaro, Ms Claire Hunter and Mr Murray Brass

**AREA OF SIGNIFICANT INDIGENOUS BIODIVERSITY**

*means, in relation to the Subdivision Rules,*

- (a) *an area identified as a Significant Natural Area in Schedule Four;*
- (b) *an area identified through an ecological assessment process undertaken by an ecologist as meeting the criteria for a ~~Significant Natural Area~~ **significant indigenous biological diversity** as set out in the West Coast Regional Council Policy Statement Appendix One.*

121. Ms Easton stated that this amendment reflected the narrowing of the definition for the definition for 'Significant Natural Area' from deleting clause (a) because the planners agreed it was no longer appropriate.

*Indigenous Vegetation Clearance*

122. Ms Easton's Right of Reply responded to questions from the Panel about how other recent district plans address exclusions for indigenous vegetation clearance and whether there should be exceptions in the definition for trimming to maintain existing structures, tracks and fence lines. Ms Easton reviewed five recent district plans and advised that where there were exclusions relating to indigenous vegetation clearance and that this was identified within the rule rather than the definition. She considered this was consistent with the Planning Standard direction which states that definitions should not be de facto rules.

123. Ms Easton did not recommend any additional amendments to the '*indigenous vegetation clearance*' definition.

*Poutini Ngāi Tahu Activities and Cultural Harvest*

124. Caucusing between Ms Easton, Ms Pull (for Poutini Ngāi Tahu) and Ms Huirama (for Te Tumu Paeroa) to discuss matters related to the definition and use of the term of '*Poutini Ngāi Tahu Land*', and how the TTPP could give effect to the requirements around Specified Māori Land in the NPSIB, resulted in the provision of a JWS (dated 28 February 2025). The JWS records agreement on a definition for '*Poutini Ngāi Tahu Land*' as follows:

**Poutini Ngāi Tahu Land**

**Means land owned by Poutini Ngāi Tahu. ~~means specified Māori Land that is owned or managed by Poutini Ngāi Tahu.~~**

125. The JWS also records they agreed that the definition for '*Specified Māori Land*' should not only be in relation to the ECO Chapter, and recommended amendments as follows:

**Specified Māori Land**

**Means, in relation to the ecosystems and biodiversity chapter, land that is any of the following:**

126. The JWS between Ms Easton, Poutini Ngāi Tahu and Te Tumu Paeroa records agreement on the definition for '*Poutini Ngāi Tahu Land*' and use of the NPSIB definition for '*Specified Māori Land*'

127. In Reply, Ms Easton confirmed her recommendation was to include a definition for 'Specified Māori Land' using the NPSIB definition. She also confirmed her recommendation for the definition of 'Poutini Ngāi Tahu Land' as follows:

**Means land owned by Poutini Ngāi Tahu.**

128. Ms Easton also responded to the evidence of Ms Pull in relation to the definition for 'Cultural Harvest' and recommended amendments in agreement with Ms Pull as follows:

**CULTURAL HARVEST**

**means indigenous vegetation clearance for cultural use and in accordance with tikanga and kaitiakitanga, mahinga kai, collection or mining of Pounamu, Aotea stone or rock where this is undertaken by Poutini Ngāi Tahu. This includes clearance of vegetation by Poutini Ngāi Tahu for the maintenance of Poutini Ngāi Tahu Land**

**Hearing Panel's Evaluation**

129. In relation to the Plan-wide use of "regionally significant infrastructure" instead of the notified "critical infrastructure", we are satisfied that the definition of "regionally significant infrastructure" in the Plan accords with "specified infrastructure" as defined in the NPSIB and can therefore be relied upon when implementing relevant clauses of the national direction.

*Significant Natural Area*

130. The Panel considers the Director General's submission (S602.016) provides scope to use the definition for 'Significant Natural Area' from the NPSIB. We consider it is appropriate to add '4 August 2023' as the commencement date for the NPSIB for clarity and to make it clear the reference to 'Appendix 1' is from this version of the NPSIB to avoid uncertainty. We consider use of the NPSIB definition also partly addresses other submissions requesting use of the RPS definition (S524.021, S473.015, S560.007, S560.411 and S560.077) because it partly reflects the RPS wording 'and area of significant indigenous vegetation and/or significant habitats of indigenous fauna'.
131. The Panel notes the concerns of submitters regarding the protection of significant indigenous biodiversity values that would meet the RPS or NPSIB Appendix 1 criteria but are yet to be identified. However, we consider this should be addressed within the provisions and not through the definition of SNA.

*Area of Significant Indigenous Biodiversity*

132. The Panel accepts Ms Easton's recommendation to retain a definition for 'Area of Significant Indigenous biodiversity'. We acknowledge this is a term used throughout the provisions and accept the planners' view that a definition would be helpful. We consider this is effectively shorthand for 'significant indigenous vegetation and the significant habitats of indigenous fauna', which is the terminology used in the RMA, NZCPS, and RPS. We have carefully considered the implications of using this term in the ECO Chapter and Plan-wide in terms of giving effect to the higher statutory instruments. We note that some provisions were notified using 'significant indigenous vegetation and the significant habitats of indigenous fauna' and others using 'area of significant indigenous biodiversity'. We accept the terms mean the same thing. We accept the recommendation to use this term but do not consider

it is necessary to replace the use of *'significant indigenous vegetation and the significant habitats of indigenous fauna'* throughout the Plan given its meaning and origins are clear.

133. The Panel accepts Ms Easton's recommendation to reference the RPS Appendix 1 criteria in clause (b) given the identification and protection of significant indigenous vegetation and the significant habitats of indigenous fauna in a regionally consistent manner is required under Chapter 7 Objectives 1 and 2. We also accept that future identified SNA must be assessed using the NPSIB Appendix 1 criteria.

#### *Indigenous Biodiversity*

134. The Panel accepts Ms Easton's recommendation to add a new definition for *'indigenous biodiversity'* using the NPSIB definition. Appendix 1 of the RPS and Appendix 1 of the NPSIB set out the criteria for determining significance and we therefore consider 'significant' is already defined. We consider the 'area' of significant indigenous biodiversity is a matter to be determined through the significance assessment undertaken by an ecologist.

#### *Indigenous vegetation*

135. The Panel accepts Ms Easton's recommendation to add a new definition for *'indigenous vegetation'* using the NPSIB definition. We consider Appendix 1 of the RPS and Appendix 1 of the NPSIB set out the criteria for assessing significance and therefore accept 'significant' is already defined.

#### *Indigenous Vegetation Clearance*

136. The Panel accepts Ms Easton's definition for *'Indigenous Vegetation Clearance'* as set out in Appendix 1 of the Right of Reply. We agree it is not appropriate to add *'it does not include the grazing of pasture or improved pasture species in that area of indigenous vegetation'* as requested by Federated Farmers (S524.011) and addressed in Ms Linscott's evidence.
137. The Panel acknowledges Ms Easton's concern that such an exclusion could lead to more development of grazing areas within indigenous vegetation that is not addressed by including *'established pasture'* as suggested by Ms Linscott. We consider adding reference to *'improved pasture'* would increase uncertainty given clause 3.17 of the NPSIB and the definition of *'maintenance of improve pasture'* includes activities specifically included in the recommended definition for *'Indigenous Vegetation Clearance'* such as cutting, crushing, applying chemicals, draining, burning, cultivating, over-planting, applying seed of exotic pasture species and mob stocking.
138. The Panel considers Federated Farmers concern to enable the ongoing grazing of established pasture and improved pasture should be addressed through the rule framework.

#### *Poutini Ngāi Tahu Activities and Cultural Harvest*

139. The Panel accepts Ms Easton's recommendation that the definition of *'Poutini Ngāi Tahu Activities'* should remain as notified and to add a new definition for *'Cultural Harvest'* to address the Poutini Ngai Tahu submission point (S620.040). We agree that Pou whenua structures are included in the notified definition of *'Poutini Ngāi Tahu Activities'*.

140. The Panel accepts Ms Easton's recommendation to include a definition for '*Poutini Ngāi Tahu Land*' and '*Specified Māori Land*' using the NPSIB definition. We accept the scope to add these definitions comes from Te Tumu Paeroa submission point (S440.003). This submission point was included in Appendix 3 of the Introduction and General Provisions and accepted in part but was not addressed directly in the Introduction and General Provisions s42A Report. Table 2 of the Introduction and General Provisions s42A Report states this definition will be addressed in the SASM hearing, however, S440.003 was not referenced in the SASM s42A Report or Appendix 2. We accept submission point S440.003 in part to add a new definition for '*Poutini Ngāi Tahu Land*' and as a consequential amendment recommend adding a new definition for '*Specified Māori Land*' using the NPSIB definition. We consider this reflects the outcome of the JWS between Ms Easton, Te Tumu Paeroa and Poutini Ngāi Tahu.
141. The Panel have considered the term '*Specified Māori Land*' in the Recommendation Report on the General Rural Zone, recognising that the term is used in both the NPSIB and the NPSHPL. There are common elements in the definitions of both national policy statements, some elements that are not relevant to the region, and an additional element included in the NPSIB definition. The Panel recommend a definition for the term that references aspects common to both national instruments, separately identifies the element of difference in the NPSIB definition, and only references areas relevant to the region.
142. The Panel accept the need for a definition of '*Cultural Harvest*' but consider that it should link to the definition of '*Cultural Materials*' as included in the SASM Chapter Recommendation Report so amend the definition as recommended by the planners on this basis.

#### *Ecological District/Region*

143. The Panel accepts Ms Easton's recommendation to add a new definition for '*Ecological District*' referencing the relevant Department of Conservation document given this is used in the provisions.

#### *Effects Management Hierarchy*

144. The Panel accepts Ms Easton's recommendation to add a new definition for '*Effects Management Hierarchy*' using the NPSIB definition given this is used in the provisions.

#### *Ecological Terms Used in Policy ECO – P6*

145. The Panel accepts Ms Easton's recommendation to add a new definition for '*Threatened Environment Classification*' by referencing the relevant Landcare Research Report.
146. The Panel also recommends adding a new definition for '*Threatened or At Risk species and Threatened or At Risk (declining)*' using the NPSIB definition. However, the Panel notes the NPSIB definition uses the New Zealand Threat Classification System Manual (Andrew J Townsend, Peter J de Lange, Clinton A J Duffy, Colin Miskelly, Janice Molloy and David A Norton, 2008. Science & Technical Publishing, Department of Conservation, Wellington), or its current successor publication. We note the New Zealand Threat Classification System Manual 2022 (Jeremy Rolfe, Rod Hitchmough, Pascale Michel, Troy Makan, Jerry A. Cooper, Peter J. de Lange, Andrew J. Townsend, Colin M. Miskelly and Janice Molloy) is the current successor of the 2008 classification system. We understand the key revision of the 2008 system includes removal of the conservation status At Risk – Relict; the modification of At

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Risk – Naturally Uncommon to include all taxa that meet its population size and trend criteria, regardless of whether their condition is natural; and the re-labelling of At Risk – Recovering A and At Risk – Recovering B, into Threatened – Nationally Increasing and At Risk – Recovering, respectively. We therefore consider it is appropriate to use the 2022 classification system in the definition as the current successor publication.

147. The Panel notes the terms '*Threatened and At Risk*' and '*Threatened and At Risk (declining)*' are not only used in Policy ECO-P6 but also are used in relation to the Coastal Environment Chapter and the Light Chapter in the coastal environment to give effect to the NZCPS and RPS.

### *Ecological District/Region*

148. The Panel accepts Ms Easton's recommendation to add a definition for '*Ecological District*' using the NPSIB definition. We note the significance assessment under Appendix 1 of the NPSIB (and RPS Appendix 1) refers to the ecological district and that this is the context for the representativeness criterion.

### *Biodiversity Compensation and Biodiversity Offset*

149. The Panel accepts Ms Easton's recommendation to add new definitions for '*Biodiversity Compensation*' and '*Biodiversity Offset*' using the NPSIB definitions given both these terms are used in the provisions and are part of the effects management hierarchy.

### *Net Gain*

150. The Panel considers it is helpful to add a new definition for '*net gain*' using the NPSIB definition given our recommendation to use this term in ECO-P7, as requested by the Director General (S602.071). We note the Director General's submission (S602.020) proposed an alternative definition to be used until the NPSIB took effect.

### *Improved Pasture*

151. The Panel accepts Ms Easton's recommendation to add a new definition for '*improved pasture*' using the NPSIB definition.

### *Parent Title*

152. The Panel accepts Ms Easton's recommendation in relation to Rule ECO-R4/SUB-R7 (which is discussed later in this Report) to add a new definition for '*Parent Title*' to clarify this term, as requested by submitters.

### *Maintaining Indigenous Biodiversity*

153. The Panel considers the range of submission points seeking protection of significant biodiversity values to give effect to RMA s6(c) and the RPS provide broad scope to include the direction of the NPSIB and its sole objective to maintain indigenous biodiversity so there is no overall loss in indigenous biodiversity after 4 August 2023. We have considered adding a definition for '*Maintaining indigenous biodiversity*' within the glossary of the Plan but note the NPSIB includes it with the objective. We accept the approach taken in the NPSIB is appropriate and avoids disconnection with ECO-O1 where the term is relevant.

## **Hearing Panel's Recommendation**

154. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommends the submission points identified in the footnotes below are accepted or accepted in part, and recommend the following changes to the **Definitions**:

<b>SIGNIFICANT NATURAL AREA</b>
means
<p><del>a. areas that have been assessed as an area of significant indigenous vegetation or significant habitat of indigenous fauna in accordance with the criteria set out in the West Coast Regional Policy Statement;</del></p> <p><del>b. areas that have been identified as Significant Natural Areas in any West Coast Regional or District Plan.<sup>9</sup></del></p> <p><b>a. <u>any area that, after the commencement date (4 August 2023), is notified or included in a district plan as an SNA following an assessment of the area in accordance with Appendix 1 of the National Policy Statement for Indigenous Biodiversity 2023; and</u></b></p> <p><b>b. <u>any area that, on the commencement date (4 August 2023), is already identified in a policy statement or plan as an area of significant indigenous vegetation or significant habitat of indigenous fauna (regardless of how it is described); in which case it remains as an SNA unless or until a suitably qualified ecologist engaged by the relevant local authority determines that it is not an area of significant indigenous vegetation or significant habitat of indigenous fauna.</u></b><sup>10</sup></p>
<b>AREA OF SIGNIFICANT INDIGENOUS BIODIVERSITY</b>
means, in relation to the Subdivision Rules,
<p>a. an area identified as a Significant Natural Area in Schedule Four; or</p> <p>b. an area identified through an ecological assessment process undertaken by an ecologist as meeting the criteria for a Significant Natural Area <b>significant indigenous biological diversity</b> as set out in the West Coast Regional Council Policy Statement, Appendix One<b>1</b>.</p>
<b>INDIGENOUS VEGETATION CLEARANCE</b>
means the clearing, <b>damage, destruction</b> <sup>11</sup> or removal of indigenous vegetation by any means, including <b>felling</b> , <sup>12</sup> cutting, crushing, <b>smothering</b> , <sup>13</sup> <b>mob-stocking</b> <sup>14</sup> cultivation, irrigation, chemical application, drainage, stopbanking, overplanting, or burning, <b>but excluding and the clearance of indigenous vegetation forming an understorey within an exotic plantation forest.</b> <sup>15</sup>
<b>POUTINI NGĀI TAHU ACTIVITIES</b>

<sup>9</sup> Director General of Conservation S602.016, Royal Forest and Bird Protection Society of New Zealand Inc S560.077, Federated Farmers of New Zealand S524.021

<sup>10</sup> Director General of Conservation S602.016, Royal Forest and Bird Protection Society of New Zealand Inc S560.077

<sup>11</sup> Director General of Conservation S602.014, Royal Forest and Bird Protection Society of New Zealand Inc S560.065

<sup>12</sup> Buller Conservation Group S552.025, Frida Inta S553.025

<sup>13</sup> Royal Forest and Bird Protection Society of New Zealand Inc S560.065

<sup>14</sup> Director General of Conservation S602.014, Royal Forest and Bird Protection Society of New Zealand Inc S560.065

<sup>15</sup> Buller Conservation Group S552.025, Frida Inta S553.025

means the use of land and/or buildings for traditional Māori activities and includes making and/or creating cultural goods, textiles and art, medicinal and food gathering, waka ama, events, management and activities that recognise and provide for the special relationship between Poutini Ngāi Tahu and places of cultural importance.

#### **POUTINI NGĀI TAHU LAND**

**Means land owned by Poutini Ngāi Tahu.**<sup>16</sup>

#### **CULTURAL HARVEST**

**Cultural harvest means indigenous vegetation clearance for cultural use and in accordance with tikanga and kaitiakitanga, mahinga kai and collection of cultural materials where this is undertaken by Poutini Ngāi Tahu.**<sup>17</sup>

#### **SPECIFIED MĀORI LAND**

**means land that is any of the following:**

- a. **Māori customary land and Māori freehold land (as defined in Te Ture Whenua Māori Act 1993):**
- b. **land set apart as a Māori reservation under Part 17 of Te Ture Whenua Māori Act 1993 or its predecessor, the Māori Affairs Act 1953:**
- c. **land held by or on behalf of an iwi or a hapū if the land was transferred from the Crown, a Crown body, or a local authority with the intention of returning the land to the holders of mana whenua over the land:**
- d. **land vested in the Māori Trustee that is constituted as a Māori reserve by or under the Māori Reserved Land Act 1955, and remains subject to that Act:**

**and in the context of implementing the National Policy Statement on Indigenous Biodiversity, also means:**

- e. **Treaty settlement land, being land held by a post-settlement governance entity (as defined in the Urban Development Act 2020) where the land was transferred or vested and held (including land held in the name of a person such as a tipuna of the claimant group, rather than the entity itself):**
  - i. **as part of redress for the settlement of Treaty of Waitangi claims; or**
  - ii. **by the exercise of rights under a Treaty settlement Act or Treaty settlement deed.**<sup>18</sup>

#### **ECOLOGICAL DISTRICT**

<sup>16</sup> Te Tumu Paeroa Office of the Māori Trustee S440.003

<sup>17</sup> Te Rūnanga o Ngāti Waewae, Te Rūnanga o Makaawhio and Te Rūnanga o Ngāi Tahu S620.040, Royal Forest and Bird Protection Society of New Zealand Inc S560.062

<sup>18</sup> Te Tumu Paeroa Office of the Māori Trustee S440.003, and consequential do recommendations on the General Rural Zone in relation to implementation of the National Policy Statement for Highly Productive Land

means the ecological districts as shown in McEwen, W Mary (ed), 1987. Ecological regions and districts of New Zealand. Wellington: Department of Conservation.<sup>19</sup>

#### **EFFECTS MANAGEMENT HIERARCHY**

means an approach to managing the adverse effects of an activity on indigenous biodiversity that requires that:

- a. adverse effects are avoided where practicable; then
- b. where adverse effects cannot be avoided, they are minimised where practicable; then
- c. where adverse effects cannot be minimised, they are remedied where practicable; then
- d. where more than minor residual adverse effects cannot be avoided, minimised, or remedied, biodiversity offsetting is provided where possible; then
- e. where biodiversity offsetting of more than minor residual adverse effects is not possible, biodiversity compensation is provided; then
- f. if biodiversity compensation is not appropriate, the activity itself is avoided.<sup>20</sup>

#### **THREATENED ENVIRONMENTS CLASSIFICATION**

means the threatened environments as shown in Walker S, Cieraad E, Barringer J 2015, The Threatened Environment Classification for New Zealand 2012: a guide for users, Landcare Research Report LC2184.<sup>21</sup>

#### **THREATENED OR AT RISK AND THREATENED OR AT RISK (DECLINING)**

have, at any time, the meaning given in the New Zealand Threat Classification System Manual 2022 Jeremy Rolfe, Rod Hitchmough, Pascale Michel, Troy Makan, Jerry A. Cooper, Peter J. de Lange, Andrew J. Townsend, Colin M. Miskelly and Janice Molloy (available at [www.doc.govt.nz/tcs](http://www.doc.govt.nz/tcs)), or its current successor publication.<sup>22</sup>

#### **BIODIVERSITY COMPENSATION**

means a conservation outcome that meets the requirements in Appendix 4 of the National Policy Statement for Indigenous Biodiversity and results from actions that are intended to compensate for any more than minor residual adverse effects on indigenous biodiversity after all appropriate avoidance, minimisation, remediation, and biodiversity offsetting measures have been sequentially applied.<sup>23</sup>

#### **BIODIVERSITY OFFSET**

<sup>19</sup> Buller Conservation Group S552.024, Frida Inta S553.024

<sup>20</sup> Director General of Conservation S602.019, Te Mana Ora (Community and Public Health) of the NPHS/Te Whatu Ora S190.002

<sup>21</sup> Chris & Jan Coll S558.092, Chris J Coll Surveying Limited S566.092, Laura Coll McLaughlin S474.092, Peter Langford S615.044, Karamea Lime Company S614.044, Koiterangi Lime Co Ltd S577.035, Catherine Smart-Simpson S564.028, William McLaughlin S567.174, Steve Croasdale S516.035 and Geoff Volckman S563.023

<sup>22</sup> Chris & Jan Coll S558.092, Chris J Coll Surveying Limited S566.092, Laura Coll McLaughlin S474.092, Peter Langford S615.044, Karamea Lime Company S614.044, Koiterangi Lime Co Ltd S577.035, Catherine Smart-Simpson S564.028, William McLaughlin S567.174, Steve Croasdale S516.035 and Geoff Volckman S563.023

<sup>23</sup> Director General of Conservation S602.018, Buller Conservation Group S552.004, Frida Inta S553.004

**means a measurable conservation outcome that meets the requirements in Appendix 3 of the National Policy Statement for Indigenous Biodiversity and results from actions that are intended to:**

- a. **redress any more than minor residual adverse effects on indigenous biodiversity after all appropriate avoidance, minimisation, and remediation measures have been sequentially applied; and**
- b. **achieve a net gain in type, amount, and condition of indigenous biodiversity compared to that lost.**<sup>24</sup>

#### **NET GAIN**

**This principle reflects a standard of acceptability for demonstrating, and then achieving, a net gain in indigenous biodiversity values. Net gain is demonstrated by a like-for-like quantitative loss/gain calculation of the following, and is achieved when the indigenous biodiversity values at the offset site are equivalent to or exceed those being lost at the impact site:**

- a. **types of indigenous biodiversity, including when indigenous species depend on introduced species for their persistence; and**
- b. **amount; and**
- c. **condition (structure and quality).**<sup>25</sup>

#### **INDIGENOUS BIODIVERSITY**

**means the living organisms that occur naturally in New Zealand, and the ecological complexes of which they are part, including all forms of indigenous flora, fauna, and fungi, and their habitats.**<sup>26</sup>

#### **INDIGENOUS VEGETATION**

**means vascular and non-vascular plants that, in relation to a particular area, are native to the ecological district in which that area is located.**<sup>27</sup>

#### **IMPROVED PASTURE**

**means an area of land where exotic pasture species have been deliberately sown or maintained for the purpose of pasture production, and species composition and growth has been modified and is being managed for livestock grazing.**<sup>28</sup>

#### **PARENT TITLE**

**means a record of title in existence on 14 July 2022.**<sup>29</sup>

## **4. ECO - ECOSYSTEMS AND INDIGENOUS BIODIVERSITY CHAPTER**

<sup>24</sup> Director General of Conservation S602.021, Buller Conservation Group S552.004, Frida Inta S553.004

<sup>25</sup> Director General of Conservation S602.020

<sup>26</sup> Manawa Energy Limited S438.020

<sup>27</sup> Royal Forest and Bird Protection Society of New Zealand Inc S560.505, Buller Conservation Group S552.074, Frida Inta S553.074, Suzanne Hills S443.003,

<sup>28</sup> New Zealand Agricultural Aviation Association S166.008, Federated Farmers of New Zealand S524.010

<sup>29</sup> Chris & Jan Coll S558.227, Chris J Coll Surveying Limited S566.227, Laura Coll McLaughlin S474.227, William McLaughlin S567.174

## **4.1. Whole Chapter**

### **Submissions and Further Submissions**

155. Forty-eight submissions points and 29 further submission points relating to the whole chapter were summarised in a Table on pages 34-39 of the s42A Report. Four submission points supported the provisions in the chapter, 10 opposed the provisions in the chapter, 33 sought amendments and one was neutral. Twelve further submissions supported various submissions, and 17 further submissions opposed various submissions.
156. The Panel has considered the submissions and further submissions received and adopts the summaries in the s42A Report.

### **Section 42A Report**

157. Ms Easton acknowledged the four submissions<sup>30</sup> that showed various support for the provisions in the chapter. However, she noted her recommended amendments in response to other submissions.
158. Ms Easton did not support Groundswell NZ's (S562.006) request to remove the identification of features required by s6 of the RMA from the Plan. She also did not support the submission points from Groundswell (S562.003) and Straterra (S536.008) that sought for the provisions with legal effect to be withdrawn from the Plan because of the obligation to give effect to the RMA.
159. In response to the submission point made by Nicholas Johnston (S14.008) that sought to remove all restrictions on private land for indigenous biodiversity, Ms Easton did not support the submission. She considered the framework in the RMA, NPSIB and the RPS all provided for the protection of indigenous biodiversity.
160. Ms Easton did not support the submission point made by GE & CJ Coates (S415.004) that sought to delete all parts of the plan relating to natural environmental values. She considered it would not be legally possible to do so.
161. Ms Easton did not support the submission point made by Grey District Council (**GDC**) (S608.037) that sought to delete all references to '*Sites or Areas of Significance to Māori*' from the Chapter. She noted that the substantive matter raised by this submission was addressed in the s42A Report for Sites and Areas of Significance to Māori (**SASM**).
162. In response to the submission points made by Nicholas Johnston (S14.007) and Inger Perkins (S462.010) that sought for all land tenures to be treated the same in terms of ecosystems and biodiversity, Ms Easton did not support the relief sought. She noted that the NPSIB recognised that different land tenure needs different degrees of management and therefore considered this distinction should carry through to the Plan.
163. Ms Easton did not support Paul Elwell-Sutton's (S144.001) request to prioritise the Plan provisions relating to the health, integrity and life-supporting properties of indigenous ecosystems and biodiversity. She considered the RMA s6 did not place any greater weight on any one matter of national importance.

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<sup>30</sup> Michael Orchard (S583.003), Westland District Council (S181.014), Christine Anderson (S88.001) and Anna Bradley (S90.001)

164. Ms Easton acknowledged the submission points made by John Caygill (S290.008), the Aggregate and Quarry Association (AQA) (S521.002) and Forest and Bird (S560.025) that all sought for this section of the Plan to give effect to the RPS, albeit different parts. Ms Easton supported the submissions in part, but as there was no specific detail to the submissions, she did not recommend any specific response.
165. In response to the submission point made by the AQA (S521.020) that sought to clarify how the enabling provisions would affect Plan users, Ms Easton acknowledged the submission and supported it in part. She commented that this was largely related to mineral extraction and was considered as part of that hearing stream.
166. Ms Easton supported in part Forest and Bird's (S560.191) request for the immediate commencement of the SNA identification using the desktop Wildlands Report as the basis for the assessment. She acknowledged that there were inconsistencies in the Wildlands Report and there was a need for a significant amount of ground-truthing and on-site ecological assessment. However, she acknowledged the time and cost necessary for this to occur. She also supported in part their submission point (S560.006) that sought the inclusion of provisions specifically ensuring the protection of significant habitats of indigenous fauna, including from exotic vegetation clearance. Although she acknowledged the difficulties associated with this related to the limitations of available information. While she agreed that significant habitats for indigenous fauna should be protected, she did not support rules related to exotic vegetation clearance.
167. Ms Easton supported in part Katherine Gilbert's (S473.002) request for a rule framework that required SNA to be identified, mapped and listed in the Plan in accordance with the RPS criteria. She acknowledged that the process and framework for identifying SNA was considered in relation to ECO-P1.
168. In response to the submission point made by Inger Perkins (S462.009) that sought reference to the draft NPSIB in the Plan, Ms Easton supported this submission in part. She recommended adding text in the Overview section of the chapter to reflect that the gazetted NPSIB was now in effect, as follows:

**The National Policy Statement for Indigenous Biodiversity (NPSIB) came into force on 4 August 2023 and TTPP is required to give effect to this. The NPSIB requires Councils to protect, maintain and restore indigenous biodiversity in a way that:**

- **recognises tangata whenua as kaitiaki, and people and communities as stewards, of indigenous biodiversity; and**
- **provides for the social, economic and cultural wellbeing of people and communities, now and into the future**

**The NPSIB must be given effect to as soon as reasonably practical. Because TTPP was developed prior to the NPSIB, it only partially gives effect to it – in as much as has been possible within the constraints of the scope of submissions made to the Plan.**

169. Ms Easton did not support Riarnne Klempel (S296.005) and David Marshall's (S347.006) request to protect either 'old growth forest' or 'lowland forest' because she considered the determination of significant indigenous vegetation needed to be as a result of an assessment using the criteria set out in the RPS, and as directed in ECO-P1.

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170. Ms Easton supported in part Westpower's (S547.246) request to recognise existing energy activities and infrastructure within ecosystems and areas of indigenous biodiversity. She acknowledged that there was direction in the RPS to support regionally significant infrastructure and considered that the permitted activity standards of ECO-R1 adequately provided for this. Accordingly, she made no recommended amendments in response to this submission.
171. In response to the submission points made by Lynley Hargreaves (S481.002 and S481.026) that sought an increased protection for indigenous biodiversity and a recognition of climate change, Ms Easton acknowledged the submission, noting that amendments had been recommended in the Strategic Direction Chapter regarding climate change. She did not recommend any additional changes to this Chapter in response to this submission. In terms of providing an increased protection for indigenous biodiversity, Ms Easton noted that various amendments were recommended within the Chapter that implement the requirements of the NPSIB and address this submission point.
172. Ms Easton did not support the submission points made by Michael Snowden (S492.012) and Anna Bradley (S90.002) that sought non-regulatory assistance to SNA landowners (i.e. rates relief) because she noted the Plan was a combined plan for three Councils and there was no power to set budgets.
173. In response to the submission point made by Horticulture New Zealand (S486.088) that sought provisions to enable the active management of pests, Ms Easton supported the submission in part. She acknowledged that in other hearing streams amendments had been recommended to support biosecurity efforts, including an amendment to the definition of 'Conservation Activities' which specifically enabled biosecurity activities. She considered that because 'Conservation Activities' were provided for as a permitted activity in this Chapter, no other amendments were required in response to the submission point.
174. Ms Easton acknowledged the submission point made by Tangi Weepu (S630.003) that sought the protection of natural environment values and significant sites. She considered the Plan provided adequate protection for these values and did not recommend any amendments in response to this submission.
175. Ms Easton acknowledged and partly supported the submission made by the West Coast Penguin Trust (S275.012) that sought amendments to provide greater protection for penguins and other sea and shore birds. However, she made no recommended amendments because of the lack of information regarding the habitats of vulnerable indigenous fauna.
176. In response to the submission point made by the West Coast Regional Council (**WCRC**) (S488.002) that sought to ensure that there were no adverse effects on the social and economic wellbeing of West Coast communities and people, Ms Easton did not support the relief sought. She noted the submission was not clear on the relief sought. She considered the content of this Chapter was strongly driven by the content of the RPS.
177. In response to the submission points made by Rocky Mining Limited (S474.032) and Papahaua Resources Limited (S500.021) that sought recognition that mineral extraction has a functional and operational need to locate where the resource was, Ms Easton supported the submission in part. She acknowledged the functional needs of activities but did not recommend any specific amendments in response to these submissions.

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178. Ms Easton did not support Katherine Gilbert's (S473.009) request for amendments to ensure indigenous biodiversity was maintained and the protection of SNA from mineral exploration and extraction activities because she considered the Plan already contained appropriate protections in this regard. She also noted the NPSIB provided specific direction related to nationally significant mineral extraction activities and that she recommended some amendments in response to detailed submissions at the appropriate section of the Chapter.
179. In response to the submission points made by Straterra (S536.019), Rocky Mining Limited (S474.035) and Papahaua Resources (S500.024) that sought overlay provisions seeking to '*avoid, protect, prevent, minimise, restrict or preserve*' be limited to situations where they were warranted, Ms Easton supported the submissions in part. She agreed that there was a clear framework for using these strongly directive terms when referring to significant indigenous biodiversity. She did not recommend any amendments in response to these submissions.
180. In response to the submission point made by Straterra (S536.005) that sought to ensure a consenting pathway was provided for activities in the overlays, Ms Easton supported the submission in part. She acknowledged that there were no prohibited activities in the Chapter and noted there was a consenting pathway for activities within an SNA, which included offsetting and compensation. She did not recommend any amendments in response to this submission.
181. Ms Easton did not support Frida Inta's (S553.208) request to include a chapter on genetically modified organisms because this was not an issue identified as a significant resource management issue for the West Coast and the national legislation related to this was very restricted.
182. Ms Easton did not support Forest and Bird's (S560.011) request for all chapters in the Plan to give an appropriate level of protection to SNA, whether they are listed in Schedule Four or not. She considered the ECO Chapter was the appropriate place in the Plan for provisions related to SNA and noted that recommendations for other hearing streams clarified this.
183. In response to Forest and Bird's (S560.027) request for other chapters to refer to biodiversity effects and to include a requirement to give effect to the ECO Chapter, Ms Easton supported the relief sought in part. She noted previous recommendations (in other chapters) to the Overviews of chapters that the ECO Chapter provisions apply with respect to effects on indigenous biodiversity. She recommended no amendments in response to this submission.
184. Ms Easton did not support Forest and Bird (S560.028) and Suzanne Hills' (S443.004) requests to use of the same terminology as used in the RPS in relation to biodiversity offsetting and compensation because the RPS has been superseded by the NPSIB and the terminology in that document is more current.
185. In response to the submission point made by the Director General (S602.061) that sought amendment to the title page of the Natural Environment Section, Ms Easton supported the submission in part. She agreed that there should be a reference to '*the margins of waterbodies*', but she did not support deleting the reference to public access.
186. The s42A Report recommended two amendments in response to submissions on the ECO Chapter as follows:

*Title Page of the Natural Environment Section*

*This section will include the provisions for ecosystems and indigenous biodiversity, natural character, natural features and landscapes ~~and~~ public access **and the margins of waterbodies**. It will identify the specific features and places on the West Coast that are important to those values, including any Outstanding Landscapes or Significant Natural Areas. It will also include the Objectives, Policies and any Rules for the management of these areas.*

*Overview of the Ecosystems and Indigenous Biodiversity Chapter*

*... Secondly, it is required to recognise and provide for the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna.*

**The National Policy Statement for Indigenous Biodiversity (NPSIB) came into force on 4 August 2023 and TTPP is required to give effect to this. The NPSIB requires Councils to protect, maintain and restore indigenous biodiversity in a way that:**

- **recognises tangata whenua as kaitiaki, and people and communities as stewards, of indigenous biodiversity; and**
- **provides for the social, economic and cultural wellbeing of people and communities, now and into the future**

**The NPSIB must be given effect to as soon as reasonably practical. Because TTPP was developed prior to the NPSIB, it only partially gives effect to it – in a much has been possible within the constraints of the scope of submissions made to the Plan.**

*Because of the extremely large land area ...*

**Hearing and Submitter Evidence/Statements**

187. Mr Jamie McFadden and Mr George Coates presented a statement for Groundswell New Zealand reiterating their submission on how to protect natural and cultural values on private land without using mapping to address s6 RMA matters. Mr McFadden gave examples of this approach in the Hurunui District.
188. Mr Tangi Weepu spoke at the hearing in support of his submission. He expressed deep concern for Lake Māhinapua and its degradation, which was hurting his people. He highlighted the interconnectedness of everything and the difficulty in trying to fit his culture into RMA rules and the Plan process.
189. Mr George Coates and Mrs Caryl Coates, for Nikau Deer Farm Limited, spoke at the hearing in support of their submission and provided a written statement. They considered RMA s6 was 'not doing its job' in achieving the purpose of the Act. They noted concern about indigenous vegetation clearance rules in the coastal environment and along the margins of streams, and believed people would mow to prevent indigenous vegetation growing by waterways. They considered the rules imposed unnecessary financial burdens and wanted less restrictive maintenance rules.
190. Ms Lucy Smith presented a statement on behalf of Terra Firma Mining Limited outlining concerns with how mineral extractions were treated under the NPSIB and the "significant national benefit" test.

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191. Ms Graeme Walsh spoke at the hearing in relation to the identified SASM and objected to Poutini Ngāi Tahu becoming a pseudo-consent authority, as further outlined in the SASM Chapter Recommendation Report.
192. Ms Inger Perkins' statement presented at the hearing set out a generalised position that sought to protect indigenous habitats and species. She encouraged the Panel to rely on the submissions and recommendations of others who have put forward specific methodologies for achieving that.
193. Mr Martin Kennedy's evidence for Westpower reiterated the submission point to make specific provision for specified infrastructure given that the NPSIB recognised these activities. However, his evidence did not suggest any specific wording or changes.
194. Ms Inta reiterated her submission in relation to genetic modification and considered that despite the matter not currently being a significant issue for the West Coast, the matter should at least be acknowledged in the Plan. She also considered a reference to the '*coastal environment*' should be included on the title page of the Natural Environment Section. She considered the rules would not stem the ongoing erosion of indigenous biodiversity on the West Coast and noted the evidence given by Ms Easton that 10,000 hectares had been estimated to have been lost in the last 20 years.
195. Mr Peter Anderson, Counsel, presented legal submission for Forest and Bird addressing the RMAA and implications for this Plan process. He submitted by operation of s78(6)(b), the RMAA did not affect the requirement to identify and map SNA in the pTTPP; and the Grey District SNA were covered by s78(6)(a) and can be included because they were in the notified Plan, prior to the RMAA commencing and were unaffected by s78. He agreed with Ms Easton that the requirement to give effect to the NPSIB as soon as reasonably practicable remained unchanged and the Panel must do so where there was scope. While he acknowledged the RPS did not give effect to the NPSIB, he submitted there were no aspects that materially conflict and both require SNA to be identified and mapped using criteria that are equivalent. He agreed with the legal advice from Wynn Williams that SNA identification and mapping must continue to give effect to the RPS.
196. Mr Anderson highlighted the definition of SNA under the RPS included "an area which although not included as a SNA in a regional or district plan nevertheless meets one or more of those criteria listed in Appendix 1 or 2". He concluded this meant areas in the Westland and Buller Councils and in the Grey District outside of SNA that met the criteria were SNA under the RPS. He also noted identified SNA in the Grey District must remain SNA unless determined otherwise. He noted the RPS dealt with the reality that SNA had not been identified and mapped (using the Appendix 1 criteria), whereas the NPSIB assumes SNA have been identified and mapped.
197. Mr Anderson noted high level support for the pTTPP approach and the objective to protect significant Indigenous vegetation and habitats of Indigenous fauna and maintaining Indigenous biodiversity. However, he highlighted issues with ECO-P1 given the RPS requirement to identify and map SNA and the three-year suspension period until October 2027 before these could have legal effect. He considered there was a window between this date and August 2028 when SNA could be introduced by way of a plan change. He submitted references to the NPSIB in policies ECO-P1 to ECO-P3 should be replaced with reference to the RPS because the obligation comes from the RPS. He considered that in the absence of mapped SNA the vegetation clearance rules must be relatively stringent to give effect to RMA s6(c) and s31(2)(b)(iii).

198. Mr Matt Pemberton, Counsel, provided legal submissions for the Director General addressing the statutory framework. He highlighted the obligation to “*recognise and provide for*” the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna as a matter of national importance. He noted the importance of the Biodiversity Strategy to guide all those who work with or have an impact on biodiversity, which specifically includes local government. He noted that many of the Director General’s submission points anticipated the NPSIB becoming operative and provide scope to give effect to the NPSIB. He agreed with the legal advice of Wynn-Williams that SNA identification and mapping must continue to give effect to the RPS. He highlighted the evidence of Dr Marshall that the RPS and NPSIB assessment criteria were equivalent, with the NPSIB giving more clarity on application of the criteria.
199. Mr Pemberton noted the Panel must give effect to the RPS and NPSIB, and if the RPS conflicts with the NPSIB, the NPSIB must prevail. He cautioned the Panel not to assume the RPS did not give effect to the NPSIB just because it preceded it. He submitted there was a ‘high level of synergy’ between the RPS and NPSIB in terms of the overall requirement on Councils to maintain indigenous biodiversity under RMA s31(1)(b)(iii). He acknowledged a close analysis of RPS Chapter 7 and the NPSIB was required to see there was no conflict and to give effect to both.
200. Dr Jane Marshall provided evidence for the Director General describing the diversity of ecological values in Te Tai o Poutini with a focus on vegetation, flora, and ecosystems, including habitat for indigenous fauna. She identified specific biodiversity values in each of the West Coast districts, particularly those that were not well represented on public conservation land. She compared the ecological significance criteria used in the RPS, NPSIB and those used in the Grey District Council’s SNA programme. She also outlined the process and outcomes of the Grey District Council’s SNA programme and spatial scale of SNA mapping.
201. Dr Marshall noted Tai o Poutini supported a diverse range of ecosystems, vegetation and habitat for fauna throughout the region from the coastal to the alpine zone. She outlined the values include the vast extent of indigenous vegetation cover, naturally uncommon ecosystems, intact and natural ecological gradients and Threatened, At Risk, uncommon and regionally endemic species. She noted the location of these and other biodiversity values was contingent on abiotic influences such as geology, landforms, soil types, temperature, and precipitation. She outlined that the Ecological Regions and Districts of New Zealand classification provided an appropriate and accepted ecological framework from which to systematically understand and describe the unique biodiversity values within each district and the proportion of those values that remain. She highlighted that the low elevation and coastal areas, and the areas with more fertile soils, were amongst the most modified in the region and as a consequence, the habitats, vegetation associations and ecosystems of these areas were the least common.
202. Dr Marshall considered the identification of significant ecological values would be most effectively completed if a consistent process and set of ecological criteria were employed. She considered the criteria of the RPS were equivalent to those of the NPSIB but noted the guidance in the NPSIB gave greater clarity on the application of those criteria. She noted the process used in the Grey District SNA process was appropriate, but the criteria used were not consistent with those in the RPS and had not been supported by court decisions. Dr Marshall included Appendix 1 to her evidence which provided a comparison of each criterion of the NPSIB and the RPS.

203. Ms Cassandra Mealey provided evidence for the Director General on terrestrial fauna values, including Threatened and At Risk fauna, their distributions and habitats, threats, SNA in Grey District, biodiversity offsetting and compensation, and the approach to biodiversity offsetting and compensation in the TTPP. She highlighted the importance of intact ecological gradients from the mountains to the sea (ki uta ki tai) as critical habitats for indigenous biodiversity, including endemic species and globally threatened species. She noted the crucial role the region's fauna play in maintaining ecosystem processes and preserving biodiversity; and the importance of connected habitats, including remnant lowlands habitats. She highlighted that the Buller Coal Plateau's complex mosaic of interrelated unique ecosystems provide nationally significant habitat for endemic fauna. She noted the threats to fauna include climate change, habitat loss, pest species, low-carbon power generators, and human interactions (e.g. kea and lead consumption).
204. Ms Mealey considered identification of SNA within privately owned landscapes was key for the protection and persistence of fauna and their habitats within Te Tai o Poutini. She noted that ecological significance criteria provide a standardised framework to assess ecological values and capture the full range of indigenous biodiversity. She considered the NPSIB criteria represent the most current standards, offering greater guidance for consistency and transparency. She highlighted the Grey District Council's SNA programme had used criteria that were significantly different to the RPS criteria and the NPSIB, which had resulted in an under-representation of SNA within the district. She recommended these SNA be assessed using the NPSIB criteria.
205. Ms Mealey considered biodiversity offsets and compensation could be useful to address residual adverse effects on SNA or other biodiversity to maintain indigenous biodiversity within Te Tai o Poutini. She supported the inclusion of specific direction on the use, design, and implementation of biodiversity offsetting and compensation in the pTTPP. She noted the NPSIB represented the most current and New Zealand tailored principles for biodiversity offsetting and compensation. She agreed with and supported the recommendation to adopt the NPSIB approach for defining '*Effects Management Hierarchy*', '*Biodiversity Offset*', and '*Biodiversity Compensation*'. She also agreed with and endorsed the use of the NPSIB principles on biodiversity offsetting and compensation because it followed current good practice which was aligned with delivering better quality and more secure biodiversity outcomes.
206. Ms Christina Sheard, Counsel, presented legal submissions on behalf of Bathurst addressing matters relating to giving effect to the NPSIB and RPS; and the need to provide for existing lawfully established activities and activities anticipated in the MINZ and BCZ. She highlighted the importance of mineral extraction to the West Coast and Bathurst's concern that the protection and maintenance provisions in the Ecosystems and Indigenous Biodiversity Chapter effectively 'trump' the enabling intent of the MINZ and BCZ.
207. Dr Gary Bramley provided evidence for Bathurst outlining the ecological values on the Buller Coal Plateau, ecological management methods at Stockton Mine and the relief sought in relation to the effects management hierarchy. He noted there were at least four naturally uncommon ecosystems present within the Ngākawau Ecological District, all of which occur on the Buller Coal Plateau, and substantial areas of indigenous vegetation that provide habitat for a very high diversity of indigenous fauna. He considered the undisturbed areas would meet the criteria for SNA and much of the Buller Plateau would meet the criteria to be considered a natural inland wetland under the NPSFM.

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208. In relation to the effect management hierarchy, Dr Bramley noted that avoidance can and should be applied to infrastructure where their location is not important to their function. He described minimisation of effects and rehabilitation/remediation to achieve acceptable long-term outcomes. He noted biodiversity offsets were designed to achieve no net loss of biodiversity and are intended to address any significant residual effects once avoidance, minimisation and remediation options have been exhausted. He highlighted the offset principles and acknowledged that some ecological values are so vulnerable or irreplaceable they cannot be offset. He also acknowledged the offsetting process was technical, varies on a case-by-case basis and was heavily reliant on comprehensive data. He considered the Plan needed to enable technical assessments to be carefully tested in the consent process without unreasonable constraints. He also addressed biodiversity compensation and the principles guiding this for residual effects that cannot be avoided, remedied, mitigated or offset. He concluded it was important to apply the full effects management hierarchy for mineral extraction activities because the mineral location was fixed.
209. Dr Bramley outlined current application of the effects management hierarchy at Stockton Mine, the history of rehabilitation/remediation, current remediation activities, current offsetting activities, the relief sought and the requirements of the NPSIB.

### **Reporting Officer Reply Evidence**

210. Ms Easton's Right of Reply provided more information on the identified regionally significant wetlands scheduled in the Regional Land and Water Plan – Schedule 1 and those that may be significant on Schedule 2. She also outlined controls under the RPS and NESF, as well as NPSIB and NPSFM. She also reviewed other regional plans and regionally policy statements around New Zealand in relation to the identification of areas of significant habitat for fauna and confirmed Canterbury, Otago and Auckland have provisions for both the protection of significant habitats and the fauna themselves. She considered there was no scope to address taonga species in the provisions to give effect to the NPSIB.
211. Ms Easton outlined the policies of the NPSIB and advised where there was scope to address these and where she considered the notified provisions had incorporated these. She provided estimates on the amount of private land affected by SNA and ONL overlays, and Threatened Environments Classification for land.
212. Ms Easton noted that the Kiwi Rail submission point (S442.096) requesting removal of the ONL overlay from the rail corridor designation had inadvertently not been addressed in the Natural Landscape and Features hearing. She provided the relevant maps of the recommendation from Ms Bridget Gilbert and considered the ONL boundaries were appropriate given substantial width of the rail corridor designation and the large areas of indigenous vegetation.

### **Hearing Panel's Evaluation**

213. The Panel acknowledges Ms Easton's evidence, that using the government database Threatened Environments Classification 2012, approximately 10,000 hectares of indigenous vegetation has been lost over the last 20 years through ongoing land clearance for primary production purposes, with a large proportion lost between 2000-2008 due to dairy expansion in Westland. It is clear the vegetation clearance rules in the operative district plans have not been effective in managing this ongoing loss of indigenous biodiversity or in achieving the purpose and principles of the Act. The Panel records that Commissioner Becker disagreed with this statement as detailed in Appendix 2.

214. The Plan must give effect to the objectives of the operative RPS, which require the identification and protection of significant indigenous vegetation and significant habitats of indigenous fauna, while providing for sustainable subdivision, use and development; and maintenance of terrestrial and freshwater biodiversity, in order to give effect to the overarching purpose and principles of the RMA. The identification and protection required under the RPS has not been fully undertaken, however, these RPS requirements remain regardless of the commencement of the NPSIB.
215. The Panel considers that the ECO Chapter provisions have not been drafted to give effect to the RPS and accepts submission points that seek changes to ensure consistency with the RPS provisions, where these give effect to the RMA and the NPSIB. The Panel considers the four objectives of Chapter 7 of the RPS are consistent with the direction of the RMA, except for the part of Objective 3 which refers to *'maintain and enhance'* in relation to economic, social and cultural wellbeing. The RMA requires *'providing for'* these matters. In response to Panel questions, Ms Easton agreed Chapter 7 Objective 3 was inconsistent with the NPSIB and there was no higher order statutory direction supporting *'enhancing'* in this context.
216. In response to a Panel question Ms Easton agreed that there is no RMA or higher order direction to avoid adverse effects on the social and economic wellbeing of people and communities, as sought by WCRC (S488.022), in recognising and providing for matters of national importance. We consider this is a matter for consideration in the s32A evaluation in determining the most effective and efficient option for recognising and providing for the protection of significant indigenous vegetation and significant habitats of indigenous fauna.
217. As set out in Part B of this Report above, the NPSIB objective requires the maintenance of indigenous biodiversity across Aotearoa New Zealand so that there is no overall loss in indigenous biodiversity after 4 August 2023; and to achieve this:
- (a) through recognising the mana of tangata whenua as kaitiaki of indigenous biodiversity; and
  - (b) by recognising people and communities, including landowners, as stewards of indigenous biodiversity; and
  - (c) by protecting and restoring indigenous biodiversity as necessary to achieve the overall maintenance of indigenous biodiversity; and
  - (d) while providing for the social, economic, and cultural wellbeing of people and communities now and in the future.
218. The Panel's recommendation on the ECO Chapter provisions must give effect to this objective and the 17 policies, using the decision-making principles in clause 1.5 of the NPSIB. We have endeavoured to use language and terminology consistent with the NPSIB.
219. The Panel has also considered the alignment of the RPS provisions with the NPSIB to identify where the RPS is incomplete or where there are gaps or inconsistencies. Overall, the Panel finds there is a high level of alignment, although there are some differences in the environmental bottom lines included in RPS Chapter 7 Policy 2 and NPSIB clause 3.10(2) for new subdivision, use and development. There are also differences in the RPS Chapter 7 direction in relation to biodiversity offsetting and compensation and the direction and principles for biodiversity offsetting (Appendix 3) and biodiversity compensation (Appendix

- 4) in the NPSIB. The NPSIB provides clear direction as to when biodiversity offsetting and compensation is not appropriate.
220. In terms of consistency between the RPS and NPSIB significance assessment criteria, the Panel accepts Dr Marshall's analysis that the NPSIB and RPS ecological criteria to assess significance are equivalent in intent but that the NPSIB provides more detailed guidance on what constitutes significance for each criterion than the RPS, making it clearer. We also acknowledge Dr Marshall's evidence that the criteria used to identify the 37 SNA in the Grey District *"is likely to have reduced the number and/or size of areas that qualified as SNA's"* and that criteria are inconsistent with the RPS criteria and the NPSIB criteria. We note Ms Mealey and Dr Bramley (as the only other ecology experts) agreed with Dr Marshall's analysis in Appendix 1 of her evidence and confirmed these were essentially equivalent criteria.
221. Under the NPSIB, SNA identified in regional and district plans are intentionally included in the NPSIB definition of an SNA, regardless of how they are described, until a suitably qualified ecologist engaged by a local authority determines it is not an area of significant indigenous vegetation or significant habitat of indigenous fauna. It is therefore not an option open without qualified ecological advice to the Panel to remove the identified SNA included in Schedule Four of the Plan.
222. The Panel accept the legal submissions and views of the expert ecologists that the SNA in Schedule Four will need to be assessed using the NPSIB Appendix 1 criteria to give full effect to the NPSIB, as well as all other parts of the region, including public land.
223. It is clear that significant indigenous vegetation has been used as a proxy for the protection of significant habitats of indigenous fauna and that no work has yet been undertaken to identify significant habitats outside of indigenous vegetation areas. We acknowledge the concerns of submitters, such as the West Coast Penguin Trust, that significant habitats of threatened indigenous species include areas of non-indigenous vegetation, sand dunes and modified environments. We consider the reliance on restricting indigenous vegetation clearance is inadequate to give effect to the RMA, NPSIB and RPS direction in this regard. While we acknowledge it will be difficult to put lines on a map to achieve this, the available information on significant habitats must be used to identify critical areas and key threats to understand how protection can be achieved.
224. The evidence of Ms Mealey and Dr Marshall for the Director General confirms the importance of the region to endemic species (including threatened and at risk species) and the importance of different habitat types, including in modified environments. It also highlights the national significance and importance of the elevated Buller Plateau, including Denniston and Stockton plateaux, and the southernmost remnant of the ancient plateau at Te Kuha. We accept the species diversity and abundance, and presence of threatened species is exceptional for a mainland site. The Panel notes Dr Bramley agreed the ecological values on the Buller Plateaux are of national significance. Where Dr Bramley disagreed was that, in his view, these values can be offset or compensated.
225. The NPSIB clause 3.20 requires, where information is available, regional councils must record areas outside SNA that are specified highly mobile fauna areas, by working together with tangata whenua (in the manner required by clause 3.3), any potentially affected landowners, territorial authorities in its region, and the Department of Conservation. To help manage adverse effects on specified highly mobile fauna, regional councils must include a map and description of each highly mobile fauna in the region. Local authorities

- must include objectives, policies or methods in plans for managing the adverse effects of new subdivision, use, and development on highly mobile fauna areas, in order to maintain viable populations of specified highly mobile fauna across their natural range; and provide information to communities on these species and habitats, and best practice techniques for managing adverse effects.
226. Te Mana o Te Taiao Aotearoa New Zealand Biodiversity Strategy 2020 provides the overall national strategic direction to address the complex issues causing biodiversity loss and places the Treaty partnership at the centre of biodiversity work. It provides a framework for action and guiding principles for government agencies and local government. We have had regard to this national guidance and consider reference to this should be included in the Overview.
227. The Panel draws on our findings here in recommending changes to the Overview and the provisions to give effect to the RMA, NPSIB and RPS. We consider the submission points on the whole of plan seeking the protection of indigenous biodiversity and the health, integrity and life supporting capacity of ecosystems, reference to the draft NPSIB and to give effect to the RPS together provide wide scope to align the ECO Chapter with the RPS and NPSIB. Specific recommendations are made in relation to the relevant section or provision later in this Report. We consider the provisions must give effect to the provisions of the RPS until such time as the district-wide SNA assessment required by the NPSIB is completed and these SNA are included in Schedule Four.
228. The Panel considers the rule framework must give effect to the RPS Chapter 7 requirements in the interim period (until the NPSIB SNA assessment is completed), including the maintenance of indigenous biodiversity and the protection of significant indigenous biodiversity.
229. While not making submission points on the whole chapter, the Panel acknowledges the evidence of Ms Styles and Ms Whitney in relation to the NPSIB direction that it does not apply to the development, operation, maintenance or upgrade of renewable electricity generation assets and activities, and electricity transmission network assets and activities. We agree that, where possible this national direction must be reflected in the recommended provisions. However, we note that the RPS and RMA requirements still apply to the development, operation, maintenance or upgrade of renewable electricity generation assets and activities, and electricity transmission network assets and activities. We acknowledge we must give effect to the direction of the NPSREG and NESETA.
230. The Panel notes that the recommendations to amend the Overview of the chapter were made in the s42A Report and the Right of Reply in response to Inger Perkins' submission point (S462.009) to include reference to the (draft) NPSIB. These recommendations are considered in relation to the Overview.
231. The Panel notes the Coastal Environment Chapter provisions are located within the General District-Wide Matters section of the Plan and should not be included in the title page for the Natural Environment Values section. We accept Ms Easton's recommendation to include '*and the margins of waterbodies*' in response to the Director General's request and agree reference to '*public access*' should remain given the chapters included in the Natural Environment Values section of the Plan. However, we consider this should be reworded to use terms consistent with the chapters by linking the addition to natural character and not as a separate matter. We also consider the title page (and all title pages) should use present

tense (i.e. delete 'will') and the correct terms for Outstanding Natural Landscapes (**ONL**) and Outstanding Natural Features (**ONF**), using RMA Schedule 1, clause 16 to correct this.

### **Hearing Panel's Recommendation**

232. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommends the submission point identified in the footnote below is accepted in part, and recommend the following changes to the **Natural Environment Values Title Page**:

<b>Natural Environment Values - Title Page</b>
This section <del>will</del> includes <sup>31</sup> the provisions for ecosystems and indigenous biodiversity, natural character <b>and the margins of waterbodies</b> , <sup>32</sup> natural features and landscapes and public access. It <del>will</del> identifies <sup>33</sup> the specific features and places on the West Coast that are important to those values, including any Outstanding <b>Natural</b> <sup>34</sup> Landscapes and <b>Outstanding Natural Features</b> <del>or</del> <b>and</b> <sup>35</sup> Significant Natural Areas. It <del>will</del> also includes <sup>36</sup> the Objectives, Policies and any Rules for the management of these areas.

## **4.2. ECO - Ecosystems and Indigenous Biodiversity Overview**

### **Submissions and Further Submissions**

233. Thirty-five submissions points and 32 further submission points relating to the overview were summarised in a Table on pages 45-54 of the s42A Report. Three submission points supported the provisions in the Overview, one opposed the provisions and 31 sought amendments. Five further submissions supported various submissions, and 27 further submissions opposed various submissions.
234. The Panel has considered the submissions and further submissions received and adopts the summaries in the s42A Report.

### **Section 42A Report**

235. Ms Easton acknowledged the support from Katherine Crick (S101.005) and Forest and Bird (S560.213) for the Overview. However, she noted her recommended amendments in response to other submissions.
236. Ms Easton supported Forest and Bird's (S560.333) request to add a new section in the Overview listing all other relevant chapters of the Plan; and partly supported the part of the submission that sought to clarify that all vegetation clearance was dealt with in the ECO (and Natural Character) Chapter, amending the Overview and other relevant provisions where necessary. She noted her recommendations to move vegetation clearance rules from the Natural Character (**NC**) Chapter to the ECO Chapter. She also highlighted that there were rules in the Mineral Extraction Zone (**MINZ**) and Scenic Visitor Zone (**SVZ**) Chapters relating to vegetation clearance and noted that she had not made an assessment

<sup>31</sup> RMA Schedule 1, clause 16(2)

<sup>32</sup> Director General of Conservation S602.0610

<sup>33</sup> RMA Schedule 1, clause 16(2)

<sup>34</sup> RMA Schedule 1, clause 16(2)

<sup>35</sup> RMA Schedule 1, clause 16(2)

<sup>36</sup> RMA Schedule 1, clause 16(2)

as to whether those provisions should be moved to the ECO Chapter given this part of the Forest & Bird submission had been referred to in the other relevant hearing streams.

237. Ms Easton did not support all the changes to the Overview section sought by Frida Inta<sup>37</sup> and Buller Conservation Group<sup>38</sup>, including to add more detail around the natural values of the West Coast. However, she supported amendments that provided a clearer understanding for the Plan user and noted the use of “*district councils*” was preferred over “*territorial authorities*”.
238. Ms Easton supported in part Forest and Bird’s (S560.413 and S560.412) requests to include an explanation that Significant Natural Area was used in the Plan as a term to refer to both a mapped and unmapped area. She recommended that where specific reference to a mapped area was made (i.e. in the Grey District), the wording used should be ‘*SNA identified in Schedule Four*’. She did not support their request (S560.012) to add an explanation that SNA not yet identified were to be given the same protection as those already in Schedule Four.
239. In response to Transpower’s (S299.072) request to clarify the relationship between activities in the Energy Chapter and the ECO Chapter, Ms Easton considered that this was clear that the overlay provisions apply to energy activities, transport activities and infrastructure activities. She noted that the National Grid had designations for traversing through indigenous vegetation and the NESETA provided for its operation, maintenance, repair and upgrade. However, she invited Transpower to provide wording for consideration in terms of a specific policy in relation to the national grid.
240. Ms Easton did not support the relief sought in submission points made by Frida Inta (S553.002) and Buller Conservation Group (S552.002) that sought for ‘*natural character*’ to be explained because the focus of this chapter was ecosystems and indigenous biodiversity. She noted that in accordance with the Planning Standards, natural character was discussed and provided for in the Coastal Environment Chapter and Natural Character and the Margins of Waterbodies Chapter.
241. In response to the submission point made by West Coast Penguin Trust (S275.001) that sought the addition of a reference to the NPSIB and the role of non-native vegetation in forming habitats for indigenous vegetation, Ms Easton supported the relief sought in part. She supported inclusion of a reference to the NPSIB and considered the recommended wording also responded to this submission point. She did not support including any reference to non-native vegetation, especially as a blanket provision.
242. In response to the submission made by Nicholas Johnston (S14.004) that sought clarification as to why public land was not identified as an SNA, Ms Easton supported the submission in part. She noted the NPSIB required public land to be included in SNA assessments as a desktop study (rather than site assessment). As the assessment process had not been undertaken and was deferred by the RMAA, Ms Easton agreed that an explanation should be added to the Overview text.
243. Ms Easton supported the relief sought by Forest and Bird (S560.035) to add text outlining the content of the Ecosystems and Indigenous Biodiversity provisions.

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<sup>37</sup> S553.003, S553.027, S553.059, S553.060, S553.057, S553.058, S553.61, S553.002

<sup>38</sup> S552.003, S552.019, S552.059, S552.060, S552.057, S552.058, S552.61, S552.002

## Recommendation Report of the Proposed Te Tai O Poutini Plan Hearings Panel

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244. Ms Easton supported in part Westpower's (S547.247) request to add a paragraph to set out the extent of infrastructure activities on the West Coast but considered the level of detail sought was unnecessary and recommended adding a simpler paragraph. She supported the request (S547.248) to add text referring to the Coastal Environment Chapter and Natural Character and the Margins of Waterbodies Chapters in relation to vegetation clearance provisions. She considered that the relief sought by Forest and Bird (S540.475) also provided the relief sought by Westpower.
245. In response to the submission point made by Forest and Bird (S560.192) that sought substantial amendments and additions to the text of the Overview, Ms Easton supported the relief in part. She supported the submission point where the relief sought addressed the benefits of well-functioning ecosystems to climate change and protection from natural hazards and in reference to the addition of future SNA through plan changes. She also recommended a slight amendment to the wording to better reflect the status of the Grey District SNA.
246. In response to Forest and Bird's (S560.475) request to include additional text explaining the relationship between the Coastal Environment Chapter and Natural Character and the Margins of Waterbodies Chapter, Ms Easton supported the relief sought in part. She considered less detail was necessary than sought and noted that consequential changes also arose from the restructuring of the rules in the Natural Character and the Margins of Waterbodies Chapter.
247. Ms Easton generally supported the relief sought by Forest and Bird (S560.193) in relation to the amendments related to plantation forestry and the NESPF. She made recommendations to correct reference to the NESPF to the NES Commercial Forestry (NESCF).
248. Ms Easton supported the relief sought by the Poutini Ngāi Tahu (S620.136) to add a reference to 'Poutini Ngāi Tahu' in relation to the strategic objectives and policies because she considered this was a drafting error.
249. Ms Easton supported the relief sought by Westpower (S547.249) that sought the addition of a reference to strategic policies because she considered this omission was a drafting error.
250. In relation to Forest and Bird's (S60.195) request to add references to WCRC and the NESF, Ms Easton supported the relief sought to provide a clearer explanation.
251. The s42A Report recommended the following amendments to the ECO Chapter Overview as follows:

### **Overview**

*Biological diversity, or biodiversity, describes the variety and diversity of all life forms and the ecosystems they inhabit. Indigenous biodiversity is biodiversity that is native to New Zealand/Aotearoa me Te Waipounamu and relates to individual birds, plants, insects and other species and also includes the ecosystems where these species live, such as forests and sand dunes.*

*The West Coast/Te Tai o Poutini contains a significant amount of intact natural diversity by comparison with other parts of New Zealand/Aotearoa me Te Waipounamu. Continuous tracts of lowland and coastal forests and freshwater as well as coastal wetlands cover large areas. In many places indigenous ecosystems and habitats extend*

*unbroken from the mountains to the sea. 84% of the land area is under the management of the Department of Conservation. In total an estimated 90% of the West Coast/Te Tai o Poutini is covered in indigenous vegetation - compared with 24% nationally.*

*While the West Coast/Te Tai o Poutini is fortunate to have a wide range of diverse and intact ecosystems and vegetation types, there are some ecosystems and vegetation types not well represented in the protected areas network. These are generally ecosystems found in the lowland areas of the West Coast/Te Tai o Poutini. Alongside this, parts of the West Coast/Te Tai o Poutini include the last habitats or strongholds of some native species threatened with extinction. **Well-functioning ecosystems provide resilience to climate change and can provide protection to communities from natural hazards.***

*Under the RMA, the district and regional councils share responsibility for maintaining indigenous biodiversity. ~~Te Tai o Poutini Plan is~~ **District councils are** responsible for protecting and maintaining terrestrial (land-based) ecosystems, including the margins of the coast and waterbodies and the West Coast Regional Council is responsible for protecting and maintaining the non-terrestrial ecosystems (rivers, lakes, wetlands and the coast below mean high water springs). Poutini Ngāi Tahu also have cultural responsibilities as mana whenua and kaitiaki.*

*The RMA requires ~~Te Tai o Poutini Plan~~ **district councils** to manage indigenous biodiversity in two particular ways. ~~Firstly, the control of any actual or potential effects of the use, development, or protection of land for the purpose of maintaining indigenous biodiversity. Secondly, it is required to recognise and provide for the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna.~~ **Specifically, to recognise and provide for the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna; and more broadly, for the control of any actual or potential effects of the use, development, or protection of land for the purpose of maintaining indigenous biodiversity.***

**The National Policy Statement for Indigenous Biodiversity (NPSIB) came into force on 4 August 2023 and TTPP is required to give effect to this. The NPSIB requires Councils to protect, maintain and restore indigenous biodiversity in a way that:**

- **recognises tangata whenua as kaitiaki, and people and communities as stewards, of indigenous biodiversity; and**
- **provides for the social, economic and cultural wellbeing of people and communities, now and into the future**

**The NPSIB must be given effect to as soon as reasonably practical. Because TTPP was developed prior to the NPSIB, it only partially gives effect to it – in as much as been possible within the constraints of the scope of submissions made to the Plan.**

*Because of the ~~extremely large land~~ **extensive** area covered by indigenous vegetation on the West Coast/Te Tai o Poutini, ~~detailed~~ **comprehensive** assessment ~~of each piece of vegetation for its~~ **identification of** significance has not yet been ~~undertaken~~ **completed.***

*In the Grey District, an evaluation process ~~has been underway for a~~ **was undertaken a** number of years **ago,** ~~and this has enabled.~~ **This identified** 37 Significant Natural Areas ~~to be identified~~ within the Grey District. These ~~list of these~~ Significant Natural Areas ~~can be found~~ **are included** in Schedule Four and they are also shown on the maps.*

*In the Buller and Westland Districts, where Significant Natural Areas have not yet been mapped, **and in Grey District for areas outside of mapped SNA included in Schedule Four,** Te Tai o Poutini Plan has general vegetation clearance rules, with an expectation*

*that an assessment against the regionally consistent significance criteria will be undertaken at the time of any resource consent.*

**It is expected that further areas will be identified and mapped as Significant Natural Areas through a comprehensive process of ecological assessment across each district. This will include the identification of SNA on public land as required by the NPSIB and that these Significant Natural Areas will be added to the Plan through subsequent Plan change processes.**

*Te Tai o Poutini Plan also encourages integrated management of indigenous biodiversity and supports landowners, local government, Poutini Ngāi Tahu and other biodiversity partners working together on a voluntary basis to maintain and enhance indigenous biodiversity, including methods such as legal protection and good land management.*

**There is a considerable network of energy activities and infrastructure, on the West Coast, including within areas of indigenous vegetation and biodiversity. Given the topography and extent of natural ecosystems and indigenous biodiversity on the West Coast practical management solutions are required to ensure maintenance and enhancement of the supply of renewable energy to, and between, communities for the benefit of those communities and the wider environment from the use and development of renewable energy.**

**The Ecosystems and Indigenous Biodiversity chapter contains objectives, policies, and rules for managing effects on indigenous biodiversity, including for the assessment and identification of significant indigenous vegetation and significant habitats of indigenous fauna. This chapter contains rules relating to vegetation clearance that apply throughout the West Coast. There are also specific rules that apply within significant natural areas, outstanding natural features and landscapes and the coastal environment.**

*Indigenous vegetation clearance in the Coastal Environment or adjacent to waterbodies*

**This chapter includes provisions for protection of significant indigenous diversity within the coastal environment above mean highwater springs as shown on the Planning maps. This chapter also includes provisions for ~~where~~ indigenous vegetation clearance is proposed within riparian margins next to rivers, lakes and coastal wetlands. refer to the Natural Character and Margins of Waterbodies chapter of the Plan for the Rules around this clearance.**

#### **Plantation/Commercial Forestry**

*Plantation forestry is principally regulated by the Resource Management (National Environmental Standard for ~~Plantation~~ **Commercial** Forestry) Regulations 2017 (NES-~~PCF~~). However the NES-~~PCF~~ allows that district plans can be more stringent to protect ~~sSignificant nNatural aAreas~~ and significant indigenous biodiversity within the coastal environment as provided for in the NZCPS Policy 11. Where provisions within this chapter **are more stringent, they** over-rule the requirements of the NES - ~~PCF~~ an advice note to that effect is included within the **relevant** Rule.*

#### **Strategic Objectives and Policies**

*The Strategic Objectives **and Policies** are particularly relevant when assessing matters under the Ecosystems and Indigenous Biodiversity Chapter. The Natural Environment, **Poutini Ngāi Tahu**, Mineral Extraction and Connections and Resilience Strategic Objectives **and policies** are particularly relevant.*

### ***Wetlands on the West Coast***

***The National Environmental Standards for Freshwater Management includes regulations for activities within, and within setbacks from, natural wetlands. These activities are managed by the West Coast Regional Council under the NES for Freshwater regulations. It should be noted that the setbacks for activities within those regulations may be different to those set out in this Plan and may require resource consent to be sought from the regional council.*** The West Coast Regional Council Land and Water Plan identifies a list of Regionally Significant Wetlands. In accordance with the West Coast Regional Policy Statement, these areas are known as Significant Natural Areas and have specific Rules around their management in the Regional Land and Water Plan. ~~They are also subject to regulation by the West Coast Regional Council under the National Environmental Standard for Freshwater Management which also has regulations around how other wetlands can be managed.~~

### ***Other relevant Te Tai o Poutini Plan provisions***

***Coastal Environment - the Coastal Environment Chapter contains the objectives, policies and rules for activities within the coastal environment overlay - including buildings and structures and earthworks.***

***Natural Features and Landscapes – the Natural Features and Landscapes Chapter contains provisions in relation to the landscapes and natural features in Schedules Five and Six. Poutini Ngāi Tahu values are part of what makes these areas significant.***

***Natural Character and Activities Adjacent to Waterbodies - the Natural Character and Margins of Waterbodies chapter contains the objectives, policies and rules relating to activities adjacent to waterbodies including buildings and structures and earthworks. Activities on the Surface of Water – the Activities on the Surface of Water chapter contains provisions for the surface of waterbodies.***

***Historic Heritage - the Historic Heritage Chapter contains the provisions in relation to the sites and areas identified in Schedule One.***

***Notable Trees - the Notable Trees Chapter contains the provisions in relation to the trees identified in Schedule Two. Some trees are listed in this schedule due to their botanical values.***

***Also where relevant refer to policies in the Energy, Infrastructure and Transport Chapters.***

### **Hearing and Submitter Evidence/Statements**

252. Ms Stephanie Styles provided planning evidence for Manawa Energy that reiterated the amendments sought to the Overview to better address the NPSIB outcomes. She noted that this part of the submission was not considered in the s42A Report. She noted the recommended amendments responding to Westpower were similar to the issues raised by Manawa. Ms Styles suggested minor amendments to the wording so that the terminology was consistent with that used in other parts of the Plan. She also suggested adding clear references that the NPSIB did not apply to renewable energy generation activities.
253. Ms Pauline Whitney provided planning evidence for Transpower that expressed concern regarding the appropriateness of the references to the NPSIB. However, she supported the recommended amendments to the Overview that clarify the application of the chapter in relation to electricity transmission. She suggested the following additional wording:

*The NPSIB must be given effect to as soon as reasonably practical. Because TTPP was developed prior to the NPSIB, it only partially gives effect to it – in as much as has been possible within the constraints of the scope of submissions made to the Plan. **Of note, the NPSIB did not apply to the development, operation, maintenance or upgrade of electricity transmission network assets and activities.***

...

*Also where relevant refer to policies in the Energy, Infrastructure and Transport Chapters. **Specific to electricity transmission activities (the National Grid) ECO-P2, ECO-P6, ECO-P7, ECO-P8, ECO-P9 and ECO-P10 do not apply. Instead, Policy ENG-P8 applies.***

254. Mr Martin Kennedy provided planning evidence for Westpower Limited that acknowledged the recommended amendments in the s42A Report in response to the Westpower submission (S547.247) and noted that whilst not exactly as sought in the submission, he accepted the recommendation. He also accepted the recommendation regarding the amendments sought by the Forest and Bird (S560.192), which Westpower lodged a further submission against (FS222.0259). Mr Kennedy commented that the recommended amendments responding to the Westpower submission about the coastal environment only relates to its protection. He considered mention should also be given to the realities of being able to provide renewable electricity in coastal locations.
255. Mr Murray Brass provided planning evidence for the Director General of Conservation acknowledging the recommendations in the s42A Report that make amendments to the Overview section in response to Inger Perkins' submission. While he acknowledged the Director General had not made a submission regarding the Overview, he confirmed he supported the additions, but had concerns the recommend wording did not recognise the objective of the NPSIB. To address this, he suggested the following amendments:

*The National Policy Statement for Indigenous Biodiversity (NPSIB) came into force on 4 August 2023 and TTPP is required to give effect to this. The NPSIB requires Councils to ~~protect, maintain and restore indigenous biodiversity~~ **maintain indigenous biodiversity across Aotearoa New Zealand so that there is at least no overall loss** in a way that:*

- *recognises tangata whenua as kaitiaki, and people and communities as stewards, of indigenous biodiversity; and*
- **protects and restores indigenous biodiversity as necessary to achieve overall maintenance; and**
- *provides for the social, economic and cultural wellbeing of people and communities, now and into the future*

*The NPSIB must be given effect to as soon as reasonably practical. Because TTPP was developed prior to the NPSIB, it only partially gives effect to it – in as much as has been possible within the constraints of the scope of submissions made to the Plan.*

256. Ms Rachael Pull provided planning evidence for Poutini Ngāi Tahu that sought reference to Taonga Species listed in Schedule 97 of the Ngāi Tahu Claims Settlement Act 1998 in the Overview of this chapter in accordance with the NPSIB. To address this, she suggested the following wording:

*Under the RMA, the district and regional councils share responsibility for maintaining indigenous biodiversity. District Councils are responsible for protecting and maintaining*

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*terrestrial (land-based) ecosystems, including the margins of the coast and waterbodies and the West Coast Regional Council is responsible for protecting and maintaining the non-terrestrial ecosystems (rivers, lakes, wetlands and the coast below mean high water springs). Poutini Ngāi Tahu also have statutorily recognised cultural responsibilities as mana whenua and kaitiaki. **Schedule 97 of the Ngāi Tahu Claims Settlement Act 1998 identifies some Taonga Species, along with Department of Conservation Documents and Iwi/Papatipu Rūnanga Management Plans.***

257. Ms Inta, for herself and Buller Conservation Group, identified three typos in paragraphs 9 and 10 of the Overview, and in the paragraph headed ‘*indigenous vegetation clearance in the Coastal Environment or adjacent to waterbodies*’ as follows:

*In the Grey District, an evaluation process has been underway for a was undertaken a number of years ago.*

*In the Buller and Westland Districts, where Significant Natural Areas have not yet been mapped, and in Grey District for areas outside of mapped Significant Natural Areas included in Schedule Four, Te Tai o Poutini Plan has general vegetation clearance rules, with an expectation that an assessment against the regionally consistent significance criteria will be undertaken at the time of any resource consent **application.***

*This chapter includes provisions for protection **of** significant indigenous diversity within the coastal environment ...*

258. Ms Inta also considered more explanation was needed in the reference to the Strategic Objectives and Policies section of the Overview. She suggests the following alternative wording:

**Part 2: District-Wide Matters:**

**Strategic direction is** ~~The Strategic Objectives and Policies are particularly relevant when assessing matters under the Ecosystems and Indigenous Biodiversity Chapter. The Natural Environment, Poutini Ngāi Tahu, Mineral Extraction and Connections and Resilience Strategic~~ **Objectives** and policies are particularly relevant.

259. Ms Inta also suggested rewording the Coastal Environment paragraph under ‘*Other relevant Te Tai o Poutini Plan provisions*’ as follows:

*Coastal Environment - the Coastal Environment Chapter **includes additional provisions relating to** ~~contains the objectives, policies and rules for~~ activities within the coastal environment overlay - including buildings and structures and earthworks*

260. Ms Perkins, for the West Coast Penguin Trust, acknowledged the inclusion of the references to the NPSIB in the Overview. She reiterated that exotic vegetation could provide significant habitat for threatened indigenous species.

### **Reporting Officer Reply Evidence**

261. Ms Easton’s Right of Reply responded to questions from the Panel and to the evidence given on behalf of Transpower and Manawa that sought to add references to electricity transmission networks and the NPSIB not applying to renewable electricity generation activities in the Overview text. Ms Easton noted that these matters were discussed at the expert caucusing directed by the Panel and resulted in policy amendments to address the substantive issues. Given this outcome, Ms Easton supported the amendments to the

Overview sought by Transpower and Manawa and recommended further amendments as follows:

*The NPSIB **as amended October 2024** must be given effect to as soon as reasonably practical. Because The TTPP was developed notified prior to the NPSIB, it only partially gives effect to it – in as much has been as possible within the constraints of the scope of submissions made to on the Plan. **Of note, the NPSIB did not apply to the development, operation, maintenance or upgrade of electricity transmission network assets and activities, although the requirements of the RMA and the RPS do apply.** ...*

*... There is a considerable network of energy **electricity generation, distribution and transmission activities** and infrastructure, on the West Coast, including within areas of indigenous vegetation and biodiversity. Given the topography and extent of natural ecosystems and indigenous biodiversity on the West Coast practical management solutions are required to ensure maintenance and enhancement of the supply of renewable energy **electricity generation** to, and between, communities for the benefit of those communities and the wider environment from the use and development of renewable energy **electricity generation**.*

262. Ms Easton also responded to Ms Pull’s evidence for Poutini Ngāi Tahu that sought the addition of a reference to taonga species. Ms Easton noted the matter was not raised in the submissions but agreed that an additional sentence could be added given the Overview was only explanatory text. She recommended further amendments as follows:

*Under the RMA, the district and regional councils share responsibility for maintaining indigenous biodiversity. District councils are responsible for protecting and maintaining terrestrial (landbased) ecosystems, including the margins of the coast and waterbodies and the West Coast Regional Council is responsible for protecting and maintaining the non-terrestrial ecosystems (rivers, lakes, wetlands and the coast below mean high water springs). Poutini Ngāi Tahu also have cultural responsibilities as mana whenua and kaitiaki. **Schedule 97 of the Ngāi Tahu Claims Settlement Act 1998 identifies some Taonga Species, along with Department of Conservation Documents and Iwi/Papatipu Rūnanga Management Plans.***

263. Ms Easton also recommended consequential amendments to the Overview following amendments to ECO-P1 reflecting expert caucusing. She considered these recommendations either fell within the scope of submissions or were minor corrections. The further consequential amendments recommended were as follows:

*... In the Buller and Westland Districts, where Significant Natural Areas have not yet been mapped, and in Grey District for areas outside of mapped Significant Natural Areas included in Schedule Four, Te Tai o Poutini Plan has general vegetation clearance rules, ~~with an expectation that an assessment against the regionally consistent significance criteria will be undertaken at the time of any resource consent.~~*

*Plantation forestry is principally regulated by the Resource Management (National Environmental Standard for Commercial Forestry) Regulations ~~2017~~**2023** (NES-CF). However, the NES-CF allows that district plans can be more stringent to protect Significant Natural Areas and significant indigenous biodiversity **vegetation and significant habitats of indigenous fauna.***

264. Ms Easton also recommended moving the ‘Strategic Objectives and Policies’ section of the Overview to under the ‘Other relevant Te Tai o Poutini provisions’ heading.

### **Hearing Panel’s Evaluation**

265. The Panel generally accepts Ms Easton's recommended amendments to the Overview, with the exceptions discussed below.
266. The Panel also recommends further amendments to reflect the wording of the NPSIB, in relation to the definition of '*Indigenous Biodiversity*' in the NPSIB.
267. The Panel accepts Frida Inta and the Buller Conservation Group's submissions (S553.058 and S552.058) to add wording to the second paragraph to reflect there are not '*many*' places where the sequence from mountains to the sea exists, given the presence of roads and linear infrastructure that extends along most of the West Coast. We also agree that it is notable that indigenous vegetation is greatly reduced on the lowland areas where land has been cleared for primary production purposes and consider this is already expressed in the following paragraph of the Overview. We consider the suggested wording regarding concessions, licences, permits or leases for activities on public land managed by the Department of Conservation is also a helpful explanation. However, we consider this should be added after the reference to the Department of Conservation.
268. The Panel accepts in part Forest and Birds submission (S560.192) to add two additional sentences to the third paragraph to explain the extinction risk to threatened and at-risk indigenous biodiversity from further degradation of significant habitats; and the resilience to climate change that well-functioning ecosystems provide in protecting communities from natural hazards. These amendments (with minor wording changes) are consistent with the direction of the NZCPS, NPSIB and RPS. We note our earlier recommendation to add the NPSIB definition for '*Threatened and At Risk*' and consider this wording reflects the use of this term in the Plan provisions.
269. In paragraph three, the Panel recommends correcting the reference to the '*margins of coastal wetlands*' to distinguish between this and the margins of the coastal area or inland wetlands which are regional council functions.
270. The Panel recommends amended wording in paragraph 5 to partly reflect the wording sought by Forest and Bird (S560.192) and to be consistent with the wording of the RMA. We also consider it is helpful to explain that the requirement to identify SNA and recognise areas that meet the RPS Appendix 1 criteria (whether mapped or not) are considered to be SNA under the RPS provisions. It is important that it is acknowledged that RPS requirements remain until such time as it is updated to give effect to the NPSIB and, unless inconsistent with the NPSIB directions, must be given effect to by the TTPP. We also recommend adding in a sentence explaining that the SNA included in the Plan from the Grey District Plan remain SNA under the NPSIB definition of an SNA, regardless of how they are described, and will require reassessment under the NPSIB Appendix 1 criteria.
271. The Panel accepts Ms Easton's recommended wording for the additional paragraph explaining the NPSIB, with minor amendments to use the wording of the NPSIB objective.
272. The Panel accepts Ms Easton's recommendation to add a paragraph referring to the NPSIB exclusion for the development, operation, maintenance or upgrade of electricity transmission network assets and activities, but note that this should also include renewable electricity generation assets and activities.
273. The Panel accepts Ms Easton's recommendation to add a paragraph referring to where there is uncertainty about whether an area meets the criteria, but consider this should specifically reference the RPS Appendix 1 criteria. We also consider this should state that in

such a situation, a *‘resource consent process will enable an ecological assessment to be undertaken’* instead of *‘resource consent sought’*.

274. The Panel considers it is appropriate to refer to Policy 11 of the NZCPS and the RPS in terms of the protection of indigenous biodiversity within the coastal environment. We recommend including the additional first sentence sought by Forest and Bird in this regard.
275. The Panel has corrected the reference to the NESF to the Resource Management (National Environmental Standards for Freshwater) Regulations 2020.
276. In relation to the recommended new paragraph referencing the ECO Chapter provisions, the Panel recommends adding *‘areas of high natural character’*. Ms Easton agreed this was appropriate in response to a Panel question at the hearing, however, this was overlooked in Appendix 1 of the Right of Reply.
277. The Panel accepts Ms Easton’s recommended changes to the reference to the *‘Strategic Objectives and Policies’* section, however, we consider this should refer to *‘Strategic Directions’* in the first reference. We also recommend deleting *‘particular’* given these have no primacy over the specific chapter objectives and policies.
278. Finally, the Panel recommend alternative relief to address the submission point from the West Coast Penguin Trust (S275.014) to reference Te Mana o te Taiao – Aotearoa New Zealand Biodiversity Strategy 2020 in ECO-P10. We agree that this document of relevance to district councils in providing national strategic direction for protecting and restoring a range of indigenous ecosystems and biodiversity should be referenced. We recommend adding reference to this document in the Overview, as follows:

*Te Mana o te Taiao – Aotearoa New Zealand Biodiversity Strategy 2020 provides national strategic direction to address the complex issues causing biodiversity loss and places the Treaty partnership at the centre of biodiversity work. It provides a framework for action and guiding principles.*

### **Hearing Panel’s Recommendation**

279. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommends the submission points identified in the footnotes below are accepted or accepted in part, and recommend the following changes to the **ECO - Ecosystems and Indigenous Biodiversity Chapter Overview**:

<b>Overview</b>
<p>Biological diversity, or biodiversity, describes the variety and diversity of all life forms and the ecosystems they inhabit. Indigenous biodiversity is <b><u>living organisms that occur naturally in New Zealand, and the ecological complexes of which they are part, including all forms of indigenous flora, fauna, and fungi, and their habitats</u></b> <del>biodiversity that is native to New Zealand/Aotearoa me Te Waipounamu</del> and relates to individual birds, plants, insects and other species<sup>39</sup> and also includes the ecosystems where these <b><u>living organisms</u></b> species<sup>40</sup> live, such as forests and sand dunes.</p>

<sup>39</sup> Consistency with the definition for ‘Indigenous Biodiversity’ in the NPSIB clause 1.6

<sup>40</sup> Consistency with the definition for ‘Indigenous Biodiversity’ in the NPSIB clause 1.6

The West Coast/Te Tai o Poutini contains a significant amount of intact natural diversity by comparison with other parts of New Zealand/Aotearoa me Te Waipounamu. Continuous tracts of lowland and coastal forests and freshwater as well as coastal wetlands cover large areas. In ~~many~~<sup>41</sup> places, indigenous ecosystems and habitats extend unbroken from the mountains to the sea. 84% of the land area is under the management of the Department of Conservation. In total an estimated 90% of the West Coast/Te Tai o Poutini is covered in indigenous vegetation - compared with 24% nationally.

While the West Coast/Te Tai o Poutini is fortunate to have a wide range of diverse and intact ecosystems and vegetation types, there are some ecosystems and vegetation types not well represented in the protected areas network. These are generally ecosystems found in the lowland areas of the West Coast/Te Tai o Poutini. Alongside this, parts of the West Coast/Te Tai o Poutini include the last habitats or strongholds of some indigenous native<sup>42</sup> species threatened with extinction. **Without the identification and protection of areas of significant indigenous vegetation and the significant habitats of indigenous fauna, there is a risk of further degradation and the extinction of threatened and at risk indigenous biodiversity. Well-functioning ecosystems also provide resilience to climate change and can provide protection to communities from natural hazards.**<sup>43</sup>

Under the RMA, the district and regional councils share responsibility for maintaining indigenous biodiversity. ~~Te Tai o Poutini Plan is~~ **District Councils are**<sup>44</sup> responsible for protecting and maintaining terrestrial (land-based) ecosystems, including in the margins of the coastal wetlands<sup>45</sup> and waterbodies, ~~and the~~ **The**<sup>46</sup> West Coast Regional Council is responsible for protecting and maintaining the non-terrestrial ecosystems (rivers, lakes, wetlands and the coast below mean high water springs). Poutini Ngāi Tahu also have cultural responsibilities as mana whenua and kaitiaki. **Schedule 97 of the Ngāi Tahu Claims Settlement Act 1998 identifies some Taonga Species, along with Department of Conservation Documents and Iwi/Papatipu Rūnanga Management Plans.**<sup>47</sup>

The RMA requires ~~Te Tai o Poutini Plan~~ **district councils**<sup>48</sup> to **recognise and provide for the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna by** managing indigenous biodiversity in two particular ways, including. Firstly, the ~~control of any actual or potential effects of the~~ **subdivision**, use, development, or protection of land, ~~for the purpose of maintaining indigenous biodiversity.~~ Secondly, it is required to ~~recognise and provide for~~ **and the identification and** protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna.<sup>49</sup>

**The National Policy Statement for Indigenous Biodiversity (NPSIB) came into force on 4 August 2023 and TTPP is required to give effect to this. The objective of the NPSIB is to maintain indigenous biodiversity across Aotearoa New Zealand so that there is at least no overall loss in indigenous biodiversity after 4 August 2023. This is to be achieved by:**

- i. **recognising the mana of tangata whenua as kaitiaki of indigenous biodiversity; and**

<sup>41</sup> Buller Conservation Group S552.058, Frida Inta S553.058

<sup>42</sup> Consistency with the language of the NPSIB

<sup>43</sup> Royal Forest and Bird Protection Society of New Zealand Inc S560.192

<sup>44</sup> Buller Conservation Group S552.059, Frida Inta S553.059

<sup>45</sup> RMA Schedule 1, clause 16(2)

<sup>46</sup> Royal Forest and Bird Protection Society of New Zealand Inc S560.192

<sup>47</sup> Director General S602.001, consistent with section 74(2)(b)(i) and section 74(2A)

<sup>48</sup> Buller Conservation Group S552.060, Frida Inta S553.060

<sup>49</sup> Royal Forest and Bird Protection Society of New Zealand Inc S560.192

- ii. recognising people and communities, including landowners, as stewards of indigenous biodiversity; and
- iii. protecting and restoring indigenous biodiversity as necessary to achieve the overall maintenance of indigenous biodiversity;

while providing for the social, economic, and cultural wellbeing of people and communities now and in the future.<sup>50</sup>

The NPSIB, as amended October 2024, must be given effect to as soon as reasonably practicable. The TTPP was notified prior to the commencement of the NPSIB and therefore gives effect to it as much as possible within the scope of submissions made on the Plan, and utilising clause 4.4 of the NPSIB to ensure consistent terminology.<sup>51</sup>

The NPSIB does not apply to the development, operation, maintenance or upgrade of renewable electricity generation assets and activities, and electricity transmission network assets and activities, however, the requirements of the RMA and the RPS apply.<sup>52</sup>

The RPS is yet to be updated to give effect to the NPSIB. However, this Plan must give effect to the RPS, which contains provisions for managing ecosystems and indigenous biodiversity. The RPS includes ecological criteria for identifying significant terrestrial and freshwater indigenous biological diversity. It requires that all areas meeting one or more of these criteria, whether mapped or not, are to be known as Significant Natural Areas or SNA. The RPS criteria in Appendix 1 are equivalent to NPSIB Appendix, however, the NPSIB criteria provide clearer guidance.<sup>53</sup>

Because of the extremely large land extensive area covered by indigenous vegetation on the West Coast/Te Tai o Poutini, detailed a comprehensive assessment of each piece of vegetation for identification of ecological significance using the RPS Appendix 1 criteria for the purpose of mapping Significant Natural Areas its significance has not yet been undertaken completed.<sup>54</sup>

In the Grey District, an evaluation process ~~has been underway for a~~ was undertaken a number of years ago, and this has enabled ~~This identified~~ 37 Significant Natural Areas to be identified within the Grey District. ~~The list of these Significant Natural Areas can be found~~ which were previously included in the Grey District Plan. These are included in Schedule Four and they are also shown on the planning maps. These SNA are included under the NPSIB definition of an SNA, regardless of how they are described, and will require reassessment under the NPSIB criteria in Appendix 1.<sup>55</sup>

In the Buller and Westland Districts, where Significant Natural Areas have not yet been mapped, and in Grey District for areas outside of mapped Significant Natural Areas included in Schedule Four, Te Tai o Poutini Plan has general vegetation clearance rules, ~~with an expectation that an assessment against the regionally consistent significance criteria will be undertaken at the time of any resource consent.~~ Where there is uncertainty as to whether an area may meet the RPS Appendix 1 criteria, or in the absence of an ecological assessment, precaution and

<sup>50</sup> West Coast Penguin Trust S275.001

<sup>51</sup> West Coast Penguin Trust S275.001

<sup>52</sup> NPSIB, clause 1.3(3)

<sup>53</sup> Royal Forest and Bird Protection Society of New Zealand Inc S560.192

<sup>54</sup> Royal Forest and Bird Protection Society of New Zealand Inc S560.192

<sup>55</sup> Royal Forest and Bird Protection Society of New Zealand Inc S560.192

**protection should be favoured and a resource consent process will enable ecological assessment to be undertaken.**<sup>56</sup>

Te Tai o Poutini Plan also<sup>57</sup> encourages integrated management of indigenous biodiversity and supports landowners, local government, Poutini Ngāi Tahu and other biodiversity partners working together on a voluntary basis to maintain and enhance indigenous biodiversity, including methods such as legal protection and good land management.

**Te Mana o te Taiao – Aotearoa New Zealand Biodiversity Strategy 2020 provides national strategic direction to address the complex issues causing biodiversity loss and places the Treaty partnership at the centre of biodiversity work. It provides a framework for action and guiding principles.**<sup>58</sup>

**There is a considerable network of electricity generation, distribution and transmission activities and infrastructure, on the West Coast, including within areas of indigenous vegetation and biodiversity. Given the topography and extent of natural ecosystems and indigenous biodiversity on the West Coast, practical management solutions are required to ensure maintenance and enhancement of the supply of renewable electricity generation to, and between, communities for the benefit of those communities and the wider environment from the use and development of renewable electricity generation.**<sup>59</sup>

**The Ecosystems and Indigenous Biodiversity Chapter contains objectives, policies, and rules for managing effects on indigenous biodiversity, including for the assessment and identification of significant indigenous vegetation and significant habitats of indigenous fauna. This chapter contains rules relating to vegetation clearance that apply throughout the district. There are also specific rules that apply within significant natural areas, areas of high natural character, outstanding natural features and landscapes and the coastal environment.**<sup>60</sup>

**Indigenous vegetation clearance in the Coastal Environment or adjacent to waterbodies**

**Te Tai o Poutini Plan must also give effect to Policy 11 of the NZCPS 2010 and the RPS which include specific provisions for protection of indigenous biological diversity in the coastal environment. This chapter includes provisions for protection of significant indigenous biodiversity within the coastal environment (above mean high water springs) as shown on the Planning maps.**<sup>61</sup> ~~This chapter also includes provisions for~~ Where indigenous vegetation clearance is proposed within riparian margins next to rivers, lakes and **coastal** wetlands, refer to the Natural Character and Margins of Waterbodies chapter of the Plan for the Rules around this clearance.<sup>62</sup>

**Plantation/Commercial Forestry**<sup>63</sup>

Plantation forestry is principally regulated by the Resource Management (National Environmental Standard for ~~Plantation~~ **Commercial** Forestry) Regulations 2017 ~~2023~~ (NES-

<sup>56</sup> Royal Forest and Bird Protection Society of New Zealand Inc S560.192

<sup>57</sup> RMA Schedule 1, clause 16(2)

<sup>58</sup> West Coast Penguin Trust S275.014

<sup>59</sup> Westpower Limited S547.247

<sup>60</sup> Royal Forest and Bird Protection Society of New Zealand Inc S560.035

<sup>61</sup> Royal Forest and Bird Protection Society of New Zealand Inc S560.475

<sup>62</sup> RMA Schedule 1, clause 16(2)

<sup>63</sup> RMA Schedule 1, clause 16(2)

~~PCF~~).<sup>64</sup> However the NES-~~PCF~~ allows that district plans can be more stringent to protect ~~s~~Significant ~~n~~Natural ~~a~~Areas<sup>65</sup> and significant indigenous biodiversity within the coastal environment as provided for in the NZCPS Policy 11. Where provisions within this chapter ~~are~~ **more stringent, they**<sup>66</sup> over-rule the requirements of the NES – ~~PCF~~ **and** an advice note to that effect is included within the **relevant**<sup>67</sup> ~~r~~Rule.

#### ~~Strategic Objectives~~

~~The Strategic Objectives are particularly relevant when assessing matters under the Ecosystems and Indigenous Biodiversity Chapter. The Natural Environment, Mineral Extraction and Connections and Resilience Strategic Objectives are particularly relevant.~~<sup>68</sup>

#### ~~Wetlands on the West Coast~~

**The Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (NESF) includes regulations of activities within, and within setbacks from, natural wetlands. These activities are managed by the West Coast Regional Council under the NESF. It should be noted that the setbacks for activities within those regulations may be different to those set out in this Plan and may require resource consent to be sought from the Regional Council.**<sup>69</sup> The West Coast Regional Council Land and Water Plan identifies a list of Regionally Significant Wetlands, **in Schedule 1.**<sup>70</sup> In accordance with the West Coast Regional Policy Statement, these areas are known as Significant Natural Areas and have specific Rules around their management in the Regional Land and Water Plan. ~~They are also subject to regulation by the West Coast Regional Council under the National Environmental Standard for Freshwater Management which also has regulations around how other wetlands can be managed.~~<sup>71</sup>

#### **Other relevant Te Tai o Poutini Plan provisions**

~~Strategic Objectives~~ **Directions**<sup>72</sup> - The Strategic Objectives **and Policies**<sup>73</sup> are particularly<sup>74</sup> relevant when assessing matters under the Ecosystems and Indigenous Biodiversity Chapter. The Natural Environment, **Poutini Ngāi Tahu,**<sup>75</sup> Mineral Extraction and ~~Connections~~ **Climate Change**<sup>76</sup> and Resilience Strategic Objectives **and Policies are relevant.**

**Coastal Environment - the Coastal Environment Chapter contains the objectives, policies and rules for activities within the coastal environment overlay - including buildings and structures and earthworks.**

**Natural Features and Landscapes – the Natural Features and Landscapes Chapter contains provisions in relation to the landscapes and natural features in Schedules Five and Six. Poutini Ngāi Tahu values are part of what makes these areas significant.**

<sup>64</sup> RMA Schedule 1, clause 16(2)

<sup>65</sup> Royal Forest and Bird Protection Society of New Zealand Inc S560.193

<sup>66</sup> Royal Forest and Bird Protection Society of New Zealand Inc S560.193

<sup>67</sup> Royal Forest and Bird Protection Society of New Zealand Inc S560.193

<sup>68</sup> RMA Schedule 1, clause 16(2) moved below to under 'Other relevant Te Tai Poutini Provisions'

<sup>69</sup> Royal Forest and Bird Protection Society of New Zealand Inc S560.195

<sup>70</sup> RMA Schedule 1, clause 16(2)

<sup>71</sup> Royal Forest and Bird Protection Society of New Zealand Inc S560.195

<sup>72</sup> Westpower Limited S547.249

<sup>73</sup> Westpower Limited S547.250

<sup>74</sup> Consequential Plan-wide amendment

<sup>75</sup> Te Rūnanga o Ngāi Tahu, Te Rūnanga of Ngāti Waewae and Te Rūnanga o Makaawhio S620.136

<sup>76</sup> Consequential amendment from Strategic Directions Recommendation Report

Natural Character and Activities Adjacent to Waterbodies - the Natural Character and the Margins of Waterbodies Chapter contains the objectives, policies and rules relating to activities adjacent to waterbodies, including buildings and structures and earthworks.

Activities on the Surface of Water – the Activities on the Surface of Water Chapter contains provisions for activities on the surface of waterbodies.

Historic Heritage - the Historic Heritage Chapter contains the provisions in relation to the sites and areas identified in Schedule One.

Notable Trees - the Notable Trees Chapter contains the provisions in relation to the trees identified in Schedule Two. Some trees are listed in this schedule due to their botanical values.

Also where relevant refer to policies in the Energy, Infrastructure and Transport Chapters.<sup>77</sup>

### 4.3. ECO - Ecosystems and Indigenous Biodiversity Objectives

#### Submissions and Further Submissions

280. Twenty-one submission points and 83 further submissions relating to the ECO Objectives (as a whole) were summarised in a Table on pages 59-63 of the s42A Report. Twelve submission points sought to retain the objectives as notified and nine sought to add additional objectives. Ten further submissions opposed a new objective, and 73 further submissions supported submissions that sought to add a new objective.
281. Sixteen submission points and nine further submission points relating to Objective **ECO-01** were summarised in a Table on page 64-66 of the s42A Report. Eight submissions supported the retention of the objective as notified and eight sought amendments. Four further submissions opposed submissions that sought amendments, and five further submissions supported submissions.
282. Twenty-eight submission points and ten further submission points relating to Objective **ECO-02** were summarised in a Table on page 67-69 of the s42A Report. Fifteen submissions supported the objective as notified, two sought it be deleted and 11 sought amendments. Nine further submissions opposed submissions that sought amendments, and one further submission supported submissions.
283. Seven submission points and two further submission points relating to Objective **ECO-03** were summarised in a Table on page 71-72 of the s42A Report. Four submissions supported the objective as notified, and three sought amendments. One further submission opposed a submission that sought amendments, and one further submission supported submissions.
284. Eighteen submission points and eight further submission points relating to Objective **ECO-04** were summarised in a Table on page 74-75 of the s42A Report. Thirteen submissions supported the objective as notified, and five sought amendments. Three further submissions opposed submissions that sought amendments, and five further submissions supported submissions.

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<sup>77</sup> Consequential Plan-wide amendment

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285. The Panel has considered the submissions and further submissions and adopts the summaries in the s42A Report.

### **Section 42A Report**

#### *Objectives (General)*

286. In relation to the objectives generally, Ms Easton acknowledged the support from the submitters<sup>78</sup> that sought to retain the objectives as notified. However, she noted her recommended amendments in response to other submissions on specific objectives.

287. Ms Easton also acknowledged and supported the submission point made by the Director General (S602.064) that sought to reorder the objectives so that ECO-O4 becomes ECO-O1 to improve readability.

288. In response to the submissions of Frida Inta (S553.063) and the Buller Conservation Group (S552.063) that sought to add a new objective relating to ecosystem services, Ms Easton did not support them. She did not agree that the Plan needed to have reference to ecosystem services.

289. Ms Easton did not support various submission points<sup>79</sup> (or the further submission points) that sought to add a new objective to enable regard to be had to the protection afforded to ecosystems within public conservation land when considering resource consents that had effects on ecosystems and indigenous biodiversity. She considered the wording was more appropriate as a policy, but did not support this either.

#### *ECO-O1*

290. Ms Easton acknowledged the support from the submitters<sup>80</sup> that sought to retain the objective as notified. However, she noted her recommended amendments in response to other submissions.

291. Ms Easton did not support Frida Inta (S553.064) and the Buller Conservation Group's (S552.064) requests to make an amendment to the objective by adding the following phase to the objective:

*To identify and protect areas of significant indigenous vegetation and significant habitats of indigenous fauna **and to recognise their importance to the character and quality of the natural and physical environment and to the wellbeing of the people and communities on the West Coast/Te Tai o Poutini.***

292. Ms Easton considered the notified wording of the objective was very clear in its intent.

293. Ms Easton supported Suzanne Hills (443.020) and Clare Backes' (S444.003) requests to add "and map" to the objective because it provided clarity that mapping was required.

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<sup>78</sup> Grey District Council (S608.039), David Ellerm (S581.024), Koiterangi Lime Co. Ltd (S577.027, S577.031), Catherine Smart-Simpson (S564.024), William McLaughlin (S567.168), Steve Croasdale (S516.031), Geoff Volckman (S563.020), Chris & Jan Coll (S558.085), Chris J Coll Surveying (S566.085), Laura Coll McLaughlin (S574.085) and Buller District Council (S538.196)

<sup>79</sup> TiGa Minerals and Metals Limited (S493.045), WMS Group (S599.049), Birchfield Coal Mines Ltd (S601.032), BRM Developments Limited (S603.021), Birchfield Ross Mining Limited (S604.026), Phoenix Minerals Limited (S606.022) and Whyte Gold Limited (S607.021)

<sup>80</sup> Katherine Crick (S101.007), Laura Garber (S278.003), Te Mana Ora (S190.312), Grey District Council (S608.040), Peter Langford (S615.040), Karamea Lime Company (S614.040), David Moore (S65.009) and Waka Kotahi NZ Transport Agency (S450.079)

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294. In response to Inger Perkins' (462.011) request to include the review of the SNA in the Grey District, Ms Easton did not support any amendment to ECO-O1. However, she acknowledged that there was a requirement to reassess the SNA in the Grey District under the NPSIB criteria. She considered that this was best addressed in ECO-P1.
295. In response to the submission point made by Te Tumu Paeroa (S440.022) that sought the addition of the phrase "*in conjunction with landowners*", Ms Easton supported the relief sought in part. She supported the intent of the addition as it aligned with the direction of the NPSIB and the TTPP Committee. However, Ms Easton preferred the word "*partnership*" instead of "*conjunction*" as this was consistent with the NPSIB.
296. Ms Easton supported in part the relief sought by the Forest and Bird (S560.196) to reference the requirement to undertake mapping of SNA across all the districts. She noted her recommendation above to refer to the maps acknowledged this. She did not support including the additional text requested because a timeframe was set out in ECO-P1.
297. Ms Easton did not support Inger Perkins' (S462.012) request to include a proactive mechanism for the identification of SNA in the objective because she considered the NPSIB and RPS provide clear direction on the principles and process for identification of SNA.
298. The s42A Report recommended that **ECO-O1** be amended as follows:

### **ECO-O14**

*To identify, **map** and protect **in partnership with landowners** areas of significant indigenous vegetation and significant habitats of indigenous fauna on the West Coast/Te Tai o Poutini.*

### **ECO-O2**

299. Ms Easton acknowledged the support from the submitters<sup>81</sup> that sought to retain the objective as notified. However, she noted her recommended amendments in response to other submissions.
300. In response to Karen Lippiatt (S439.025) and Clare Backes' (S444.004) requests to delete ECO-O2 because there were no circumstances in which development could maintain or enhance the values of an SNA, Ms Easton did not support the relief sought. She set out examples where this could be achieved and considered that ECO-O2 was consistent with the RPS (Chapter 7, Objective 3).
301. Ms Easton did not support Inger Perkins' (S462.013) request to include a proactive mechanism for the identification of SNA in the objective. She noted that ECO-P1 addressed the process of identifying SNA.
302. In response to Westpower's (S547.251) request to amend the objective to reflect the wording of Objective 3 in the RPS, Ms Easton did not support the relief sought. She

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<sup>81</sup> Katherine Crick (S101.008), WMS Group (S599.050), TiGa Minerals and Metals Limited (S493.046), Te Mana Ora (S190.313), Birchfield Coal Mines Ltd (S601.033), BRM Developments Limited (S603.022), Birchfield Ross Mining Limited (S604.027), Phoenix Minerals Limited (S606.023), Whyte Gold Limited (S607.022), Grey District Council (S608.041), Waka Kotahi NZ Transport Agency (S450.080), Horticulture New Zealand (S486.028), Terra Firma Mining Limited (S537.011), Federated Farmers of New Zealand (S524.059) and Minerals West Coast (S569.007)

considered the objective already gave effect to the RPS and did not need to duplicate the wording to achieve that.

303. Ms Easton did not support the similar relief sought in the submission points made by NZ Coal and Carbon Limited (S472.013), Straterra (S536.046) and Bathurst (S491.013) to add reference to mitigation, offset or compensation to the objective because she considered these were tools used at a policy and rule level to achieve an objective.
304. In response to Bathurst's (S491.012) request to delete '*appropriate*' and add references to the BCZ and MINZ, Ms Easton did not support the relief sought. She considered the references to the mining zones would substantially alter the intent of the objective, which was about the protection of SNA. She noted Minute 31 directed the Reporting Officer for the Mineral Extraction hearing stream to consider indigenous vegetation clearance in the mining zones.
305. In response to the Director General's (S602.066) request to change some of the language in the objective, Ms Easton supported the relief sought in part. She supported using "*protected*" instead of "*maintained*" as this reflected Policy 7 of the NPSIB. However, she did not support replacing "*provide for*" with "*allow*" nor the addition of "*and where appropriate restored*".
306. Ms Easton did not support Forest and Bird's (S560.197) request for amendments to strengthen the language and make the objective more restrictive because she considered the notified language gave effect to the RPS and NPSIB.
307. Ms Easton did not support Manawa's (S438.075) request to delete "*where the values of the area can be maintained or enhanced*" from the objective because she considered this was a key qualifier relating to subdivision and development and gave effect to the RPS.
308. In response to the submission points made by Frida Inta (S553.006) and Buller Conservation Group (S552.006) that sought to split the objective into two on the basis that "*protection and exploitation*" cannot be included in the same objective, Ms Easton did not support the relief sought. She considered resource management involved balancing competing matters and, in this instance, the second part of the objective qualified the first, clarifying its intention.
309. The s42A Report recommended that **ECO-O2** be amended as follows:

**ECO-O2**

*To provide for appropriate subdivision, use and development within areas of significant indigenous vegetation and significant habitats of indigenous fauna where the values of the area can be ~~maintained~~ **protected** or enhanced.*

**ECO-O3**

310. Ms Easton acknowledged the support from the submitters<sup>82</sup> that sought to retain the objective as notified. However, she noted her recommended amendments in response to other submissions.

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<sup>82</sup> Katherine Crick (S101.009), Te Rūnanga o Ngāi Tau, Te Rūnanga of Ngāti Waewae and Te Rūnanga o Makaawhio (S620.137), Te Mana Ora (S190.314), Grey District Council (S608.042)

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311. In response to Inger Perkins' (S462.014) request to make amendments so that the approach to significant indigenous biodiversity was consistent regardless of ownership or land tenure, Ms Easton did not support the relief sought. She noted the NPSIB specifically provided for '*specified Māori land*'.
312. Ms Easton supported the relief sought by Te Tumu Paeroa (S440.023) to define '*Poutini Ngāi Tahu land*' and '*Te Runanga o Ngāi Tahu land*' because the NPSIB had specific provisions for '*Specified Māori Land*'. Based on the NPSIB definition for '*specified Māori Land*', Ms Easton considered '*Poutini Ngāi Tahu land*' was a subset of '*specified Māori land*'. She noted the recommended amendments in the Introduction and General Provisions s42A Report for the definition of '*Poutini Ngāi Tahu*' were that it included Te Runanga o Ngāi Tahu as the iwi authority. She therefore did not consider a definition for '*Te Runanga o Ngāi Tahu land*' was necessary given her earlier recommendation to add definitions for '*Poutini Ngāi Tahu land*' and '*specified Māori land*'.
313. Ms Easton did not support Forest and Bird's (S560.198) request to amend the wording of the objective because she noted the NPSIB referred to the '*management*' of SNA on Māori land and therefore she preferred this language (rather than protection). She also did not support the other amendments sought based on other recommendations relating to the same terminology.
314. The s42A Report recommended that **ECO-03** be amended as follows:

### **ECO-03**

*To provide for tino rangatiratanga in relation to management of areas of significant indigenous vegetation and significant habitats of indigenous fauna where these are located on Poutini Ngāi Tahu and Te Runanga o Ngāi Tahu land.*

315. The s42A Report also recommended new definitions for '*specified Māori land*' and '*Poutini Ngāi Tahu land*' as previously set out as part of the Definitions section of this decision.

### **ECO-04**

316. Ms Easton acknowledged the support from the submitters<sup>83</sup> that sought to retain the objective as notified. However, she noted her recommended amendments in response to other submissions.
317. Ms Easton considered the remaining five submission points<sup>84</sup> made by various submitters together, as they all sought amendments to the objective with similar intent, including adding '*protect*', '*enhance or restore*' and '*extent*' to the objective. She did not support these amendments because she did not consider these were consistent with the RPS or the NPSIB.
318. The s42A Report recommended no changes to ECO-04, other than to rename it ECO-01.

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<sup>83</sup> Te Rūnanga o Ngāi Tahu, Te Rūnanga of Ngāti Waewae and Te Rūnanga o Makaawhio (S620.138), Katherine Crick (S101.010), WMS Group (S599.051), TiGa Minerals and Metals Limited (S493.047), Te Mana Ora (S190.315), Birchfield Coal Mines Ltd (S601.034), BRM Developments Limited (S603.023), Birchfield Ross Mining Limited (S604.028), Phoenix Minerals Limited (S606.028), Whyte Gold Limited (S607.023), Grey District Council (S608.043), David Moore (S65.010) and Waka Kotahi NZ Transport Agency (S450.081)

<sup>84</sup> West Coast Penguin Trust (S275.002), Inger Perkins (S462.015), Director General (S602.065), Forest and Bird (S560.199), Karen Lippiatt (S429.026)

319. In response to questions from the Panel, Ms Easton agreed that the wording proposed in Mr Brass' evidence was consistent with the NPSIB.

### **Hearing and Submitter Evidence/Statements**

#### *Objectives (General)*

320. Ms Inta reiterated the need for a new objective relating to ecosystem services. She referred to clause 3.24(2)(d) of the NPSIB which sets out when consent authorities consider resource consent applications that would have a more than minor effect on indigenous biodiversity, the application must identify the ecosystem services associated with the indigenous biodiversity on the site. She also considered that ecosystem services could be referenced in ECO-P7.
321. Mr Brass, for the Director General, confirmed support for the recommendation to move ECO-O4 to be the first objective.

#### *ECO - O1*

322. Ms Inta reiterated her preferred wording for the objective as set out in her submission. She stated there was importance in conveying why the objective exists. She suggested looking at the New Plymouth District Plan for better wording.
323. Mr Kennedy, for Westpower, noted that the further submission (FS222.019) in relation to ECO-O1 should have been accepted by Ms Easton given her support for the underlying submission point and requested her recommendations be updated.

#### *ECO - O2*

324. Mr Kennedy, for Westpower, reiterated the request to amend the wording of the objective to reflect Objective 3 of the RPS, notwithstanding that he accepted that the proposed objective was a combination of two objectives in the RPS. His proposed wording was as follows:

*To provide for ~~appropriate~~ **sustainable** subdivision, use and development **to enable people and communities to maintain or enhance their economic, social and cultural wellbeing in** areas of significant indigenous vegetation and significant habitats of indigenous fauna where the values of the area can be maintained or enhanced.*

325. Mr Kennedy also noted the summary of recommendations incorrectly recorded submission (S547.251) was accepted in the s42A Report.
326. Ms Snoyink, for Forest and Bird reiterated the submission to strengthen the language of ECO-O2. In particular, she sought the deletion of 'or enhance' from the objective because it was inconsistent with s6(c) of the RMA.
327. Ms Inta suggested minor amendments to ECO-O2 to improve clarity by replacing 'the' with 'those'.
328. Ms Hunter, for Bathurst, reiterated the submission point to ensure that the intent of the MINZ and BCZ were also suitably recognised in ECO-O2. She acknowledged the s42A Report recommendation did not support the submission and that there may not be an explicit

requirement to amend the objective as sought. Notwithstanding this, she sought to ensure that the ECO provisions did not trump the enabling provisions of the MINZ or BCZ.

329. Ms Hunter commented that a number of the terms used in the objectives and policies were not defined, and she suggested using terms that were defined so that clarity was improved and there is better alignment with the NPSIB. She also considered that alignment with the intent of the NPSIB could be improved in ECO-O2 by maintaining indigenous biodiversity so that there is no net loss. The suggested wording for the objective is as follows:

~~*To provide for appropriate subdivision, use and development*~~ **Manage development and use within significant natural areas to achieve an overall no net loss in significant indigenous biodiversity value, areas of significant indigenous vegetation and significant habitats of indigenous fauna or where the values of the area can be maintained or enhanced.**

330. Ms Hunter reiterated the submission point made by Bathurst to include reference to lawfully established activities in ECO-O2. She noted the NPSIB directed local authorities to acknowledge specified established activities (clause 3.15). She explained that the MINZ and BCZ were founded on the understanding that they mirror existing licences, permits and consents and as such they qualify as '*specified established activities*' for the purpose of the clause in the NPSIB.

331. Dr Bramley, for Bathurst, supported the amendment proposed by Ms Hunter to include the effects management hierarchy. He also noted the s42A Report did not support the addition of words '*and where appropriate restored*' because the definition of restoration in the NPSIB relates to '*modified or degraded*' areas, and as this policy relates to significant natural areas it was unlikely to meet that definition. He considered it was incorrect to assume that significant areas were not modified or degraded and advised that it was common for habitats that were rare to also be degraded and still be the 'best example' of that habitat so as to be considered significant. As such, he supported the addition of the words '*and where appropriate restored*' in the objective.

332. Ms Styles, for Manawa, explained the suggested amendments to the objective were intended to simplify the objective and to have it read more as an objective (outcome statement) rather than a policy (action). She offered another alternative for the objective as follows:

*Within areas of significant indigenous vegetation and significant habitats of indigenous fauna, appropriate subdivision, use and development is provided for, and indigenous biodiversity values are protected.*

333. Ms Smith, for Terra Firma, accepted the recommended amendments despite not being exactly as those sought.

### ECO - O3

334. Ms Pull, for Poutini Ngāi Tahu, considered the definition for '*Poutini Ngāi Tahu land*' recommended in the s42A Report would narrow the application of what Ms Pull understood it to mean. Her understanding was that the provisions in the Plan should apply to land owned or managed by Poutini Ngāi Tahu, and as such she proposed alternative wording for ECO-O3 as follows:

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*To provide for tino rangatiratanga in relation to management of areas of significant indigenous vegetation and significant habitats of indigenous fauna where these are located on **land managed or owned** by Poutini Ngāi Tahu ~~land~~.*

### ECO - O4

335. Mr Kennedy, for Westpower, noted the s42A summary of recommendations recorded accepting in part the further submission of Westpower in relation to ECO-O4 (FS222.153). However, as the base submission was supported, and no changes were recommended he supported the recommendation.
336. Mr Brass, for the Director General, reiterated the request to add the words ‘*enhance and where appropriate restore*’ to the objective. He considered the objective was providing more detail and specific direction than the NPSIB and therefore did not consider that ECO-O4 (to be amended to ECO-O1) should be constrained to the drafting used in the NPSIB.
337. Ms Perkins, for the West Coast Penguin Trust, supported changes for consistency with the NPSIB. She referred to clause 1.7(1)(b) which included references to restoring and enhancing ecosystems and habitats and clause 1.2(1)(b)(iii) that included restoring indigenous biodiversity to achieve its overall maintenance and no overall loss. She considered there was an expectation that the TTPP would do more than ensure consistency with the RPS and that there was an opportunity to strengthen the Plan. On this basis, she reiterated the submission to amend the wording of ECO-O4 to read as follows:

*To maintain, **protect and enhance** the range and diversity of ecosystems and indigenous species found on the West Coast/Te Tai o Poutini.*

338. Ms Hunter, for Bathurst, confirmed support for the s42A Report recommendation to retain to ECO-O4 as notified.

### **Reporting Officer Reply Evidence**

#### *Objectives (General)*

339. Ms Easton’s Right of Reply responded to questions from the Panel regarding Ms Inta’s request to include a new objective relating to ecosystem services. She considered ecosystem services were used in an economic context to value services and not an RMA context. She noted there was specific direction in the Plan, NPSIB and RPS around climate change and natural hazards and considered the importance of healthy ecosystems in these contexts was more appropriately recognised in a district plan.

### ECO - O1

340. Ms Easton’s Right of Reply responded to questions from the Panel relating to Ms Inta’s request to have additional wording in ECO-O1. She maintained additional wording was not necessary and considered the objective was sufficiently clear and simple. She also considered the New Plymouth objectives (tabled by Ms Inta) and preferred those in the TTPP.
341. Ms Easton’s Right of Reply addressed the implications arising from Te Tumu Paeroa withdrawing some submission points and advised the submission relating to ECO-O1 was not withdrawn. In considering matters raised in the hearing and discussions in planning

caucusing, she considered the reference to landowners should be *'in consultation'* rather than *'in partnership'*. Ms Easton's recommended wording for ECO-O4 was as follows:

***ECO- O4***

*To identify, map, and protect **in consultation with landowners**, areas of significant indigenous vegetation and significant habitats of indigenous fauna on the West Coast/Te Tai o Poutini.*

*ECO - O2*

342. Ms Easton's Right of Reply agreed that ECO-O2 read like a policy and noted that this was reiterated by Ms Styles during expert caucusing. However, Ms Easton she did not consider there was any scope within the submissions to redraft it.

**Hearing Panel's Evaluation**

*ECO – O1*

343. The Panel accepts Ms Easton's recommended amendments and agrees that using *'consultation with landowners'* is appropriate instead of *'in conjunction with landowners'* given the obligation is on the district councils. The Panel also accepts the recommendation to renumber this objective ECO-O4.

*ECO – O2*

344. Ms Easton's recommended amendment to replace *'maintained'* with *'protected'* acknowledges Objective ECO – O2, as notified, was inconsistent the RPS Chapter 7 Objective 2 - to protect areas of significant indigenous vegetation and significant habitats of indigenous fauna. However, ECO-O2 also gives effect to RPS Chapter 7 Objective 3 - to provide for sustainable subdivision, use and development to enable people and communities to maintain or enhance their economic, social and cultural wellbeing. As noted, earlier in this Report, the Panel considers Chapter 7 Objective 3 is inconsistent with the purpose of RMA and s6(c). We also consider it is inconsistent with the direction of the NPSIB.
345. The NPSIB anticipates that significant indigenous vegetation and significant habitats of indigenous fauna will be identified as SNA using a consistent approach (Policy 6) and will be protected by avoiding or managing adverse effects from new subdivision, use and development (Policy 7). It only provides for *'certain established activities'* (Policy 9) within and outside SNA. It requires that activities that contribute to New Zealand's social, economic, cultural, and environmental wellbeing are recognised and provided for as set out in in the NPSIB (Policy 10). It does not *'provide for appropriate subdivision, use and development within areas of significant indigenous vegetation and significant habitats of indigenous fauna where the values of the area can be maintained or enhanced'*.
346. Similarly, the RPS policies (policies 3 to 5) relating to SNA only apply if Policy 2 is met. Policy 6 only allows existing lawfully established activities to continue if the adverse effects are the same or similar in scale, character or intensity; and the adverse effects are no more than minor and maintain the values of the SNA.
347. The NPSIB clause 3.10 requires new subdivision, use and development in (or affecting) SNA (except as provided for in clause (1)(a) to (d)) to avoid adverse effects, except as provided in clause 3.11:

- (a) on loss of ecosystem representation and extent;

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- (b) disruption to sequences, mosaics, or ecosystem function;
  - (c) fragmentation of SNAs or the loss of buffers or connections within an SNA;
  - (d) a reduction in the function of the SNA as a buffer or connection to other important habitats or ecosystems; and
  - (e) a reduction in the population size or occupancy of Threatened or At Risk (declining) species that use an SNA for any part of their life cycle.
348. Other adverse effects on SNA, not listed above or as a result of the exceptions in clause 3.12 (SNA on specified Māori land), must be managed by applying the effects management hierarchy, using each step sequentially and in compliance with the principles for biodiversity offsetting (NPSIB Appendix 3) and biodiversity compensation (NPSIB Appendix 4).
349. NPSIB clause 3.15 manages adverse effects of *'established activities'* (including maintenance, operation and upgrade) that are in, or affects, an SNA and is not a new subdivision, use or development. Subclause (2) requires local authorities to include objectives, policies, and methods in their policy statements and plans to enable specified established activities, or specified types of established activities, to continue where the effects of the activity on an SNA (including cumulative effects):
- (a) are no greater in intensity, scale, or character over time than at the commencement date; and
  - (b) do not result in the loss of extent, or degradation of ecological integrity, of an SNA.
350. These are important qualifiers that established activities must meet to continue and if these are not met, the activity must be managed under clauses. 10 to 3.14 or clause 3.18 (as relevant).
351. Given the above assessment, the Panel finds ECO-O2 does not give effect to the RMA, NPSIB and RPS, so we consider it must either be deleted as requested by two submitters or amended to be consistent with the higher order direction.
352. The Panel notes the submission points of Frida Inta (S553.006) and the Buller Conservation Group (S553.006) requested the ECO-O2 be separated into two objectives. We agree with this approach. While the NPSIB provides detailed direction on managing the effects of activities, we consider this can be captured at an objective level as two simple objectives relating to protection and use. We recommend two objectives that are consistent with the NPSIB. We consider this also addresses the Director General's submission point.
353. The Panel draws on our analysis of the NPSIB above in relation to the rule framework.

### ECO – O3

354. The Panel accepts Ms Easton's reasoning and recommended amendments. We have considered Ms Pull's request to include land managed by Poutini Ngāi Tahu but consider this objective is specific to land owned by Poutini Ngāi Tahu.

### ECO – O4

355. The Panel accepts Ms Easton's recommendation to make this the first objective as requested by the Director General, in recognition that this objective is consistent with the one overarching objective of the NPSIB – to maintain indigenous biodiversity.
356. The Panel considers there is scope to amend the Objective to be consistent with the NPSIB based on submissions that seek amendments to protect indigenous biodiversity and to give effect to the RPS Chapter 7. We note that Objective 4 of Chapter 7 of the RPS is to maintain

the regions' freshwater and terrestrial indigenous biodiversity, which is consistent with the NPSIB Objective.

357. As discussed above in relation to definitions, the Panel considers it is appropriate to reflect the wording of the NPSIB, including guidance as to what '*maintaining indigenous biodiversity*' means, within the objective.
358. The Panel considers this objective addresses a gap in the notified framework regarding the higher order direction to maintain indigenous biodiversity generally, as opposed to the protection of significant indigenous biodiversity.

#### *New Objectives*

359. The Panel accepts Ms Easton's recommendation to not add any new objectives in response to submissions for the reasons provided in the s42A Report.

#### **Hearing Panel's Recommendation**

360. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommends the submission points identified in the footnotes below are accepted or accepted in part, and recommend the following changes to the **Ecosystems and Indigenous Biodiversity Objectives**:

<b>ECO – 015</b> <sup>85</sup>
To identify, <b>map</b> <sup>86</sup> and protect <b>in consultation with landowners</b> <sup>87</sup> areas of significant indigenous vegetation and significant habitats of indigenous fauna on the West Coast/Te Tai o Poutini.
<b>ECO – 02</b>
<del>To provide for appropriate subdivision, use and development within areas of significant indigenous vegetation and significant habitats of indigenous fauna where the values of the area can be maintained or enhanced.</del>
<b><u>To protect areas of significant indigenous vegetation and significant habitats of indigenous fauna.</u></b> <sup>88</sup>
<b>ECO – 03</b>
<b><u>To manage the adverse effects of subdivision, use and development on significant indigenous vegetation and significant habitats of indigenous fauna.</u></b> <sup>89</sup>
<b>ECO – 034</b>

<sup>85</sup> Director General of Conservation S602.064

<sup>86</sup> Suzanne Hills S443.020, Clares Backes S444.003

<sup>87</sup> Te Tumu Paeroa Office of the Māori Trustee S440.003

<sup>88</sup> Buller Conservation Group S552.006, Frida Inta S553.006. Director General of Conservation S602.066

<sup>89</sup> Buller Conservation Group S552.006, Frida Inta S553.006

To provide for tino rangatiratanga in relation to management of areas of significant indigenous vegetation and significant habitats of indigenous fauna where these are located on Poutini Ngāi Tahu and Te Rūnanga o Ngāi Tahu<sup>90</sup> land.

**ECO – 041<sup>91</sup>**

To maintain the range and **indigenous biodiversity** of ecosystems and indigenous species found on the ~~across~~ West Coast/Te Tai o Poutini **so there is at least no overall loss in indigenous biodiversity, while providing for the social, economic, and cultural wellbeing of people and communities now and in the future.**

**Maintaining indigenous biodiversity requires:**

- 1. the maintenance and at least no overall reduction of all the following:**
  - a. the size of populations of indigenous species:**
  - b. indigenous species occupancy across their natural range:**
  - c. the properties and function of ecosystems and habitats used or occupied by indigenous biodiversity:**
  - d. the full range and extent of ecosystems and habitats used or occupied by indigenous biodiversity:**
  - e. connectivity between, and buffering around, ecosystems used or occupied by indigenous biodiversity:**
  - f. the resilience and adaptability of ecosystems; and**
- 2. where necessary, the restoration and enhancement of ecosystems and habitats.<sup>92</sup>**

#### **4.4. ECO - Ecosystems and Indigenous Biodiversity Policies**

##### **Submissions and Further Submissions**

361. Eleven submissions points and 13 further submissions relating to the ECO policies (as a whole) were summarised in a Table on pages 76-78 of the s42A Report. Twelve submission points sought to retain the objectives as notified and nine sought to add additional objectives. Ten further submissions opposed submissions that sought a new objective, and 73 further submissions supported submissions that sought to add a new objective.
362. Forty-eight submission points and 20 further submission points relating to **ECO-P1** were summarised in a Table on page 79-85 of the s42A Report. Four submissions supported the retention of the policy as notified, one sought its deletion and 43 sought amendments. Twelve further submissions opposed submissions that sought amendments, and eight further submissions supported submissions.

<sup>90</sup> Consequential amendment to reflect new definition of 'Poutini Ngāi Tahu land' Te Tumu Paeroa Office of the Māori Trustee S440.003

<sup>91</sup> Director General of Conservation S602.064

<sup>92</sup> John Caygill S290.008, Royal Forest and Bird Protection Society of New Zealand Incorporated S560.025, Inger Perkins S462.009, Lynley Hargreaves S481.026

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363. Forty-six submission points and 22 further submission points relating to **ECO-P2** were summarised in a Table on page 88-93 of the s42A Report. Twelve submissions supported the retention of the policy as notified and 36 sought amendments. Fifteen further submissions opposed submissions that sought amendments, and seven further submissions supported submissions.
364. Forty-two submission points and nine further submission points relating to **ECO-P3** were summarised in a Table on page 98-101 of the s42A Report. Thirty-four submissions supported the retention of the policy as notified and eight sought amendments. Five further submissions opposed submissions that sought amendments, and four further submissions supported submissions.
365. Twenty-four submission points relating to **ECO-P4** were summarised in a Table on page 103 – 104 of the s42A Report. Nineteen submissions supported the retention of the policy as notified, two sought it be deleted, and three sought amendments.
366. Twelve submission points and one further submission point relating to **ECO-P5** were summarised in a Table on page 105 – 106 of the s42A Report. Eight submissions supported the retention of the policy as notified, and four sought amendments. The further submission opposed a submission seeking amendment.
367. Twenty-seven submission points and 16 further submission points relating to **ECO-P6** were summarised in a Table on page 107 – 113 of the s42A Report. Three submissions supported the retention of the policy as notified, 22 sought amendments and two sought clarifications. Nine further submissions opposed submissions that sought amendments, and seven further submissions supported submissions.
368. Fifty-three submission points and 85 further submission points relating to **ECO-P7** were summarised in a Table on page 115 – 125 of the s42A Report. Twenty-three submissions supported the retention of the policy as notified and 30 sought amendments. Eight further submissions opposed submissions that sought amendments, and 27 further submissions supported submissions.
369. Thirty-three submission points and eight further submission points relating to **ECO-P8** were summarised in a Table on page 127 – 131 of the s42A Report. Seventeen submissions supported the retention of the policy as notified and 16 sought amendments. Five further submissions opposed submissions that sought amendments, and three further submissions supported submissions.
370. Forty-three submission points and 15 further submission points relating to **ECO-P9** were summarised in a Table on page 133 – 137 of the s42A Report. Thirty-two submissions supported the retention of the policy as notified and 11 sought amendments. Seven further submissions opposed submissions that sought amendments, and eight further submissions supported submissions.
371. Twenty-three submission points and seven further submission points relating to **ECO-P10** were summarised in a Table on page 139 – 142 of the s42A Report. Fourteen submissions supported the retention of the policy as notified, eight sought amendments and one sought it be deleted. Three further submissions opposed submissions that sought amendments, and four further submissions supported submissions.

372. Eleven submission points and one further submission point relating to **MINZ-P5** were summarised in a Table on page 144 - 145 of the s42A Report. Seven submissions supported the retention of the policy as notified, one sought it be deleted and three sought amendments. The further submission supported a submission.

### **Section 42A Report**

#### *Policies (General)*

373. In relation to the policies (as a group), Ms Easton acknowledged the support from the submitters<sup>93</sup> that sought to retain the policies as notified. She also acknowledged those submitters<sup>94</sup> that supported specific policies. However, she noted her recommended amendments in response to other submissions on specific objectives.
374. Ms Easton did not support the relief sought in two submission points<sup>95</sup> made by Forest and Bird to replace the policies with those from the RPS Chapter 7. She did not agree that replicating these policies would cover all matters to the level of detail required in a district plan. She considered 'give effect to' did not mean 'to copy exactly'. She noted the RPS was developed prior to the NPSIB and other national policy documents being prepared.
375. In response to other submissions made by Forest and Bird (S560.211 and S560.482) that sought to add two new policies, Ms Easton did not support the relief sought. She considered that both were complex and better suited to an RPS or amendments to notified policies in the pTTPP.
376. Ms Easton did not support the relief sought by Forest and Bird (S560.415) in another submission which sought to include direction requiring SNA be identified and mapped as part of the regulation of mining activities. She considered the RPS and the NPSIB set the framework for the identification of SNA.
377. In response to the submission point made by Suzanne Hills (443.02) that sought the policies be amended to give effect to the RPS, Ms Easton considered this was already the case and no amendments were required to specifically achieve this outcome.
378. The s42A Report recommended no amendments as a result of these submission points.

#### *ECO – P1*

379. Ms Easton responded to the submissions received on this policy based on the key themes. She also identified that as the policy specifically related to the identification of SNA it should (to the extent there was scope) give effect to the NPSIB.
380. Ms Easton acknowledged the submission points<sup>96</sup> that supported ECO-P1 as notified. However, she noted her recommended amendments in response to other submissions.

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<sup>93</sup> Westland District Council (S181.015), Grey District Council (S608.044) and David Ellerm (S581.025)

<sup>94</sup> Lindy Mason (S355.001) and Dean Mason (S356.002)

<sup>95</sup> S560.008 and S560.206

<sup>96</sup> Avery Brothers (S609.003), Te Mana Ora (Community and Public Health) of the NPHS/Te Whata Ora (S190.316), Grey District Council (S608.045), Karen Lippiatt (S439.027), Leonie Avery (S507.034), Jared Avery (S508.034), Kyle Avery (S09.034), Avery Bros (S510.034), Bradshaw Farms (S511.034), Paul Avery (S512.034), Brett Avery (S13.034), Buller District Council (S538.197)

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381. In response to the submission points<sup>97</sup> that sought a deferral of the proposed June 2027 date, by when the Buller and Westland Councils were to have identified the SNA in their districts, Ms Easton did not support the relief sought. This was because the Plan did not currently give effect to the RPS in this respect and the matter was one of national importance. She noted that other submission points<sup>98</sup> sought that this date be brought forward.
382. Given the NPSIB was now in place and there was a requirement to give effect to it as soon as practicable (to the extent that there is scope within submissions), Ms Easton recommended that ECO-P1 be amended to reflect the direction of the NPSIB. She noted some submissions<sup>99</sup> sought that reference be given to the RPS. She identified the following points from the NPSIB that were relevant in making her recommendation:
- (a) SNA must be identified and included with a plan change by August 2028 (clause 3.9 (1));
  - (b) SNA must be identified through a district wide assessment (clause 3.8.(1));
  - (c) The assessment must be done using the criteria in Appendix 1 of the NPSIB, therefore replacing the RPS criteria which are largely consistent;
  - (d) The assessment must be done in accordance with the principles set out in clause 3.8 (2), being partnership, transparency, quality, access, consistency and boundaries;
  - (e) If the values or extent of an SNA are disputed by the landowner, a physical inspection must be undertaken. (Clause 3.8 (3));
  - (f) There is provision to confirm the SNA status of sites already identified as SNA (Clause 3.8 (5)) (i.e. in Grey District); and
  - (g) Department of Conservation administered land may not be required to be physically assessed and can be identified as an SNA where certain other criteria are met (clause 3.8 (8))
383. Ms Easton updated the s42A Report comments about the Amendment Bill/Act and noted the RMAA now deferred some of these requirements. However, she noted the fundamental requirement to identify SNA, as set out in the RPS, remained regardless of the NPSIB and therefore the identification of the SNA must proceed, just not under the NPSIB.
384. Ms Easton recognised the issues raised in submission points<sup>100</sup> and supported these in part in relation to the following matters:
- (a) The need to give certainty to landowners with existing Schedule Four SNA.

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<sup>97</sup> Peter Langford (S615.041, S615.227), Karamea Lime Company (S614.041, S614.227), Catherine Smart-Simpson (S564.025), Geoff Volckmann (S563.021), William McLaughlin (S567.169, S567.731), Chris & Jan Coll (S558.086, S558.705), Chris J Coll Surveying Limited (S566.086, S566.705), Laura Coll McLaughlin (S574.086, S574.705), John Brazil (S360.093), Steve Croasdale (S516.032), Koiterangi Lime Co Limited (S577.028, S577.032)

<sup>98</sup> Forest and Bird (S560.200), Pual Elwell-Sutton (S144.002), Michael Orchard (S583.005)

<sup>99</sup> Transpower (S299.073), Clare Backes (S444.005), Director General (S602.067), Forest and Bird (S560.200), Manawa Energy Limited (S438.076), Frida Inta (S553.065), Buller Conservation Group (S552.065)

<sup>100</sup> Jacobus Wiskerke (S95.003), Michael Snowden (S492.011), Transpower (S299.073), Westpower (S547.252), Horticulture NZ (S486.029), Federated Farmers of New Zealand (S524.058, S524.060), Suzanne Hills (S443.021, S443.022), Clare Backes (S444.005), Waka Kotahi NZ Transport Agency (S450.082), Frida Inta (S553.065), Buller Conservation Group (S552.065)

- (b) To clarify if other areas in the Grey District may be SNA.
- (c) The cost associated with identifying SNA.
- (d) The risk that delayed identification of SNA could lead to the deliberate removal of them before they are formally protected

385. Ms Easton recommended amendments **ECO-P1** to address the concerns as follows:

*ECO-P1*

*Identify areas of significant indigenous vegetation and fauna habitat **and include these in Schedule Four through a Plan Change which will be introduced no later than August 2028. The Significant Natural Area identification process will be undertaken as follows:***

- 1. The criteria and process set out in the National Policy Statement for Indigenous Biodiversity Appendix 1 will be used to identify and map Significant Natural Area;***
- 2. In the Grey District ~~these areas~~ that are already identified in Schedule Four will be confirmed as meeting the National Policy Statement for Indigenous Biodiversity criteria by the end of 2025;***
- 3. Region – wide, Regionally Significant Wetlands will be confirmed as meeting the National Policy Statement for Indigenous Biodiversity criteria by the end of 2025;***
- 4. In the Grey, Buller and Westland Districts the assessment and identification of other Significant Natural Area will be undertaken by June 2027.***
- 5. Until a site has been assessed as to whether it contains a Significant Natural Area a general indigenous vegetation clearance rule will apply to that site.***
- 6. Once a site has been assessed a less restrictive general vegetation clearance rule will apply to other indigenous vegetation on that site that is outside of the Significant Natural Area.***
  - ~~i. The criteria set out in Appendix 1 of the West Coast Regional Policy Statement will be used to assess significance;~~*
  - ~~ii. Areas of significant indigenous vegetation and fauna habitat will be identified through the resource consent process until such time as district wide identification and mapping of significant natural areas is undertaken;~~*
  - ~~iii. Buller and Westland district wide assessment, identification and mapping of significant natural areas will be undertaken and completed by June 2027; and~~*
  - ~~iv. Identified areas of significant indigenous vegetation and fauna habitat will be added to Schedule Four through a Plan Change.~~*

386. Ms Easton made minor amendments to the recommended wording in her supplementary statement relating to the timeframe for completing the SNA identification process, extending it to June 2027 (reflecting the requirements of the RMAA), as follows:

...

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2. *In the Grey District ~~these~~ areas that are already identified in Schedule Four will be confirmed as meeting the National Policy Statement for Indigenous Biodiversity criteria by the end of June 2027;*
3. *Region – wide, Regionally Significant Wetlands will be confirmed as meeting the National Policy Statement for Indigenous Biodiversity criteria by the end of June 2027;*

...

### ECO – P2

387. Before considering the submissions relating to this policy, Ms Easton made some general comments about this policy and in particular the relevant NPSIB provisions that were not in effect when the pTTPP was notified. She noted the direction in the NPSIB had guided her recommendations related to the submissions.
388. Ms Easton acknowledges the submission points<sup>101</sup> that support ECO-P2 as notified. However, she noted her recommended amendments in response to other submissions.
389. Ms Easton did not support the relief sought in the submission point made by Minerals West Coast (S569.006) to delete ECO-P2 in its entirety because there was clear direction in both the RPS and the NPSIB for district plans to include protection for SNA.
390. Similarly, Ms Easton did not support the submission point made by Forest and Bird (S560.201) that sought to delete ECO-P2 and replace it with RPS Chapter 7 policies 2 and 6 because she considered the policies were not appropriate at a district level and were drafted before the NPSIB came into effect.
391. Ms Easton supported the relief sought by Poutini Ngāi Tahu (S620.139) to replace “*cultural purpose*” with “*activities*” because this aligned with the definition for “*Poutini Ngāi Tahu Activities*”, which ensured consistency through the Plan.
392. In response to the submission point made by Te Tumu Paeroa (S440.024) that sought to widen the scope of clause (b) to include “*Māori landowner cultural purposes*”, Ms Easton did not support the relief sought. She considered the provisions to support tino rangatiratanga of Poutini Ngāi Tahu should be specific to Poutini Ngāi Tahu, not wider Māori landowners.
393. In response to the numerous submission points<sup>102</sup> that sought amendment of clause (d) of the policy to provide for “*operational need*” as well as functional need, Ms Easton supported the relief sought in part, where it was consistent with the NPSIB. She noted the NPSIB made provision for subdivision, use or development within an SNA if it met certain exemptions<sup>103</sup> set out in clause 3.11 and had a functional or operational need to be in that location. Ms Easton did not support addition of the words “*technical*” and “*locational*” because the terms

<sup>101</sup> Roger Ewer (S316.003), Grey District Council (S608.046), Trevor Hayes (S377.001) and Katherine Crick (S101.011)

<sup>102</sup> WMS Group (S599.052), TiGa Minerals and Metals Limited (S493.048), Birchfield Coal Mines Ltd (S601.035), BRM Developments Limited (S603.024), Birchfield Ross Mining Limited (S604.029), Phoenix Minerals Limited (S606.025), Whyte Gold Limited (S607.024), Peter Langford (S615.042), Karamea Lime Company (S614.042), Koiterangi Lime Co LTD (S577.029, S577.033), Catherine Smart-Simpson (S564.026), KiwiRail Holdings Limited (S442.049), Grey District Council (S608.628), William McLaughlin (S567.170), Steve Croasdale (S516.033), Westpower Limited (S547.253), Geoff Volckman (S563.022), Chris & Jan Coll (S558.088), Chris J Coll Surveying Limited (S566.088), Laura Coll McLaughlin (S574.088), Waka Kotahi NZ Transport Agency (S450.083), Silver Fern Farms (S441.016), Bathurst Resources (S491.015), Terra Firma Mining Limited (S537.012), Manawa Energy (S438.077) and Straterra (S536.047)

<sup>103</sup> Specified infrastructure, mineral extraction that provides significant national public benefit, aggregate extraction with a regional or national benefit

were only in RPS policy in relation to regionally significant infrastructure and were not used in the NPSIB, which supersedes the RPS direction.

394. In response to submission points<sup>104</sup> that sought similar relief to make the policy more stringent, Ms Easton supported the submission points in part. She notes amendments sought included the replacement of “no more than minor” with “less than minor”, the addition of a reference to “cumulative effects”, reordering of the clauses, the replacement of “allow” with “make provision for”, replacement of “significant indigenous vegetation or significant habitats of indigenous fauna” with “Significant Natural Areas”, replacement of “activities” with “structures”, qualification of “lawfully established activities” and adding reference to the effects management hierarchy.
395. Ms Easton preferred the wording from the Director General submission because it would best give effect to the NPSIB and the intent of the RPS. Notwithstanding, she also recommended other amendments to reflect the other submission points she supported.
396. In response to submission points<sup>105</sup> that sought either the addition of “and” or “or” after clause (d) in the policy, Ms Easton preferred “and” to align with the direction in the NPSIB and RPS. Notwithstanding this, she considered the drafting of the policy would be improved by relocating clause (e) to the preliminary statement.
397. In response to submission points<sup>106</sup> that sought to widen the activities provided for in the policy, Ms Easton did not support the relief sought by Federated Farmers or Manawa Energy because she considered it was either covered by the reference to “lawfully established activities” or was vague or too wide reaching. Ms Easton considered the submission made by Bathurst to add a reference to the activities anticipated in the MINZ or BCZ in depth. She considered the requested inclusion on the basis that the draft NPSIB made reference to mineral and aggregate extraction, and coal mining. She noted at the hearing that since the s42A Report had been written the reference to coal mining had been removed from the NPSIB. Ultimately, Ms Easton did not support the relief sought by Bathurst.
398. In response to the submission points<sup>107</sup> that sought to amend clause (d) to allow for mitigation, or management using the effects management hierarchy, Ms Easton noted that by accepting the amendments sought by the Director General the relief sought in these submissions was also addressed.
399. The s42A Report recommended amending **ECO-P2** as follows:

*ECO-P2*

***Allow Provide for activities within areas of significant indigenous vegetation or significant habitats of indigenous fauna where the activity has no more than minor adverse effects on the significant indigenous vegetation or fauna habitat and:***

- a. ***This is for a lawfully established activity and adverse effects are no greater in intensity, scale, or character over time than at the operative date and do not result in the loss of ecosystem representation or degradation of ecological integrity; or***

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<sup>104</sup> Buller Conservation Group (S552.066), Frida Inta (S553.066), Suzanne Hills (S443.023), Clare Backes (S444.006), Forest and Bird (S560.476), Director General of Conservation (S602.068)

<sup>105</sup> Buller District Council (S538.198), Manawa Energy (S438.077) and Federated Farmers (S524.061), Director General of Conservation (S602.068)

<sup>106</sup> Federated Farmers (S524.061), Manawa Energy (S438.077), Bathurst Resources (S491.014)

<sup>107</sup> Aggregate and Quarry Association (S521.005), New Zealand Coal & Carbon Limited (S472.014) and Te Mana Ora (S190.317)

- b. *It is for a Poutini Ngāi Tahu Activities ~~cultural purpose~~; or*
- c. *This is undertaken on Poutini Ngāi Tahu ~~or Te Rūnanga o Ngāi Tahu~~ land in accordance with an Iwi/Papatipu Rūnanga Management Plan; or*
- d. **The adverse effects of the activity on the significant indigenous vegetation or fauna habitat are managed in accordance with the effects management hierarchy and the activity has a functional need or operational need to be located in the area, and is for the purpose of:**
  - i. **Construction or upgrade of regionally significant infrastructure; or**
  - ii. **Mineral extraction that provides significant national benefit; or**
  - iii. **Aggregate extraction that provides significant national or regional benefit; or**
  - iv. **The operation or expansion of any coal mine that was lawfully established before 4 August 2023; except that, after 31 December 2030, this exception applies only to such coal mines that extract coking coal**
- e. ~~*The activity has no more than minor adverse effects on the significant indigenous vegetation or fauna habitat.*~~

400. Ms Easton made minor amendments to the recommended wording in her supplementary statement to reflect the RMAA that removed restrictions relating to coal mining. The recommended wording deleted clause (d)(iv).

#### ECO – P3

- 401. Ms Easton acknowledged the 34 submission points that supported ECO-P3 (or specific parts of it) as notified. However, she noted her recommended amendments in response to other submissions.
- 402. In response to the submission point made by Te Tumu Paeroa (S440.025) that sought to have clause (d) of the policy also apply to Māori landowners, Ms Easton did not support the relief sought. She noted that a Māori landowner may not whakapapa to Poutini Ngāi Tahu and therefore would not have mana whenua status. She noted that similar responses had been provided in other hearing streams regarding similar submission points.
- 403. In response to the submission point made by Federated Farmers (S524.062) that sought to amend the policy to provide detail on what additional subdivision rights will be provided for, Ms Easton did not support the relief sought. She did not consider it appropriate to detail the rule provisions in the policy. Notwithstanding this, she noted that more specificity would be useful. She recommended amendments to clause (a) to provide the policy context for the creation of additional allotments where the legal protection of an SNA took place as part of a subdivision.
- 404. In response to the submission point made by the Director General (602.069) that sought the addition of two new clauses, Ms Easton supported the relief sought.
- 405. In relation to Forest and Bird's (S560.202) requested amendments, the s42A Report recorded the following:

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- (a) Ms Easton did not support deleting “*enhancement*” because of its association with offsetting and compensation and the NPSIB directs use of the effects management hierarchy.
- (b) Ms Easton did not support the replacement of “*allowing*” with “*considering*” in relation to additional subdivision rights because the intent of the policy was to provide support for the subdivision provisions. However, she agreed that “*allowing*” may imply permitted activities and recommended replacing this with “*providing for*”.
- (c) Ms Easton did not support adding a new clause “*considering subdivision proposal of land that includes or lies adjacent to a Significant Natural Area*” because it was a more generalised consideration and was not related to intent of the policy to incentivise the legal protection of indigenous biodiversity.
- (d) Ms Easton did not support the replacement of “*Areas of Significant Indigenous Biodiversity*” with “*Significant Natural Areas*” because the definition of “*Areas of Significant Indigenous Biodiversity*” was broader and reflected the intention of the TTPP Committee to support the protection of significant indigenous vegetation and significant habitats of indigenous fauna regardless of whether it is an SNA.
406. In response to the West Coast Penguin Trust’s (S275.003) request to also refer to “*the protection of indigenous fauna habitat*”, Ms Easton supported the relief sought in part. She supported the reference to “*indigenous fauna habitat*” but not the relief that sought to regulate exotic vegetation.
407. Ms Easton did not support Frida Inta (S553.067) and Buller Conservation Group (S552.067) requests to add reference to “*natural indigenous character*” because she considered the policy was specifically about supporting ecological values and not natural character. She also did not support the requests to reword clause (a) because the suggested wording would unintentionally imply that only areas where legal protection already existed were provided with additional subdivision rights. She considered this was not the intention of the policy, which was to incentivise the legal protection of indigenous vegetation and biodiversity.
408. The s42A Report recommended amending **ECO-P3** as follows:
- ECO-P3*
- Encourage the protection, enhancement and restoration of significant indigenous biodiversity **and the protection of significant indigenous fauna habitat** by:*
- a. ~~*Allowing*~~ ***Providing for up to 3 additional subdivision rights bonus allotments and reducing minimum allotment sizes when subdividing*** if an area of significant indigenous vegetation or significant habitat of indigenous fauna within the same property is legally protected as part of the subdivision,
  - b. *Promoting the creation of connections and ecological corridors between areas of significant indigenous biodiversity;*
  - c. *Promoting the use of eco-sourced species from the relevant ecological district;*
  - d. *Supporting opportunities for Poutini Ngāi Tahu to exercise their cultural rights and responsibilities as mana whenua and kaitiaki in restoring, protecting and enhancing areas of significant indigenous biodiversity; ~~and~~*

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- e. *Supporting initiatives by landowners, community groups and others to protect, restore and maintain areas of significant indigenous biodiversity;*
- f. **Promoting site and landscape scale biosecurity programmes to manage plant and animal pests; and**
- g. **Supporting any other measures to protect, enhance and restore biodiversity.**

### ECO – P4

- 409. Ms Easton acknowledged and supported the 19 submission points that sought to retain ECO-P4 as notified.
- 410. Ms Easton did not support Frida Inta (S553.068) and the Buller Conservation Group (S552.068) requests to delete this policy because they do not consider ecotourism can enhance values.
- 411. In response to the submission point made by Forest and Bird (S560.203) that sought to amend the wording of the policy to lessen the support of ecotourism, Ms Easton did not support the relief sought. She considered ecotourism activities could enhance the values of SNA. Additionally, she noted the policy responded to a strategic objective that recognised the significance of tourism to the West Coast.
- 412. In response to the submission point made by Katherine Crick (S101.031) that supported the policy and sought that it be applied to mining ventures proposed for Barrytown, Ms Easton clarified that the policy could be applied throughout all districts covered by the Plan.
- 413. Ms Easton supported in part Laura Garber’s (S278.005) request to amend the policy to make specific reference to requiring ecotourism activities to complement and enhance the native flora and fauna of significance. However, she considered it was inappropriate to specify what ecotourism activities the policy would apply to, and considered that this judgment was best applied as part of the assessment of a resource consent application.
- 414. The s42A Report recommended no amendments to ECO-P4.

### ECO – P5

- 415. Ms Easton acknowledged and supported the eight submission points that sought to retain ECO-P5 as notified.
- 416. In response to the submission points made by Poutini Ngāi Tahu (S620.421) that sought to have this policy include “*Sites of Significance to Māori if they are owned by Poutini Ngāi Tahu*”, Ms Easton did not support the relief sought. She considered that if there was land to which this policy should apply, it would be more appropriate that the land be identified as Māori Purpose Zone, instead of being subject to another overlay.
- 417. In response to the similar submission points made by Forest and Bird (S560.204) to require adverse effects to be managed in accordance with the RPS and Frida Inta (S553.069) and Buller Conservation Group (S552.069) requests to replace “*minimises*” with “*ensures less than minor*”, Ms Easton did not support the relief sought. She noted the submissions need to be considered in light of the NPSIB provisions that relate to specified Māori Land and how SNA on specified Māori land are to be managed. While she noted there were currently no

SNA on this land, she considered it remained a possibility and therefore the notified version of the policy gives effect to the NPSIB.

418. The s42A Report recommend no amendments to ECO-P5.

*ECO – P6*

419. Ms Easton acknowledged the submission points from Te Mana Ora (S190.321), David Moore (S65.013) and GDC (S608.050) that sought to retain ECO-P6 as notified. However, she noted her recommended amendments in response to other submissions.

420. Ms Easton did not support the submission points made by New Zealand Coal and Carbon Limited (S472.015) and Straterra (S536.024 and S536.048) that sought to remove the word “avoid” from the policy because she considered the policy gives effect to the RPS, which provided strong direction to avoid the adverse effects set out in ECO-P6.

421. In response to the submission points<sup>108</sup> that sought to make provision for biodiversity offsetting or compensation, Ms Easton did not support the relief sought. This was because biodiversity offsetting and compensation were provided for in very limited circumstances in both the RPS and the NPSIB and she considered there was other policy addressing these circumstances.

422. In response to the submission points from Westpower (S547.255) and Forest and Bird (S560.205) that sought to replace this policy with RPS Chapter 7 Policy 2, Ms Easton did not support the relief sought. She noted this would duplicate a technical policy from the RPS to the TTPP and she considered ECO-P6 gives effect to the policy from the RPS.

423. In response to the submission points<sup>109</sup> that sought to add the words “with the exception of manuka and kanuka” to clause (b) of the policy, Ms Easton did not support the relief sought. She noted the policy was implementing the requirements of the RPS and it referenced the Threatened Environments Classification system. She noted manuka and kanuka present in a category one or two Threatened Environment Classification may be associated with fauna habitat or plants that only occur in that land environment. She explained that this part of the policy did not mean that all vegetation in all locations should be protected, rather it focussed very carefully on the types of land environments (ecosystem types) that are threatened in the ecological districts on the West Coast.

424. Ms Easton did not support Westpower’s (S547.254) request to replace “assessing consents” with “providing for” because she considered the policy was an assessment criteria policy to assist with the resource consent process.

425. In response to the similar submission points made by the AQA (S521.006) and Bathurst (S491.016) that sought to enable the effects management hierarchy rather than avoiding effects, Ms Easton did not support the relief sought. This was because it did not reflect the direction of the RPS. While she acknowledged the NPSIB made provision for the use of the effects management hierarchy for a range of specified activities, she considered that this was best addressed in a separate policy.

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<sup>108</sup> William McLaughlin (S567.175), Chris J Coll Surveying Limited (S566.093), Chris & Jan Coll (S558.093) and Laura Coll McLaughlin (S574.93)

<sup>109</sup> WMS Group (S599.054), TiGa Minerals and Metals Limited (S493.050), Birchfield Coal Mines Ltd (S601.037), BRM Developments Limited (S603.026), Birchfield Ross Mining Limited (S604.031), Phoenix Minerals Limited (S606.027), Whyte Gold Limited (S607.026), Birchfield Ross Mining Limited (S604.112)

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426. In response to Transpower's (S299.074) request to clarify the relationship between activities set out in the Energy Chapter and the ECO Chapter, Ms Easton acknowledged that the matter was not easily dealt with in this policy. She considered there could be merit in including a specific policy relating to the National Grid in the ECO Chapter and she invited Transpower to provide appropriate wording at the hearing.
427. Ms Easton did not support Manawa's (S438.078) request to have the policy only apply to areas of significant indigenous vegetation and significant habitats of indigenous fauna because she considered the policy would then not give effect to the RPS, which has a focus on the protection of threatened species. She also did not support the request to amend clause (b) to refer to species rather than environments because the Threatened Environments Classification used is based on environments not species. To address any confusion or unfamiliarity with the classification system referred to in the policy, she recommended the inclusion of a definition.
428. In response to the submission point made by Federated Farmers (S524.063) that sought more explanation for ECO-P6(c), Ms Easton supported the relief sought. She recommended the inclusion of an advice note referring plan users to the NZ Threat Classification website where the current threat status of a species can be identified.
429. Ms Easton supported the relief sought by the Director General (S602.070) to simplify clause (c) of the policy. She agreed that the amended wording better supported the direction of the NPSIB and eliminated the difficulty of how to determine "a reasonably measurable reduction".
430. In response to the submission point made by the West Coast Penguin Trust (S275.004) that sought amendments to clause (c) to extend the level of species referred to, Ms Easton supported the relief sought in part. She acknowledged that the relief sought is similar to the Director General's submission and that the recommendation responding to that submission also addresses the Penguin Trust submission.
431. The s42A Report recommended amending **ECO-P6** as follows:

*ECO-P6*

*When ~~assessing consents~~ **providing** for subdivision, use and development, avoid activities which will:*

- a. Prevent an indigenous species or community being able to persist in their habitats within their natural range in the Ecological District;*
- b. Result in a degradation of the threat status, further measurable loss of indigenous cover or disruption to ecological processes, functions or connections in land environments in category one or two of the Threatened Environment Classification at the Ecological District level; and*
- c. Result in a ~~reasonably measurable~~ reduction in the ~~local~~ **population size or occupancy of Threatened or At Risk (Declining) species** ~~of threatened taxa in the Department of Conservation Threat Categories 1–3a – nationally critical, nationally endangered and nationally vulnerable~~ **or in the population size or occupancy of locally endemic species.***

**Advice Note:**

**Information on the Threat Classification status of individual species can be found on the New Zealand Threat Classification System data base at <https://nztcs.org.nz>**

ECO – P7

432. Ms Easton acknowledged the submission points that sought to retain ECO-P7 as notified or specifically supported clause (h) of the policy. However, she noted her recommended amendments in response to other submissions.
433. In response to the submission point made by Poutini Ngāi Tahu (S620.143) that sought for this policy to apply to all areas of indigenous vegetation and habitat fauna, not just those areas identified as ‘*significant*’, Ms Easton supported the relief sought in part. She commented that as the identification of significant indigenous biodiversity had not been undertaken on the West Coast, that was the practical effect of this policy. To clarify this, Ms Easton recommended that the policy refer to “*areas of significant indigenous biodiversity*” (which is a defined term), rather than “*areas of indigenous vegetation and habitat fauna*”.
434. Ms Easton did not support Forest and Bird’s (S560.207) request to apply to SNA and the land adjacent to them because she considered this was consistent with previous recommendations. However, she noted that the recommendation to refer to a defined term (as set out in response to the Poutini Ngāi Tahu submission above) would partly address the submission point.
435. In response to the various submission points<sup>110</sup> that sought an addition relating to the “*functional and operational needs*” of an activity, Ms Easton supported the relief in part. She considered that with some amendment there was an appropriate link to the NPSIB and RPS in relation to regionally significant infrastructure (**RSI**), and mineral and aggregate extraction with significant national benefit.
436. In response to the submission points<sup>111</sup> that sought additions related to the temporary or permanent nature of effects, Ms Easton supported the relief in part. She acknowledged that the RPS included policy that supported the provision for minor and transitory adverse effects, and as such recommended adding a clause relating to this.
437. Ms Easton supported the relief sought by New Zealand Coal and Carbon Limited (S472.016) and Straterra (S536.049) to add “/or” in clause (b) after “*protection and*”, as there were scenarios where vegetation may already be formally protected.
438. Ms Easton supported the addition of a reference to the effects management hierarchy in clause (g) as sought by Te Mana Ora (S190.322) because she considered this was consistent with the NPSIB.
439. In response to the submission point made by the Director General (S602.071) that sought multiple matters of relief, s42A Report records the following:

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<sup>110</sup> Forest and Bird (S560.477), TiGa Minerals and Metals Limited (S493.051), Whyte Gold Limited (S607.027), WMS Group (S599.055), Birchfield Coal Mines Ltd (S601.038), Phoenix Minerals Limited (S606.094), Birchfield Ross Mining Limited (S604.113), BRM Developments Limited (S603.027), Manawa Energy (S438.079) and Buller District Council (S538.203)

<sup>111</sup> Buller District Council (S538.203), Peter Langford (S615.046), Karamea Lime Company (S614.046), Koiterangi Lime Co LTD (S577.037), Catherine Smart-Simpson (S564.030), William McLaughlin (S567.177), Steve Croasdale (S516.036), Geoff Volckman (S563.025), Chris & Jan Coll (S558.095), Chris J Coll Surveying Limited (S566.095) and Laura Coll McLaughlin (S574.095)

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- (a) Ms Easton’s recommendation responding to the submissions about functional and operational need also addressed the request to reference locational constraints in relation to RSI and renewable electricity generation.
  - (b) Ms Easton did not support including reference to whether an assessment of alternatives had been provided because she considered this type of assessment was only necessary under the RMA when there were significant adverse effects on significant indigenous biodiversity. She noted that the same matter was considered in a previous hearing stream and that an advice note was recommended to be added to ECO-R5.
  - (c) Ms Easton did not support adding “*minimising*” to clause (h), as she did not agree it improved clarity.
  - (d) Ms Easton supported adding a new clause – “*the extent of net gain achieved by biodiversity offsetting or compensation*” because this was consistent with the direction of the NPSIB.
440. In response to the submission point made by Manawa (S438.079) that sought multiple matters of relief, the s42A Report records:
- (a) Ms Easton supported replacing “*critical infrastructure*” with “*regionally significant infrastructure*” because this was consistent with Plan-wide recommendations.
  - (b) Ms Easton supported deleting “*or adjacent to*” from clause (c) because this was consistent with the RPS.
  - (c) Ms Easton supported in part adding “*significant*” in relation to residual adverse effects to be offset or compensated for but recommended “*more than minor*” to be consistent with NPSIB terminology.
441. Ms Easton supported in part Forest and Bird’s (S560.478) request to replace the term ‘*active management*’ in clause (b) with “*measures to restore or improve all or part*” to make it clear what active management is. She did not support adding a new clause relating to the adequacy of the assessment applying to the significance criteria in the RPS because she considered the NPSIB criteria superseded the RPS and the process for identifying SNA is set out in ECO-P1.
442. Ms Easton did not support Westpower’s (S547.0502 and S547.0505) request to add “*managing the adverse effects of activities*” because she considered assessment applied to resource consents. She did not support expanding clause (a) to include all energy activities and infrastructure because in the context of SNA, only RSI should be considered as specified infrastructure as provided for in the NPSIB. She also did not support amending the wording of clause (h) because she considered other recommended changes provided better clarity and consistency with the NPSIB.
443. Ms Easton did not support the Frida Inta (S553.070) and the Buller Conservation Group (S552.070) request to replace “*subdivision, use and development*” with “*resource consent process*” because it was the activity being assessed not the process. She also did not support including “*cumulative effects within the catchment/district*” or placing priority on avoiding effects before considering the effects management hierarchy. She considered cumulative effects were already addressed in the policy and other amendments recommended in terms of the effects management hierarchy were more appropriate and consistent with the NPSIB

and RPS. Ms Easton supported making a reference to adverse effects on biodiversity in clause (d) to make the intent clearer.

444. The s42A Report recommended amending **ECO-P7** as follows:

*ECO-P7*

*When assessing resource consents in areas of significant indigenous **biodiversity** ~~vegetation and significant habitats of indigenous fauna~~, consider the following matters:*

- a. The necessity for the activity to provide for ~~critical~~ **regionally significant** infrastructure or renewable electricity generation;*
- The functional needs or operational needs of regionally significant infrastructure, or and aggregate extraction of significant national public benefit;***
- Whether the adverse effects are minor or transitory;***
- d. Whether formal protection and ~~/or active management of~~ **measures to restore or improve** all or part of any area of significant indigenous vegetation or habitat will occur as part of the subdivision, use or development;*
- e. The extent to which the proposed activity recognises and provides for Poutini Ngāi Tahu cultural and spiritual values, rights and interests;*
- f. The cumulative **adverse** effects of activities **on biodiversity** ~~within or adjacent to~~ any area of significant indigenous vegetation or habitat;*
- g. The effects the activity may have on the introduction or spread of exotic weed species and pest animals both terrestrial and aquatic;*
- h. The impacts on mahinga kai;*
- i. The impact of the activity on the values of any area of significant indigenous vegetation or habitat, or threatened species and how any potential impact could be avoided, remedied or mitigated **by applying the effects management hierarchy**; and*
- j. The appropriateness of any biodiversity offsetting or compensation in accordance with Policy 9 to offset any **more than minor** residual adverse effects that remain after avoiding, remedying and mitigating measures have been applied; and*
- The extent of net gain achieved by biodiversity offsetting or compensation.***

445. The Panel notes the recommended wording in the s42A Report Appendix 1 differed as follows:

- The functional needs or operational needs of regionally significant infrastructure, mineral extraction of significant national public benefit or aggregate extraction of significant regional or national public benefit;***
- Whether this is for the operation or expansion of a coal mine that meets the requirements of Clause 3.11(1) of the National Policy Statement for Indigenous Biodiversity;***

*ECO-P8*

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446. Ms Easton acknowledged the submission points that sought to retain ECO-P8 as notified. However, she noted her recommended amendments in response to other submissions.
447. Ms Easton did not support Forest and Bird's (S560.208) request to replicate the wording from Policy 8 of the RPS because the RPS policy did not cover all matters set out in ECO-P8 and the direction of the NPSIB.
448. In response to the submission points made by West Coast Penguin Trust (S275.005) and Clare Backs (S444.007) that sought to replace "*maintain*" with "*protect, maintain and support the enhancement of*", Ms Easton did not support the relief sought. She noted the policy related to the wider indigenous ecosystems beyond SNA and in this context she considered the appropriate terminology was "*maintain*" to reflect the difference in weight.
449. In response to the submission points made by Frida Inta (S553.071) and Buller Conservation Group (S552.071) that sought the rearrangement and addition of words, the most significant being a reference to "*ecosystem services*", Ms Easton supported the relief in part.
450. In response to the submission points made by WMS Group (S599.056), TiGa Minerals and Metals Limited (S493.052) that sought to amend the wording of clause (b) of the policy to change the phrasing to refer to "*managing*" instead of "*minimising*", Ms Easton supported the relief in part.
451. In response to the submission point made by Bathurst (S491.017) that sought to replace the reference to protected wildlife with "*significant habitats of indigenous fauna*", Ms Easton supports the relief in part.
452. In response to the various submission points<sup>112</sup> that sought to amend the wording of clause (d) to replace "*preserving*" with "*managing adverse effects*" on protected wildlife, Ms Easton supported the relief sought.
453. Ms Easton did not support the submission point made by Forest and Bird (S560.479) that sought to amend the wording of clause (b) to change "*minimising*" to "*avoid, remedy or mitigate*".
454. In making her recommendations on the above submission points, Ms Easton referred to the direction and wording of the RPS, the NPSIB and the NZCPS in relation to areas outside of SNA.
455. In relation to the submission point made by Te Tumu Paeroa (S440.026) that sought to replace "*providing*" with "*improving where appropriate*" in relation to clause (b) and for the policy to refer to all Māori landowners, Ms Easton supported the relief sought in part. She considered "*improving where appropriate*" was better terminology as there may be circumstances where providing access was inappropriate. She did not support the reference to all Māori landowners.
456. Ms Easton supported the Director General's (S602.072) request to amend clause (e) and to add an additional clause "*encourage and enable site and landscape scale biodiversity programmes to manage plant and animal pests*" because this was consistent with the strategic direction of the chapter. She also acknowledged that the amendments sought to

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<sup>112</sup> TiGa Minerals and Metals Limited (S493.051), Whyte Gold Limited (S607.027), WMS Group (S599.055), Birchfield Coal Mines Ltd (S601.038) and Phoenix Minerals Limited (S606.094)

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clause (e) to replace “*recognising the benefits of*” to “*encourage and enabling active conservation*” was also more consistent with the strategic direction.

457. In response to NZAAA’s (S166.014) request to add a new clause relating to providing for the clearance of weeds and pests, Ms Easton supported the relief in part. She considered that the recommendation to accept the Director General submission on this policy better addressed this submission.
458. Ms Easton did not support Westpower’s (S547.256) request to add a new clause – “*providing for the sustainable use of indigenous habitats and ecosystems for the benefit of the community*” because she considered this did not fit with the intent of the policy.
459. Ms Easton supported Frida Inta (S553.073) and Buller Conservation Group (S552.073) requests to delete elements of duplication with ECO-P10 by deleting ECO-P8(c) and combining it with ECO-P10(b).
460. The s42A Report recommended amending **ECO-P8** as follows:

### *ECO-P8*

*Maintain indigenous habitats and ecosystems across the West Coast/Te Tai o Poutini by:*

- ~~a.~~ *Maintaining, and where appropriate enhancing or restoring the functioning of ecological corridors, linkages, dunes and indigenous coastal vegetation and wetlands;*
- ~~b.~~ *Minimising adverse effects on, and providing improving access, where appropriate, to areas of indigenous biodiversity which are significant to Poutini Ngāi Tahu;*
- ~~c.~~ ~~*Restricting the modification or disturbance of coastal indigenous vegetation, dunes, estuaries and wetlands;*~~
- ~~d.~~ ***c. Preserving Managing adverse effects on protected wildlife threatened and at-risk species; and***
- ~~e.~~ ***d. Encouraging and enabling site and landscape scale biosecurity programmes to manage plant and animal pests***
- ~~f.~~ ~~*e. Recognising the benefits of*~~ ***Encouraging and enabling active conservation management of indigenous biodiversity, including voluntary animal and plant pest and stock control and/or formal legal protection***

### *ECO-P9*

461. Ms Easton acknowledged the submission points that sought to retain ECO-P9 as notified. However, she noted her recommended amendments in response to other submissions.
462. In response to various submission points<sup>113</sup> that sought similar relief related to amending the wording of this policy, Ms Easton supported the relief in part.

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<sup>113</sup> Forest and Bird (S560.209), Suzanne Hills (S443.025, S443.026), Westpower Limited (S547.257), Inger Perkins (S462.016), Buller Conservation Group (S552.072), Frida Inta (S553.072), Karen Lippiatt (S439.028), Federated Farmers of New Zealand (S524.064), Director General of Conservation (S602.073) and Manawa Energy (S438.080)

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463. Ms Easton acknowledged that the direction of the RPS had largely been superseded by the NPSIB with regard to biodiversity offsetting and compensation and the effects management hierarchy. She also confirmed that she had given greater weight to the NPSIB with regard to this policy, and where there was scope in the submissions to do so.

464. On this basis, Ms Easton recommended amending ECO-P9 as follows:

### **ECO - P9**

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

~~a. The goal of the biodiversity offsets is no net loss and, preferably, a net gain of biodiversity;~~

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

~~c. The biodiversity offsets or compensation are in accordance with best practice, including but not limited to NZ Government guidance on biodiversity offsetting.~~

**Provide for biodiversity offsetting and biodiversity compensation as part of the effects management hierarchy in accordance with the principles set out in Appendix 3 and Appendix 4 in the National Policy Statement for Indigenous Biodiversity.**

### **ECO-P10**

465. Ms Easton acknowledged the submission points that sought to retain ECO-P10 as notified. However, she noted her recommended amendments in response to other submissions.

466. In response to the submission point made by Westpower (S547.258) that sought to delete the policy and relocate it to the Coastal Chapter, Ms Easton did not support the relief sought. She noted all indigenous vegetation clearance was dealt with in the ECO Chapter, including within the coastal environment.

467. Ms Easton did not support the relief sought by the West Coast Penguin Trust (S275.014) to reference Te Mana o te Taiao – Aotearoa New Zealand Biodiversity Strategy in the policy because she considered the document principally drives the Department of Conservation and its Conservation Boards in the management of their land and responsibilities.

468. In response to the submission point made by Laura Garber (S278.006) that sought to protect indigenous biodiversity in the coastal environment from subdivision, use and development, Ms Easton supported the relief sought. However, she did not support negating resource consents for mineral extraction on coastal low-lying land because a district plan could do this.

469. In response to the similar submission points made by TiGa Minerals and Metals Limited (S493.053), WMS Group (S599.057) and Waka Kotahi NZTA (S540.086) that sought that clause (b) of the policy only applies to “significant” adverse effects on “other” indigenous vegetation, Ms Easton did not support the relief sought. She considered this was inconsistent with RPS Chapter 9 Policy 1.

470. In response to the submission point made by the Director General (S602.074) that sought various amendments to the policy, the s42A Report records:

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- (a) Ms Easton supported the request to add a clause referencing Policy 11 (a) of the NZCPS because it was consistent with the NPSIB, particularly in relation to threatened and at-risk taxa.
  - (b) Ms Easton did not support deleting “*significant*” from clause (a) in relation to indigenous biodiversity because she considered the submitter had misquoted the notified policy which did not include “*significant*” in front of adverse effects.
  - (c) Ms Easton supported adding reference to Policy 11(b) of the NZCPS over a reference to the effects management hierarchy as set out in the NPSIB because the NZCPS prevails over the NPSIB.
471. In response to the submission point made by Forest and Bird (S560.481) that sought similar amendments to the Director General, Ms Easton considered her recommendations in response to the Director General’s submission also addressed the relief sought.
472. The s42A Report recommended amending **ECO-P10** as follows:

### ***ECO – P10***

*Protect indigenous biodiversity in the coastal environment from inappropriate subdivision, use and development by:*

- a. **Avoiding adverse effects on indigenous biodiversity set out in Policy 11(a) of the NZCPS, and**
- b. *Avoiding adverse effects on significant indigenous biodiversity; and*
- c. *Avoiding, remedying or mitigating ~~other~~ adverse effects on **coastal** indigenous vegetation, **dunes, estuaries, wetlands,** habitats and species within the coastal environment **in accordance with the effects management hierarchy and Policy 11(b) of the NZCPS.***

### ***MINZ-P5***

473. Ms Easton acknowledged that this policy was considered as part of the Mineral Extraction hearing, where it was recommended to be deleted. However, she noted the submissions were also reallocated to the ECO Chapter hearing Stream so that they could be considered in the context of the NPSIB and the wider ECO Chapter provisions.
474. Ms Easton noted that the policy relates to the relationship between mineral extraction and SNA and that the NPSIB now provides a framework and direction relating to this. She noted the exceptions provided in the NPSIB to enable mineral extraction in an SNA was limited to activity providing a significant national benefit, and where it could be demonstrated that there was a functional or operational need to be located in the SNA, and that there was no practicable alternative location. Ms Easton’s view was that few of the mineral extraction activities on the West Coast would meet these tests.
475. Ms Easton considered that the recommendations she has made to ECO-P2 and ECO-P9 sufficiently provide for these matters, and she supported the recommendation from the Mineral Extraction Chapter hearing to delete MINZ-P5.

## **Hearing and Submitter Evidence/Statements**

### *Policies (General)*

476. Mr Brass, for Director General, addressed the policies generally. He considered that the suite of policies in the ECO Chapter failed to give full effect to clause 3.10(2) of the NPSIB, in particular subclauses (b)-(d). It was his opinion that there were significant gaps relating to avoiding effects on disruption, fragmentation and loss of function. He analysed the difference between the policies in the NPSIB and the RPS and concluded there were gaps in terms of the “avoid” requirements in RPS Chapter 7 Policy 2, which the TTPP must give effect to. Mr Brass noted that only one ECO objective required protection of RMA s6(c) matters and none of the policies required protection, except for ECO-P6.

*ECO – P1*

477. Ms Snoyink, for Forest and Bird, confirmed general support for the s42A Report recommendations that set out an approach and timeline for the assessment, identification and mapping of SNA across the three districts. However, she considered that the approach relating to indigenous vegetation clearance prior to a site assessment being undertaken should be clearer. She noted the reworded policy provided no direction for case-by-case assessment when a landowner sought resource consent before the process set out in the policy took place. Her statement set out the following amendments to ECO-P1 (based on s42A Report recommendation):

**A. Identify areas of significant indigenous vegetation and fauna habitat....**

1. *The criteria ....*
2. *In the Grey ...*
3. *Region – wide ...*
5. *Until a **Plan Change has been notified for identified Significant Natural Areas to be included in Schedule Four** ~~site has been assessed as to whether it contains a Significant Natural Area~~ a general **restrictive** indigenous vegetation clearance rule will apply to that site.*
6. *Once a site has been assessed **and a Plan Change notified to identify Significant Natural areas on that site or for the District,** a less restrictive general vegetation clearance rule will apply to other indigenous vegetation on that site that is outside of **any identified** ~~the~~ Significant Natural Area.*

**B. Prior to a Plan Change being notified to identify Significant Natural Areas under A above, protect significant natural areas meeting the criteria in Appendix 1 of the RPS by:**

1. **enabling indigenous vegetation clearance necessary for the operation and maintenance of lawfully established buildings, structures and infrastructure where adverse effects are no more than minor; and**
2. **for other indigenous vegetation clearance requiring an assessment in accordance with Appendix 1 of the RPS or the NPSIB to ensure that adverse effects can be appropriately avoided, remedied or mitigated to protect significant values and otherwise maintain indigenous biodiversity.**

478. Mr Kennedy, for Westpower, acknowledged the recommended wording contained dates relating to when the processes would be met, but still had concern about the recommended amendments. He considered that the addition relating to wetlands was not a matter for a

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district plan and would be addressed through regional plan processes; and did not support the addition of clause (3) to the policy. He questioned whether the recommended timeframes for assessing and identifying SNA in clause (4) would allow time for consultation with landowners. He considered clauses (5) and (6) required amendments to clarify that affected parties would have opportunity to participate in the identification process, as follows:

*Until a site has been ~~assessed as to whether it contains a Significant Natural Area~~ **identified in the plan** a general indigenous vegetation clearance rule will apply to that site.*

479. Mr Brass acknowledged the significant amendments recommended to align it with the NPSIB and was generally comfortable with the policy, and in particular the timeframes and the reference to the NPSIB criteria. However, he had reservations about the SNA already identified in the Grey District and was unclear if they would require reassessment to be consistent with the NPSIB criteria. He relied on the evidence of Dr Marshall and Ms Mealey and concluded that it is possible not all SNA in the Grey District had been included in Schedule Four.
480. Ms Styles, for Manawa, agreed it was appropriate to align the policy with the NPSIB but considered it was overly complex and that some of the clauses read as methods rather than policy. She had reservations about the ability to meet the timeframes. She suggested the policy be reworded as follows, and that the additional detailed procedural matters be described in a schedule:

**To identify and map areas of significant indigenous vegetation and fauna habitat, using the criteria and process set out in Appendix 1 of the National Policy Statement for Indigenous Biodiversity 2023, and include these in Schedule Four through a Plan Change.**

481. Ms Linscott, for Federated Farmers, agreed with Ms Easton that the process for identifying SNA will attract opposition from landowners. She also considered that the cost associated with identifying the SNA will vastly exceed the \$500,000 figure suggested in the s42A Report. She sought to remove the reference to Appendix 1 in the policy and to delete recommended clauses (5) and (6).
482. Ms Sannazzaro, for Federated Farmers, sought to ensure that the onus and cost of assessing and identifying SNA did not fall to the property owner. She generally agreed with the recommended amendments in the s42A Report, but requested removal of the dates, reference to Appendix 1 and deleting new clauses (5) and (6).
483. Ms Inta supported the recommendation but identified a minor typo in ECO-P1.
484. Ms Whitney, for Transpower, confirmed that she had no general concerns about ECO-P1, but suggested deleting clause (6) because of practical implementation difficulties.
485. Ms Hills supported the inclusion of the process for identifying SNA, but she did not support the approach to vegetation clearance and requested the suggested amendments by Forest and Bird.

ECO – P2

486. Ms Snoyink supported the recommended amendment to change “allow” to “provide for”, but outlined concerns that only selected parts of the NPSIB had been included. She

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highlighted the adverse effects required to be avoided by clause 3.10(2) and the effects identified in RPS Chapter 7 Policy 2 that were not included. She noted it was not clear how effects would be managed in accordance with the effects management hierarchy and that this only applied to clause (d) of the policy. She considered relying on the definition of effects management hierarchy was inadequate to ensure applicants demonstrate how each step is applied.

487. Ms Pull, for Poutini Ngāi Tahu considered the definition for “Poutini Ngāi Tahu land” recommended in the s42A Report would narrow its application from what she understood it to mean. She considered the provisions in the pTTPP should apply to land owned or managed by Poutini Ngāi Tahu and requested alternative wording for ECO-P2 as follows:

*ECO-P2*

~~Allow~~ **Provide for** activities within areas of significant indigenous vegetation or significant habitats of indigenous fauna **where the activity has no more than minor adverse effects on the significant indigenous vegetation or fauna habitat and:**

...

- c. This is undertaken on **land managed or owned by** Poutini Ngāi Tahu ~~or Te Rūnanga o Ngāi Tahu land~~ in accordance with an Iwi/Papatipu Rūnanga Management Plan; or

488. The joint position of Poutini Ngāi Tahu and Te Tumu Paeroa dated 14 August 2024 recorded an agreed position on ECO-P2 that read as follows:

*ECO-P2*

...; or

- d. This is undertaken on **Māori land in accordance with a resolution of owners of a trust constituted under Te Ture Whenua Māori Act 1993, or where no such trust has been constituted, in accordance with a resolution of assembled owners made in accordance with the Māori Assembled Owners Regulations 1995.**

489. Ms Sheard’s legal submissions on behalf of Bathurst sought amendments to ECO-P2 to ensure the following:

- (a) That the intent of the MINZ and BCZ were recognised and provided for;
- (b) That established and operating mineral extraction activities were recognised and provided for;
- (c) That the ability to apply the full effects management hierarchy was provided for;
- (d) That recognition was given to both operational and functional need for activities located within areas of significant indigenous vegetation or significant habitats of indigenous fauna; and
- (e) Consistency with the NPSIB by referencing the test of no overall net loss and that ECO-P2 applied only to scheduled SNA and not all areas of indigenous biodiversity.

490. Ms Hunter, for Bathurst, supported the s42A Report recommended amendments to refer to the functional and operational need of activities to be located within SNA and to reference the effects management hierarchy. Her evidence also referenced her evidence for the Mineral Extraction hearing related to the definition of “*lawfully established activity*”. She considered ECO-P2 should be revised to appropriately acknowledge that activities already approved to take place may permit biodiversity loss and that those effects had been considered acceptable. Ms Hunter proposed amendments to the s42A Report version of ECO-P2 as follows:

*ECO – P2*

*Provide for activities within areas of **significant natural areas as defined in Schedule 4**:*

- a. This is for a lawfully established activity and adverse effects are no greater in intensity, scale, or character ~~over time~~ **than what has already been authorised to occur than at the operative date** and do not result in the loss of ecosystem representation or degradation of ecological integrity; or*
  - b. It is for Poutini Ngāi Tahu Activities; or*
  - c. This is undertaken on Poutini Ngāi Tahu land in accordance with an Iwi/Papatipu Rūnanga Management Plan; or*
  - d. The adverse effects of the activity on the significant indigenous vegetation or fauna habitat **within the SNA** are managed in accordance with the effects management hierarchy and the activity has a functional need or operational need to be located in the area, and is for the purpose of:*
    - i. Construction or upgrade of regionally significant infrastructure; or*
    - ii. Mineral extraction that provides significant national benefit; or*
    - iii. Aggregate extraction that provides significant national or regional benefit; or*
    - iv. The operation or expansion of any coal mine that was lawfully established before 4 August 2023; except that, after 31 December 2030, this exception applies only to such coal mines that extract coking coal.*
491. Dr Bramley, for Bathurst, did not support the proposed addition of “*where the activity has no more than minor adverse effects on the significant indigenous vegetation or fauna*”. He considered that both offsetting and compensation were intended to address more than minor residual adverse effects and should be contemplated only after steps to avoid, minimise and remedy adverse effects were sequentially exhausted. He noted the policy enabled effects to be managed in accordance with the effects management hierarchy, but that this did not seem to be supported by the wording of ECO-O2. Dr Bramley did not support the s42A Report recommendation to add the words “*and adverse effects are no greater in intensity, scale, or character over time than at the operative date, and do not result in the loss of extent or degradation of ecological integrity*”. He considered the amended wording could effectively make extensions to existing lawful activities a prohibited activity because an extension was by definition greater in scale.
492. Ms Styles supported the addition of “*operational need*” in the policy. She also reiterated the need to include recognition in the policy for activities that contribute to wellbeing and climate change mitigation or adaption measures. She noted clause (d) requiring application of effects hierarchy to all activities was not appropriate for renewable electricity generation and suggested amendments to the s42A recommendation version, as follows:

*ECO-P2*

*Provide for activities within areas of significant indigenous vegetation or significant habitats of indigenous fauna where the activity has no more than minor adverse effects on the significant indigenous vegetation or fauna habitat and, **other than for renewable electricity generation activities:***

...

493. Mr Kennedy supported adding “operational need” in the policy. However, he was concerned that the recommended amendments had changed the intention of the policy from one that ‘allows’ for uses, to one that more broadly ‘provides’ for them. He considered that if the recommended wording remained, additional amendments were necessary to allow for lawfully established activities and those having a functional need. He suggested two policies as follows:

**ECO-P2A**

*Allow activities within areas of significant indigenous vegetation or significant habitats of indigenous fauna where;*

- a. This is for a lawfully established activity **and adverse effects are no greater in intensity, scale, or character over time than at the operative date and do not result in the loss of ecosystem representation or degradation of ecological integrity;** or*
- b. **The adverse effects of the activity on the significant indigenous vegetation or fauna habitat are managed in accordance with the effects management hierarchy and the activity has a functional need or operational need to be located in the area, and is for the purpose of:***
  - i. **Construction or upgrade of regionally significant infrastructure;** or*
  - ii. **Mineral extraction that provides significant national benefit;** or*
  - iii. **Aggregate extraction that provides significant national or regional benefit;***

*or*

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

**ECO-P2B**

***Provide for activities within areas of significant indigenous vegetation or significant habitats of indigenous fauna where:***

- a. It is for a Poutini Ngāi Tahu **Activities** cultural purpose; or*
  - b. This is undertaken on Poutini Ngāi Tahu or Te Rūnanga o Ngāi Tahu land in accordance with an Iwi/Papatipu Rūnanga Management Plan; or*
  - c. The activity has no more than minor adverse effects on the significant indigenous vegetation or fauna habitat.*
494. Ms Whitney acknowledged the recommended amendments to ECO-P2 were significant in order to give effect to the NPSIB. However, she expressed concern that there was no recognition that the NPSIB provisions did not apply to electricity transmission activities or assets. She considered the policy did not give effect to the NPSETA and did not reconcile

with ENG-P8. She suggested amending the policy so that it did not apply to the National Grid.

495. Ms Linscott did not support the s42A Report recommended amendment to ECO-P2 and considered the notified policy was clearer and more succinct. She did not agree that clause (a) would provide for farm and pasture maintenance because it could result in the loss of ecosystem representation or the degradation of ecological integrity. She considered onus would be on landowners to prove this and that would potentially establish a litigious relationship.
496. Ms Sannazzaro considered the policy should be more specific about providing for the maintenance of improved pasture in order to give effect to clause 3.17 of the NPSIB.
497. Mr Brass acknowledged the s42A Report recommendation had incorporated some of the submission points made by the Director General and sought to give effect to the NPSIB. However, he recommended rewording clause (a) "*loss of ecosystem representation*" to "*loss of extent*" to align with the wording of the NPSIB.
498. Ms Smith for Terra Firma, raised concern about how new mineral extraction opportunities might be treated given the reference to '*significant national benefit*' in the recommended wording for ECO-P2. She suggested the policy was reworded to apply to any mining operation without the '*significant national benefit*' qualifier.
499. Ms Inta noted minor syntax amendments to clause (d) "*functional ~~need~~ or operational need*". She also considered the full NPSIB statement concerning mineral, aggregate and coal extraction should be incorporated into clause (d).
500. Ms Michelle Grinlinton-Hancock's tabled letter on behalf of KiwiRail Holdings Limited supported adding "*operational need*" in the policy. However, she considered other changes had significantly restricted the policy so that only activities that have no more than minor effects on significant indigenous vegetation or fauna habitat were provided for. She considered this extended beyond what the policy as notified intended, which was to enable specific activities. She noted confusion between the introductory statement of the policy and the separate clauses which would result in conflicting interpretation. She suggested retaining clause (d) and deleting the recommended additions from clause (a) and the introductory statement.
501. Ms Hills supported the change in wording from "*allow*" to "*provide for*". However, she considered the policy only partially incorporated clause 3.11(1)(a)(ii) of the NPSIB leaving out a critical part of the clause - "*that could not otherwise be achieved using resources within New Zealand*". She also had a concern that the application of the effects management hierarchy was not available for all activities.

#### ECO – P3

502. Ms Snoyink accepts the s42A Report amendment to change "*allowing*" to "*providing for*", as well as the addition of the two new clauses. However, she reiterated the submission point that the term '*enhancement*' was inappropriate and requested the additional clause sought in the submission.

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503. Ms Pull accepted the s42A recommendation to not add “*Māori landowners*” to the policy. Te Tumu Paeroa formally withdrew their submission point on ECO-P3 on 22 August 2024, after reaching agreement with Poutini Ngāi Tahu.
504. Mr Brass supported the s42A Report recommended changes.
505. Ms Perkins for the West Coast Penguin Trust, supported adding “*indigenous fauna habitat*”.
506. Ms Inta acknowledged the recommended changes were an improvement. However, she still supported inclusion of a separate policy to maintain, restore and enhance indigenous biodiversity that was not considered significant. Furthermore, she had reservations whether SNA would need protection or restoration given the nature of their significance.
507. Mr Kennedy supported the wording of the additional clauses as set out in the s42A Report.
508. Ms Hills supported the change to the wording from “*allow*” to “*provide for*”.

### ECO – P4

509. Ms Inta expressed concern about the cycle trails and their location within SNA because they increase weed and pests in these areas and create edge effects. She sought that more scrutiny (than afforded by ECO-P4) be given to establishing cycle trails within SNA.
510. Ms Snoyink reiterated the concerns set out in Forest and Bird’s submission. She acknowledged that if other relief was made to reference the policies from the RPS, the concerns with this policy would be resolved.

### ECO – P5

511. Ms Snoyink reiterated the concerns set out in Forest and Bird’s submission. Like ECO-P4, she acknowledged that if other relief was made to reference the policies from the RPS, the concerns with this policy would be resolved.
512. Ms Pull explained the Poutini Ngāi Tahu submission sought to provide for indigenous vegetation clearance on sites and areas of significance to Māori to enable rangatiratanga. The table attached to her evidence records that she accepted the s42A Report recommendation to not make any changes to the policy.

### ECO-P6

513. Mr Kennedy acknowledged that replication of the RPS policy was not necessary to give effect to the policy. However, considered in the context of an ‘avoid’ policy, there should be some reference to the NPSIB. He also raised concern that there was potential conflict between both ECO-P1 and ECO-P6 and the NPSIB, and that it needed to make it clear that the NPSIB included exceptions to the strict avoidance. He noted Westpower’s submission that sought to replace “*assessing consents*” with “*providing for*” was not supported by Ms Easton in the commentary of the S42A report. However, the recommended wording for the policy (at paragraph 300) made the requested change and he therefore sought clarification.
514. Ms Snoyink reiterated the concern set out in Forest and Bird’s submission that the policy did not accurately give effect to RPS Chapter 7 Policy 2.

515. Ms Whitney reiterated concern that this policy had a strong 'avoid' directive that was not clearly confined to significant indigenous vegetation or SNA. In response to the s42A Report invitation for Transpower to provide alternative wording for this policy, Ms Whitney suggested that ECO-P6 not apply to the National Grid, and that ENG-P8 be relied on instead.

516. Ms Styles reiterated that this policy could be better aligned with higher order documents and clarify whether the policy applied to all indigenous biodiversity or only SNA. She also sought clarification as to what document was referred to in clause (b) of the policy. She considered the recommended changes to clause (c) made the policy extremely restrictive and she suggested that a qualifier be added to the wording. She suggested amendments as follows:

*When providing for subdivision, use and development **within areas of significant indigenous biodiversity**, avoid activities which will:*

- a. Prevent an indigenous species or community being able to persist in their habitats within their natural range in the Ecological District;*
- b. Result in a degradation of the threat status, further measurable loss of indigenous cover or disruption to ecological processes, functions or connections in land environments in category one or two of the Threatened Environment Classification at the Ecological District level **as at [date of plan being operative]**; and*
- c. Result in a **significant** reduction in the population size or occupancy of Threatened or At Risk (Declining) species or in the population size or occupancy of locally endemic species.*

517. Ms Linscott supported the addition of the recommended advice note.

518. Mr Brass supported the s42A Report recommendation but questioned any unintended consequences of the recommended wording relating to the addition of "*locally endemic species*". He suggested that the focus of the policy would be shifted from being on local populations of species (that may also be found elsewhere) to only those species that are not found elsewhere, which was not appropriate. He suggested retaining the word "*local population*" in clause (c). He was also concerned that ECO-P6 did not give effect to clauses 3.10(2)(b)-(d) of the NPSIB and that this would create a gap in the Plan because there would not be a policy to assess activities that do not comply with ECO-R7. He therefore suggested adding a new clause as follows:

- e. **within a Significant Natural Area, result in: disruption to sequences, mosaics or ecosystem function; fragmentation or the loss of buffers or connections; or reduction in the function of the Significant Natural Area as a buffer or connection to important habitats or ecosystems.***

519. Mr Brass also observed there was an error in the recommendation relating to the submission point to replace "*assessing consents*" with "*providing for*".

520. Ms Hunter sought clarification regarding the application of ECO-P6 and whether it related to activities within scheduled SNA or if it more broadly applied to any areas of indigenous biodiversity. If it was the latter, she was concerned about the broader applicability and suggested applying the scope of clause 3.16 from the NPSIB, which enabled the application of the effects management hierarchy.

521. Dr Bramley supported Ms Hunter's evidence to apply the effects management hierarchy.

522. Ms Perkins acknowledged the amendments recommended in the s42A Report and was generally supportive of them. However, she would like the ‘*declining*’ At Risk classification sub-category to be removed.

523. Ms Hills supported the change to the wording for clause (c).

*ECO-P7*

524. Ms Pull accepted the s42A Report recommendation in relation to the areas of vegetation the policy relates to.

525. Ms Snoyink reiterated Forest and Bird’s concern that the policy did not give effect to RPS Chapter 7 Policy 2. She considered it was necessary for the RPS Appendix 1 criteria to be referenced in this policy, as the policy will be relevant before the identification process as set out in ECO-P1 has taken place. She accepted the references to the biodiversity offsetting and compensation requirements of the NPSIB, but had concerns about clause (k). This was because ECO-P9 did not set any direction as to the appropriateness of these measures, and therefore she considered that the new clause (l), relating to net gain, would fit better with ECO-P9. She considered the addition of a clause in ECO-P7 would be beneficial, recognising that there were limits to offsetting. Ms Snoyink considered the policy was unclear in terms of how to apply the effects management hierarchy; and that there was little direction for how adverse effects were to be addressed outside of SNA.

526. Ms Styles considered the policy could be better aligned with higher order documents and that clauses (j), (k) and (l) not apply to renewable electricity generation activities. She suggested the policy could either exempt renewable electricity generation from the policy in its entirety, or include a subset as follows:

*i. The impacts on mahinga kai;*

**and, other than for renewable electricity generation activities;**

527. Mr Brass acknowledged the recommended changes in the s42A Report to align with the NPSIB. However, he reiterated the submission point that locational restraints should be referred to in the policy because he didn’t agree that the “*functional and operational need*” addition satisfactorily addressed locational restraints. He offered alternative wording as follows:

*b. The functional needs or operational needs of regionally significant infrastructure, or mineral and aggregate extraction of significant national public benefit, **and whether there are any practicable alternative locations for those activities;***

528. Mr Kennedy accepted the recommended amendments in the s42A Report.

529. Ms Whitney acknowledged Transpower had not made a submission on this policy but considered the general submission point provided scope. She noted the s42A Report recommendation had amended this policy to make it relevant to the National Grid and that clauses (j), (k) and (i) required the application of the effects management hierarchy based on the provisions of the NPSIB. However, she advised the NPSIB did not apply to electricity transmission and that there was no higher order policy directive to offset or compensate for effects of electricity transmission on indigenous biodiversity. To address this, she sought that ECO-P7 not apply to the National Grid and ENG-P8 be relied on.

530. Ms Hunter supported the general intent of the recommended amendments to ECO-P7. However, she commented that the policy related to “*significant indigenous biodiversity*”

which, the definition indicates was only applicable to the subdivision rules. She considered it would be appropriate to align the terminology in ECO-P7.

531. Ms Smith, for Terra Firma, was concerned how new mineral extraction opportunities might be treated given the reference to ‘*significant national public benefit*’ in the recommended wording for ECO-P7. She suggested in her statement that the policy should be rephrased to apply to any mining operation without the ‘*significant national benefit*’ qualifier.

532. Ms Inta considered the policy was relevant to activities both around and within SNA, and given this, suggested amendments to the opening statement of the policy as follows:

*When assessing resource consents in areas of **where** significant indigenous ~~vegetation~~ and significant habitats of indigenous fauna **biodiversity, may be impacted** consider the following matters:*

533. Ms Inta noted clauses (a) and (b) were essentially the same, and that the retention of clause (b), with the addition of renewable electricity generation would be adequate, as follows:

*a. The functional needs or operational needs of regionally significant infrastructure, mineral extraction of significant national public benefit, **renewable electricity generation**, or aggregate extraction of significant regional or national benefit.*

534. Ms Inta reiterated her submission point regarding cumulative effects and disagreed with Ms Easton that they were already addressed. She considered cumulative effects in any SNA was not the same as cumulative effects across the region and she suggests an amendment. She also did not support the recommendation to delete “*or adjacent to*” from the policy. She suggested the following amendment to ECO-P7(g):

*f. The cumulative **adverse effects of activities on the biodiversity** ~~within or adjacent to~~ **of any area of significant indigenous vegetation or habitat, of activities within or adjacent to those areas; and the cumulative effects within the catchment/district;***

535. Ms Hills considered the policy should include a reference to using the RPS Appendix 1 criteria given the identification of SNA may not be immediate. She noted the amendment to clause (a) which deletes “*critical*” replacing it with “*regionally significant*”, which was not defined. She reiterated her comments from ECO-P2 relating to including the complete NPSIB wording in relation to mineral extraction. She also considered that clause (f) was weakened with the removal of the words “*or adjacent to*” and referenced adjacent airspace as an example.

#### *ECO-P8*

536. Ms Pull’s evidence noted that the further submission from Poutini Ngāi Tahu sought to disallow the amendments sought by Te Tumu Paeroa in relation to the addition of “*where appropriate*” to clause (b). She considered the term was very broad and could relate to a number of matters such as health and safety, the threat to species during nesting times or the amount of mahinga kai in the area. Te Tumu Paeroa formally withdrew their submission point on ECO-P8 on 22 August 2024, after reaching agreement with Poutini Ngāi Tahu. Ms Pull identified that Policy 19 in the NZCPS provided a detailed list of when a restriction on public access was necessary and suggested that clause (b) of the policy be amended based on the NZCPS as follows:

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~~b. Minimising adverse effects on, and improving access, where appropriate to areas of indigenous biodiversity which are significant to Poutini Ngāi Tahu;~~

**Minimising adverse effects on, and enhancing access to areas of indigenous biodiversity which are significant to Poutini Ngāi Tahu except when restrictions are necessary for:**

- i. Protecting an identified feature or species of a SNA;**
- ii. To protect sites and activities of cultural value to Poutini Ngāi Tahu;**
- iii. To protect public health or safety; and**
- Alternative access routes are considered**

537. Mr Brass supported the s42A Report recommendations to encourage and enable active management and biosecurity programmes. He also sought clarification about the recommendation to delete clause (c).

538. Ms Hunter supported the s42A Report recommendation for the wording of this policy.

539. Dr Bramley considered that an explicit reference to the effects management hierarchy in ECO-P8(c) would be beneficial from an ecological point of view.

540. Mr Kennedy reiterated Westpower's submission point and considered there was value in recognising that sustainable use can play a role in maintaining these values. He sought to add a new clause as follows:

**f. Providing for the sustainable use of indigenous habitats and ecosystems for the benefit of the community.**

541. Ms Whitney confirmed she was generally comfortable with this policy, although she had some concern with clause (a) and how it might apply to the National Grid. Her preference was that ENG-P8 apply instead.

542. Ms Inta noted that the s42A Report had not considered the proposed rewording for clause (a) of the policy, to add "*indigenous biodiversity, including*". She considered the word "*voluntary*" was superfluous in clause (e), and that "*and*" should be deleted from the end of the clause. She also sought to reinforce that this policy related to indigenous biodiversity that was not within an SNA. She suggested an addition to the opening statement of the policy as follows:

**Maintain indigenous habitats and ecosystems across the West Coast/Te Tai o Poutini including those not identified as significant natural areas by**

543. Ms Hills questioned why clause (c) had been removed from the policy.

### ECO-P9

544. Ms Snoyink supported relying on the NPSIB policy in relation to biodiversity compensation and offsetting. However, she considered that unless there was a direct conflict between the NPSIB and the RPS, the requirements of RPS Chapter 7 Policy 2 must still be met.

545. Mr Kennedy acknowledged that the NPSIB was the most recent document relating to biodiversity compensation and offsetting. However, he noted it did not exist at the time of notification and submissions, and therefore maintained his view that the direction in the RPS still had relevance and should be the basis for the wording of the policy.

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546. Ms Whitney reiterated her previous points that the effects management hierarchy did not apply to the National Grid; and her request that ECO-P9 not apply to the National Grid and instead ENG-P8 be relied on.
547. Mr Brass supported rewording the policy based on the direction and provisions of the NPSIB.
548. Ms Styles reiterated that biodiversity compensation and offsetting did not apply to renewable electricity generation and requested the addition of an advice note to clarify that the policy did not apply in those circumstances.
549. Ms Hunter and Dr Bramley confirmed general agreement with the recommended amendments for this policy.
550. Ms Inta, Ms Hills and Ms Smith all noted support for the changes to this policy.
551. Ms Linscott supported the changes to this policy. However, she suggested removing the references to Appendix 3 and 4 in case the NPSIB should be amended, making these references incorrect.

### *ECO-P10*

552. Mr Brass supported the recommended amendments in the s42A Report.
553. Ms Snoyink acknowledged that some of the changes sought in the submission have been accepted. However, she noted that the amendment to include “*avoiding significant adverse effects*” in clause (b) had not been accepted. She considered that the recommended wording relating to Policy 11(b) needs further clarification, and suggested the following:
- c. Avoiding, remedying or mitigating other adverse effects on coastal indigenous vegetation, dunes, estuaries, wetlands, habitats and species within the coastal environment in accordance with the effects management hierarchy and **by avoiding significant adverse effects, avoiding, remedying and mitigating other adverse effects on indigenous biodiversity in accordance with Policy 11(b) of the NZCPS.***
554. Mr Kennedy reiterated Westpower’s submission point to relocate this policy to the Coastal Environment Chapter. He explained the rationale for the submission reflected the RPS that specifically included all matters related to the coast in the same chapter. He also commented on the recommended amendments to the policy and noted the RPS directed that matters in Policy 11(a) of the NZCPS must be identified in the plan. To make this clear he suggested additional wording to the clause in ECO-P10 as follows:
- Areas and values in Policy 11(a) of the NZCPS will be identified in the plan.*
555. Mr Kennedy also requested amendments to clause (c) be clarified to ensure that the provisions of the NZCPS are being given priority.
556. Ms Whitney considered the reworded policy did not reconcile the NPSETA and the NZCPS. However, she considered ENG-P8 reconciled the national direction and therefore ECO-P10 was not appropriate to be applied to the National Grid.

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557. Ms Perkins reiterated the request to include a reference to Te Mana o te Taiao – Aotearoa, the New Zealand Biodiversity Strategy into the policy. She did not agree with Ms Easton that the purpose of this document was principally to guide the Department of Conservation in the management of their land. She considered it was designed to drive conservation action at local, regional and national levels and was therefore relevant in the context of this policy. She also acknowledged the amendments to incorporate references to Policy 11 of the NZCPS and she supported this.

558. Ms Hills supported the Forest and Bird submission in relation to this policy.

*MINZ-P5*

559. Mr Brass supported the recommendation in the S42A report to delete this policy.

### **Reporting Officer Reply Evidence (including JWS)**

*ECO – P1*

560. Following the hearing, the Panel issued Minute 54 (3 December 2024) requesting that the planning witnesses caucus on a range of matters, including how SNA should be identified. The planners were asked to consider whether provisions could be simplified and made easier to read, understand and interpret. A Joint Witness Statement (**JWS**) dated 17 February 2025 records the outcome of caucusing between the planners<sup>114</sup>.

561. The JWS records the planners agreed to make the following changes to ECO-P1:

- (a) Removing clauses (5) and (6) from the s42A Report Appendix 1 version;
- (b) To simplify clauses (1) to (4) and refer to a schedule; and
- (c) Incorporate a schedule that outlines the process for SNA identification and reconfirmation.

562. The JWS recorded Mr Kennedy had questions about the ability to meet the timeframes set out in the reworded policy.

563. Ms Easton's Right of Reply addressed questions from the Panel, the evidence presented and the JWS. Appendix 1 of the Right of Reply recommended amendments as follows:

***ECO - P1***

***Identify areas of significant indigenous vegetation and fauna habitat significant natural areas and include these in Schedule Four through a Plan Change which will be introduced no later than August 2028. The Significant Natural Area identification process will be undertaken as follows in accordance with the criteria and process set out in the National Policy Statement for Indigenous Biodiversity Indigenous Biodiversity and as outlined in Schedule xxx and will include:***  
***1. The criteria and process set out in the National Policy Statement for Indigenous Biodiversity Appendix 1 will be used to identify and map Significant Natural Area;***

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<sup>114</sup> Ms Lois Easton, Mr Martin Kennedy, Ms Stephanie Styles, Ms Rachael Pull, Mr Chris Horne, Ms Pauline Whitney, Ms Kate Sannazzaro, Ms Claire Hunter and Mr Murray Brass

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- ~~2. In the Grey District these areas that are already identified in Schedule Four will be confirmed as meeting the National Policy Statement for Indigenous Biodiversity criteria by the end of 2025;~~
- ~~3. Region — wide, Regionally Significant Wetlands will be confirmed as meeting the National Policy Statement for Indigenous Biodiversity criteria by the end of 2025;~~
- ~~4. i. In the Grey, Buller and Westland Districts - wide the assessment, and identification and mapping of other additional Significant Natural Areas which will be undertaken and completed by June 2027; and~~
  - ~~ii. Confirming that areas already identified in Schedule Four, as well as Regionally Significant Wetlands identified in Schedule 1 of the West Coast Regional Land and Water Plan meet the National Policy Statement for Indigenous Biodiversity criteria~~
- ~~5. Until a site has been assessed as to whether it contains a Significant Natural Area a general indigenous vegetation clearance rule will apply to that site.~~
- ~~6. Once a site has been assessed a less restrictive general vegetation clearance rule will apply to other indigenous vegetation on that site that is outside of the Significant Natural Area.~~
  - ~~i. The criteria set out in Appendix 1 of the West Coast Regional Policy Statement will be used to assess significance;~~
  - ~~ii. Areas of significant indigenous vegetation and fauna habitat will be identified through the resource consent process until such time as district wide identification and mapping of significant natural areas is undertaken;~~
  - ~~iii. Buller and Westland district wide assessment, identification and mapping of significant natural areas will be undertaken and completed by June 2027; and~~
  - ~~iv. Identified areas of significant indigenous vegetation and fauna habitat will be added to Schedule Four through a Plan Change.~~

### **Schedule XXX – Principles and Process for Significant Natural Area identification.**

#### **Existing Significant Natural Areas in Schedule Four**

In the Grey District, some Significant Natural Areas (SNAs) have already been identified, mapped and scheduled in Te Tai o Poutini Plan. The NPSIB provides for these to be confirmed as SNAs meeting the NPSIB criteria without requiring a full new assessment. This will be undertaken primarily as a desk top exercise using existing ecological reports. Landowners will be advised, and if they would like a field re-assessment to confirm the boundaries and/or significance of their site, then this will be undertaken.

This process is restricted to existing sites scheduled in the plan. No new SNAs can be added through this process.

#### **Existing Regionally Significant Wetlands**

Regionally significant wetlands are also known as SNAs and identified in the West Coast Regional Land and Water Plan, Schedule 1. These are found across the West Coast and will be confirmed as meeting the NPSIB criteria through a desk top exercise using existing ecological reports. Landowners will be advised, and if they would like a field re-assessment to confirm the boundaries and/or significance of their site, then this will be undertaken.

This process is restricted to existing wetlands included in Schedule 1 of the West Coast Regional Land and Water Plan. No new SNAs or regionally significant wetlands can be added through this process.

#### **Identifying New Significant Natural Areas**

- [1] New SNAs will be identified through a district wide assessment for each of the three districts. While the Grey District has previously undertaken an SNA identification exercise, it was with different criteria than are now required, and it is expected that some more SNAs could be identified.
- [2] In the Buller and Westland Districts, there has been no previous SNA identification process and it is expected that a range of new SNAs will be identified.
- [3] The process which will be followed is that in the first instance a desk top study will be undertaken to identify potential SNAs. Landowners will then be contacted to ask permission to undertake a field assessment to identify if the area, or part of the area, is an SNA, and what the boundaries are.
- [4] If the landowner refuses permission for a field assessment then the Councils will use the best information available to determine the values of the potential SNA and map it accurately.
- [5] Both the desk top and field assessment will be undertaken using the criteria set out in Appendix 1 of the NPSIB and in accordance with the principles detailed below.
- [6] All landowners will be notified in writing– including with maps and information on the ecological values of the sites, if the district wide assessment identifies an SNA on their property.
- [7] The Councils will keep landowners informed as to the timeframe and Plan Change process to introduce the identified SNAs into Te Tai o Poutini Plan. Through this process the principles required by Section 3.8 of NPSIB and set out below will be followed:
  - a. partnership: territorial authorities engage early with tangata whenua and landowners and share information about indigenous biodiversity, potential management options, and any support and incentives that may be available:
  - b. transparency: territorial authorities clearly inform tangata whenua and landowners about how any information gathered will be used and make existing information, draft assessments and other relevant information available to tangata whenua and relevant landowners for review:
  - c. quality: wherever practicable, the values and extent of natural areas are verified by physical inspection; but if a physical inspection is not practicable (because, for instance, the area is inaccessible, or a landowner does not give access) the local authority uses the best information available to it at the time:
  - d. access: if a physical inspection is required, permission of the landowner is first sought and the powers of entry under section 333 of the Act are used only as a last resort:
  - e. consistency: the criteria in Appendix 1 are applied consistently, regardless of who owns the land:
  - f. boundaries: the boundaries of areas of significant indigenous vegetation or significant habitat of indigenous fauna are determined without regard to artificial margins (such as property boundaries) that would affect the extent or ecological integrity of the area identified.

#### **What Rules Apply Until the Plan Change**

Until a site has been assessed as to whether it contains a Significant Natural Area and a Plan Change introduced with the new SNAs, the general indigenous vegetation clearance rules will apply across the three districts. Once all SNAs have been identified the chapter will also be reviewed as part of the Plan Change. This will implement the NPS-IB and is expected to introduce a new set of indigenous vegetation clearance rules and will also address whether regulation is still required for indigenous vegetation clearance outside of an SNA.

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564. The JWS records that the planners did not reach agreement on all changes to the policy, with evidence still standing. Notwithstanding this, the planners agreed the policy should be redrafted to become two policies - one relating to mapped SNA and the other to the wider Areas of Significant Indigenous Biodiversity. Annexure 1 of the JWS records agreed amendments.
565. In Reply, Ms Easton addressed questions from the Panel, evidence presented at the hearing and the JWS, and confirmed her recommendation that ECO-P2 be split into two, separating renewable electricity generation and electricity transmission from the rest of the policy. She also confirmed her recommendation that the defined term of “*area of significant indigenous biodiversity*” be used instead of “*area of significant indigenous vegetation and significant indigenous fauna habitat*”.
566. In response to the Bathurst’s legal submissions, Ms Easton advised that the separation of the policy into two largely addressed these matters. She acknowledged Bathurst’s request to include regional benefit but did not support this because of the clear direction of the NPSIB that mineral extraction must be of national benefit.
567. Ms Easton responded to the tabled evidence made by KiwiRail. She agreed that the recommended amendments to the policy resulted in it becoming excessively onerous and therefore revised her recommendation to remove the references to adverse effects from clause (a) as follows:

- a. This is for a lawfully established activity ~~and adverse effects are no greater in intensity, scale, or character over time than at the operative date~~ and do not result in the loss of ecosystem representation or degradation of ecological integrity; or*

568. Additional to the planners JWS, another JWS between Ms Pull (Poutini Ngāi Tahu), Ms Huirama (Te Tumu Paeroa) and Ms Easton was prepared dated 28 February 2025. The JWS records the parties agreed to an additional clause in ECO-P2 as follows:

**This is clearance of kanuka, manuka or bracken on Specified Māori land.**

569. In Reply, Ms Easton recommended adding this new clause to ECO-P2 to reflect the agreement.
570. Ms Easton also responded to Mr Brass’s evidence for the Director General in relation to “*loss of ecosystem representation*” versus “*extent*”. She noted clause 3.10 of the NPSIB required that both loss of ecosystem representation and extent were to be avoided. On this basis she agreed with DOC that “*and extent*” should be added to clause (a) of ECO-P2, as follows:

- a. This is for a lawfully established activity ~~and adverse effects are no greater in intensity, scale, or character over time than at the operative date~~ and do not result in the loss of ecosystem representation **and extent** or degradation of ecological integrity; or*

571. Appendix 1 of the Right of Reply shows recommended amendments as follows:

ECO-P2

~~Allow~~ **Provide for** activities within areas of significant indigenous ~~vegetation or significant habitats of indigenous fauna~~ **biodiversity where the activity has no more than minor**

**adverse effects on the values of the areas of significant indigenous vegetation or fauna habitat biodiversity and:**

- a. ~~This is for a lawfully established activity and adverse effects are no greater in intensity, scale, or character over time than at the operative date and do not result in the loss of ecosystem representation and extent or degradation of ecological integrity; or~~
- b. **This is for the maintenance of improved pasture as part of a regular cycle of periodic maintenance; or**
- c. ~~It is for a Poutini Ngāi Tahu **Activities** cultural purpose; or~~
- d. ~~This is undertaken on Poutini Ngāi Tahu or Te Rūnanga o Ngāi Tahu land in accordance with an Iwi/Papatipu Rūnanga Management Plan; or~~
- d. ~~The adverse effects of the activity on the significant indigenous vegetation or fauna habitat are managed in accordance with the effects management hierarchy and the activity has a functional need or operational need to be located in the area, and is for the purpose of:~~
  - i. ~~Construction or upgrade of regionally significant infrastructure; or~~
  - ii. ~~Mineral extraction that provides significant national benefit; or~~
  - iii. ~~Aggregate extraction that provides significant national or regional benefit; or~~
  - iv. ~~The operation or expansion of any coal mine that was lawfully established before 4 August 2023; except that, after 31 December 2030, this exception applies only to such coal mines that extract coking coal~~
- e. **This is for the construction or upgrade of regionally significant infrastructure.**
- e. ~~The activity has no more than minor adverse effects on the significant indigenous vegetation or fauna habitat.~~

**ECO – P2A**

**Provide for activities within Significant Natural Areas identified within Schedule Four where the adverse effects of the activity on the significant natural area are managed in accordance with the effects management hierarchy and the activity has a functional need or operational need to be located in the area, and is for the purpose of:**

- i. **Construction or upgrade of regionally significant infrastructure; or**
- ii. **Mineral extraction that provides significant national public benefit;**
- iii. **Aggregate extraction that provides significant national or regional public benefit.**

**ECO - P3**

572. In Reply, Ms Easton responded to the requested changes Ms Inta sought. She remained of the view that ECO – P3 appropriately addressed both matters raised and noted that the maintenance, enhancement and restoration of overall indigenous biodiversity was addressed in ECO – P8. She also considered that an SNA could benefit from protection and restoration such as fencing, weed and pest management and through the control of edge effects. She recommended no further amendments.

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573. Ms Easton acknowledged Te Tumu Paeroa had withdrawn submission S440.025 on ECO – P3.

### ECO – P4

574. Ms Easton responded to the concerns about cycleways raised by Ms Inta and clarified the use of words “provide for”, rather than “allow” in ECO – P4 indicated that resource consent would be generally required. She considered the policy did not support a permitted activity. She noted the permitted activity rule for indigenous vegetation clearance in SNA was very restrictive.

575. Ms Easton recommended retaining ECO-P4 as notified.

### ECO - P5

576. Ms Easton recommended retaining ECO-P5 as notified.

### ECO - P6

577. The JWS records the planners considered this policy during their caucusing and did not reach an agreed position as to the policy as a whole. However, they agreed to amend the opening wording of the policy as shown in Annexure 1 is as follows:

***In relation to all indigenous biodiversity ~~when~~ assessing consents for subdivision, use and development, avoid activities which will:***

578. In Reply, Ms Easton reconsidered her recommendation for ECO-P6 in light of the evidence presented at the hearing by various submitters as set out below:

- (a) In response to Mr Brass’ evidence, Ms Easton confirmed that the word “local” had been mistakenly deleted from the recommended amendments in clause (c) and she recommended that it be reinstated.
- (b) In response to Mr Brass’ evidence that suggested the inclusion of an additional clause to give effect to clauses 3.10(2)(b)-(d) of the NPSIB and to address the policy gap created in the plan for non-complying activities that do not comply with ECO-R7, Ms Easton agreed and supported the proposed addition. She considered that there was scope for the amendment due to her recommendation to accept a submission point from Forest and Bird in relation to ECO-R8A (where a non-complying activity was recommended).
- (c) In response to Mr Kennedy’s view that the policy was not consistent with the RPS, Ms Easton maintained her view that it did, and that it was not necessary to repeat the policy.
- (d) Ms Easton clarified her recommendation regarding replacing “assessing consents” with “providing for” and confirmed that she supported the Westpower submission to make the replacement.
- (e) In response to Ms Perkins’ request for the protection of additional species in the coastal environment, Ms Easton reviewed the NZCPS and considered the recommended wording for ECO-P6 adequately dealt with threatened and at-risk species.

579. Appendix 1 of the Right of Reply showed the recommended amendments to ECO-P6 as follows:

**ECO - P6**

**In relation to all indigenous biodiversity, ~~When assessing consents~~ providing for subdivision, use and development, avoid activities which will:**

- a. *Prevent an indigenous species or community being able to persist in their habitats within their natural range in the Ecological District;*
- b. *Result in a degradation of the threat status, further measurable loss of indigenous cover or disruption to ecological processes, functions or connections in land environments in category one or two of the Threatened Environment Classification at the Ecological District level; and*
- c. *Result in a ~~reasonably measurable~~ reduction in the local population size or occupancy of Threatened or At Risk (Declining) species ~~of threatened taxa in the Department of Conservation Threat Categories 1–3a—nationally critical, nationally endangered and nationally vulnerable~~ or in the population size or occupancy of locally endemic species; and*
- d. **Within a Significant Natural Area, result in: disruption to sequences, mosaics or ecosystem function; fragmentation or the loss of buffers or connections; or reduction in the function of the Significant Natural Area as a buffer or connection to important habitats or ecosystems.**

**ECO-P7**

580. The JWS records the planners considered this policy during their caucusing and did not reach an agreed position as to the policy as a whole. However, they agreed on minor amendments as follows:
- (a) To remove the reference to “net gain” in recognition that it was not a requirement for compensation;
  - (b) To delete clause (c) and the reference to coal mining; and
  - (c) To delete references to renewable electricity generation.
581. The JWS records the planners recognised that due to SNA not yet being identified, simplification of the policy may not be possible. Annexure 1 of the JWS records the agreed changes.
582. In Reply, Ms Easton reconsidered her recommendation for ECO-P7 in light of the evidence presented at the hearing, the JWS and questions from the Panel. In response to the drafting concerns raised by Ms Inta, Ms Easton noted that some had been addressed in the JWS. However, in response to how cumulative effects are addressed in the policy, Ms Easton did not consider it appropriate for an applicant to have to consider the effects of an activity on the entire region. She considered that ECO-P8 specifically addressed the maintenance and enhancement of biodiversity across the districts.
583. In response to whether there was scope to incorporate matters from Section 3.10 of the NPSIB into this policy, Ms Easton considers that this was limited, and accordingly she did not recommend any changes.

584. Appendix 1 of the Right of Reply shows recommended amendments to ECO-P7 as follows:

*ECO-P7*

*When assessing resource consents in areas of significant indigenous ~~vegetation and significant habitats of indigenous fauna~~ **biodiversity**, consider the following matters:*

- a. The necessity for the activity to provide for ~~critical~~ **regionally significant** infrastructure ~~or renewable electricity generation~~;*
- b. **The functional needs or operational needs of regionally significant infrastructure, mineral extraction of significant national public benefit or aggregate extraction of significant regional or national public benefit**;*
- c. ~~Whether this is for the operation or expansion of a coal mine that meets the requirements of Clause 3.11(1) of the National Policy Statement for Indigenous Biodiversity~~;*
- d. **Whether the adverse effects are minor or transitory**;*
- e. Whether formal protection and ~~/or active management of~~ **measures to restore or improve** all or part of any area of significant indigenous vegetation or habitat will occur as part of the subdivision, use or development;*
- f. The extent to which the proposed activity recognises and provides for Poutini Ngāi Tahu cultural and spiritual values, rights and interests;*
- g. The cumulative **adverse** effects of activities **on biodiversity** ~~within or adjacent to~~ any area of significant indigenous vegetation or habitat;*
- h. The effects the activity may have on the introduction or spread of exotic weed species and pest animals both terrestrial and aquatic;*
- i. The impacts on mahinga kai;*
- j. The impact of the activity on the values of any area of significant indigenous vegetation or habitat, or threatened species and how any potential impact could be avoided, remedied or mitigated **by applying the effects management hierarchy**; ~~and~~*
- k. The appropriateness of any biodiversity offsetting or compensation in accordance with Policy 9 to offset any **more than minor** residual adverse effects that remain after avoiding, remedying and mitigating measures have been applied; **and***
- l. **The extent of net gain benefit achieved by biodiversity offsetting or compensation**.*

*ECO-P8*

585. The JWS records the planners considered this policy during their caucusing and agreed that the policy should be renamed as ECO-P1A and moved up in position within the set of policies. Additionally, it was agreed that it is a general policy and not one to be applied at an individual consent level. Annexure 1 of the JWS shows the agreed amendments, with the exception of Mr Kennedy.

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586. In Reply, Ms Easton reconsidered her recommendation for ECO-P8 in light of questions from the Panel, evidence presented at the hearing and the JWS.
587. In response to the concerns raised by Ms Inta, Ms Easton acknowledged that her submission point was not discussed in the s42A Report, and she agreed to include the additional phrase “*indigenous biodiversity, including*” in the policy at clause (a) because it improved clarity and was consistent with the direction of the NPSIB.
588. Ms Easton confirmed that there was no scope for the inclusion of the amendments suggested in Ms Pull’s evidence given that Te Tumu Paeroa had withdrawn the submission that Poutini Ngāi Tahu made a further submission on. Ms Easton also returned wording to the notified version in clause (b), for the same reason.
589. In response to questions from the Panel as to whether ECO-P8 should better reflect the NPSIB and RPS Chapter 7 Policy 2 more comprehensively, Ms Easton advised that she had reviewed the higher order documents and made no additional recommendations.
590. The Right of Reply recommended amendment to ECO-P8, as follows:

### ECO-P81A

*Maintain indigenous habitats and ecosystems across the West Coast/Te Tai o Poutini **at a district scale** by:*

- a. Maintaining, and where appropriate enhancing or restoring **indigenous biodiversity including** the functioning of ecological corridors, linkages, dunes and indigenous coastal vegetation and wetlands;*
- b. Minimising adverse effects on, and providing access to areas of indigenous biodiversity which are significant to Poutini Ngāi Tahu;*
- c. Restricting the modification or disturbance of coastal indigenous vegetation, dunes, estuaries and wetlands;*
- ~~c.d. Preserving~~ **Managing adverse effects on protected wildlife threatened and at-risk species; and***
- d.e. **Encouraging and enabling site and landscape scale biosecurity programmes to manage plant and animal pests;***
- e. ~~f. Recognising the benefits of~~ **Encouraging and enabling active conservation management of indigenous biodiversity, including voluntary animal and plant pest and stock control and/or formal legal protection; and***
- f. **Except in relation to the National Grid and Renewable Electricity Generation Activities, provide for biodiversity offsetting and biodiversity compensation as part of the effects management hierarchy in accordance with the principles set out in Appendix 3 and Appendix 4 in the National Policy Statement for Indigenous Biodiversity.***

### ECO-P9

591. The JWS records the planners agreed that recommended new policy (acknowledging the s42A Report recommended deleting the first part and clause (a) – (c) and replacing it with a new paragraph) should be incorporated into ECO-P8 and relocated to the beginning of the

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policy set in ECO-P1A. Additionally, they agreed to amend the wording to exclude the National Grid and renewable electricity generation activities.

592. In Reply, Ms Easton agreed and recommended amendments as follows:

### **ECO – P9**

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

- ~~a. The goal of the biodiversity offsets is no net loss and, preferably, a net gain of biodiversity;~~*
- ~~b. The conservation outcomes are measurable and positive; and~~*
- ~~c. The biodiversity offsets or compensation are in accordance with best practice, including but not limited to NZ Government guidance on biodiversity offsetting.~~*

### **ECO-P1A**

**Except in relation to the National Grid and Renewable Electricity Generation Activities provide for biodiversity offsetting and biodiversity compensation as part of the effects management hierarchy in accordance with the principles set out in Appendix 3 and Appendix 4 in the National Policy Statement for Indigenous Biodiversity.**

### **ECO-P10**

593. The JWS records the planners agreed (with the exception of Mr Kennedy) on some changes to reflect amendments to definitions. They also agreed to relocate the policy to the beginning of the policy set as ECO-P1B. The agreed changes are shown in Annexure 1 of the JWS.

594. In Reply, Ms Easton reconsidered her recommendation for ECO-P10 in light of the evidence presented at the hearing, the JWS and questions from the Panel. She confirmed that she reviewed the TiGa Minerals submission point and that she agreed clause (c) of the policy should refer to “*significant*” adverse effects, as this is the direction provided from the NZCPS.

- c. Avoiding, remedying or mitigating ~~other~~ **significant** adverse effects on **coastal** indigenous vegetation, **dunes, estuaries, wetlands**, habitats and species within the coastal environment **in accordance with the effects management hierarchy and Policy 11(b) of the NZCPS.***

595. In response to the Panel’s observations that clauses (a) and (b) were a duplication of each other, Ms Easton did not agree. She explained that Policy 11(a) of the NZCPS lists a range of ecosystem types and locations where adverse effects must be avoided and that those areas may be identified as SNA. However, she confirmed this identification had not yet been undertaken.

596. Appendix 1 of the Right of Reply recommended amendments as follows:

### **ECO – P101B**

*Protect indigenous biodiversity in the coastal environment from inappropriate subdivision, use and development by:*

- a. **Avoiding adverse effects on indigenous biodiversity set out in Policy 11(a) of the NZCPS, and***

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- b. *Avoiding adverse effects on significant indigenous biodiversity; and*
- c. *Avoiding, remedying or mitigating other **significant** adverse effects on **coastal** indigenous vegetation, **dunes, estuaries, wetlands**, habitats and species within the coastal environment **in accordance with the effects management hierarchy and Policy 11(b) of the NZCPS.***

### Hearing Panel's Evaluation

#### ECO – P1

- 597. The Panel accepts Ms Easton's recommendation to amend ECO-P1 to reflect the wording agreed in the JWS and to add a new appendix (new Appendix Thirteen) to guide the SNA process. We accept that although the driver to complete this work is the RPS, the criteria to be used should be the NPSIB criteria to reflect the higher order direction. We accept the evidence that the RPS criteria and the NPSIB criteria are equivalent, but that the NPSIB criteria provides more clarity as to how one criterion is applied.
- 598. The Panel considers the recommended ECO-P1 partly addresses the relief sought in many of the submissions received; however, we consider the Director General's submission requests use of nationally consistent criteria, which we accept is now provided by the NPSIB. We also note that no submitters specifically sought to delete the policy.
- 599. The Panel has carefully considered the timeframe for completing the district-wide assessments, which was subject of a number of submissions, and agree the timeframe agreed and recommended is achievable. Importantly, we accept that ECO-P1, as recommended in the JWS gives effect to the RPS and the NPSIB. We have made minor changes to the wording of the new appendix to ensure the references to the existing regional significant wetlands is for information only to plan users and not to inappropriately direct regional council processes.

#### ECO – P2

- 600. The Panel generally accepts Ms Easton's reasoning and recommendation to amend ECO-P2 as shown in Appendix 1 of the Right of Reply. We agree that separating the policy into two policies enables clearer drafting to reflect the direction of the NPSIB regarding management of adverse effects on SNA from new subdivision, use and development; and managing the effects of established activities on SNA. We have had regard to the JWS and the submission points that remained outstanding following this process.
- 601. The Panel agrees with the Director General that clause (a) in relation to lawfully established activities should also include *'and the adverse effects are no greater in intensity, scale or character over time than at 4 August 2023 and do not result in the loss of ecosystem representation and extent or degradation of ecological integrity*'. We consider this is consistent with clause 3.15 of the NPSIB. It is important that both parts of the clause are included to ensure the adverse effects of existing activities are no greater than when the NPSIB commenced. We acknowledge Ms Hunter's evidence that there are activities that are already approved that may permit biodiversity loss and that those effects had been considered acceptable, but consider this is addressed through existing resource consents. We also acknowledge Dr Bramley's concern that this could prevent the extension of existing activities but consider the NPSIB direction is appropriate to prevent cumulative effects. The NPSIB is clear that activities that have adverse effects greater in intensity, scale or character than at the commencement date of the NPSIB must be considered as a new use or

development. Existing lawful uses are able to continue as authorised by resource consents or through existing use rights under the RMA.

602. The Panel have considered the position agreed between Poutini Ngāi Tahu and Te Tumu Paeroa on 14 August 2024 and recommend that the term "*Specified Māori land*" is used to respond to the submission point S440.024 instead of the lengthy option put forward. The Panel are of the view that Poutini Ngāi Tahu land is a subset of "*Specified Māori land*", and that land within the jurisdiction of the Māori Trustee needs to be included in the policy in accordance with the NPSIB definition and clause 3.18 of the NPSIB in order to give effect to the national direction. We note Te Tumu Paeroa sought to add '*or Māori land*' to clause (b) (as notified but renumbered as (c) below) but consider reference to '*Specified Māori land*' should be added to clause (d) instead, as alternative relief.
603. The Panel consider there is no scope to add a new clause '*This is the clearance of kanuka, manuka or bracken on Specified Māori land*', as shown in Appendix 1 of the Right of Reply.
604. The Panel accepts Ms Easton's recommended wording for ECO-P2A (renumbered ECO-P3), which effectively removes clause (d) from ECO-P1 (as notified) to create ECO-P2A, which was agreed to by all planners at expert caucusing. We note the exception to this was Ms Hunter, for Bathurst, who continued to seek the addition of '*regional*' benefits to clause (ii). We agree with Ms Easton that this is inconsistent with the direction of the NPSIB under clauses 3.11, which is specifically limited to '*mineral extraction that provides significant national public benefit that could otherwise not be achieved using resources within New Zealand*'.
605. The Panel also considers it is not appropriate to include only certain parts of clause 3.11 of the NPSIB and consider that ECO-P2A should include the requirement that '*there are no practicable alternative locations*' because this is an important component in determining functional need or operational need. We also consider that clauses (ii) and (iii) should include the last part of the clause as used in the NPSIB '*could not otherwise be achieved using resources within New Zealand*'. We consider there is scope to do this within the submission points that seek the provisions give effect to RMA s6(c) and the higher order statutory direction.
606. The Panel considers '*functional need and operational need*' is the appropriate terminology given both these terms are defined in the Plan.
607. The Panel acknowledges the evidence of Ms Styles in relation to renewable electricity generation activities and that the NPSIB effects management hierarchy does not apply to these activities. However, we note the JWS records that all the planning experts agreed on the wording of ECO-P2A, with the exception of Ms Hunter. We therefore accept Ms Styles no longer considered the exception for renewable electricity generation activities outlined in her evidence (summarised above) was required. We also note that the RPS sets out a step by step process that is similar to the effects management hierarchy that applies to renewable electricity generation activities.

#### *ECO - P3*

608. The Panel generally accepts Ms Easton's reasoning and recommendation to amend ECO-P3 (renumbered ECO-P4) as shown in Appendix 1 of the Right of Reply. However, we consider it is appropriate that the '*protection, enhancement and restoration*' part of the sentence

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also applies to this by slightly amending the wording. We also recommend adding '*indigenous biodiversity*' to new clause (g).

609. The Panel acknowledges Ms Inta's concern that there is a policy gap in terms of the overall requirement to maintain indigenous biodiversity and not just significant biodiversity values. The Panel consider this is addressed under ECO-P8 (ECO-P1A in Appendix 1 of the Right of reply).

### ECO – P4

610. The Panel accepts Ms Easton's reasoning and recommendation to retain ECO-P4 (renumbered ECO-P5) as notified. We disagree with Ms Inta that the policy is too permissive because only ecotourism activities that complement the protection and enhancement of significant values are provided for in this policy. We also acknowledge Forest and Bird's request to include reference to SNA and RPS Chapter 7 Policies 2 to 6. However, we consider the wording of this policy is more limiting because it only provides for ecotourism activities that complement the protection and enhancement of significant values.

### ECO – P5

611. The Panel accepts Ms Easton's reasoning and recommendation to retain ECO-P5 as notified (renumbered ECO-P6). We acknowledge Forest and Bird's request to include reference to SNA and RPS Chapter 7 Policies 2 to 6; and Ms Inta and the Buller Conservation Group's request to replace '*minimises*' with '*ensures less than minor*'. However, we consider '*minimises*' should be replaced with '*manages*' because this is consistent with the NPSIB and our approach taken Plan-wide.

### ECO – P6

612. The Panel has had regard to the JWS and the submission points that remain outstanding following this process.
613. The Panel generally accepts Ms Easton's reasoning and recommendation to amend ECO-P6 (renumbered ECO-P7) as shown in Appendix 1 of the Right of Reply. We accept that this policy is intended to apply to all indigenous biodiversity and gives effect to environmental bottom lines in the RPS and NPSIB. We consider the amended wording clarifies this and gives effect to the RPS and NPSIB in response to the evidence of Mr Brass.
614. The Panel agrees with Ms Easton that use of '*Threatened and At Risk (Declining)*' is consistent with the direction of the NPSIB. We also agree that it would be inappropriate to exclude mānuka and kānuka on category one or category two land in the Threatened Environment Classification. We consider the inclusion of an advice note in relation to the New Zealand Threat Classification system is helpful.
615. The Panel agrees with Ms Easton that it is not appropriate to provide for biodiversity offsetting and compensation in this policy given the very limited circumstances where this is appropriate under the direction of the NPSIB and the RPS. We agree this is best dealt with in a separate policy. Similarly, we consider renewable electricity generation is best dealt with in a separate policy.

### ECO – P7

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616. The Panel has had regard to the JWS and the submission points that remain outstanding following this process. We accept that renewable electricity generation is best dealt with in a separate policy.
617. The Panel generally accepts Ms Easton's reasoning and recommendation to amend ECO-P7 (renumbered as ECO-P8) as shown in Appendix 1 of the Right of Reply, with the exceptions discussed below.
618. The Panel agrees that '*functional need and operational need*' should be added to give effect to the RPS and NPSIB, as it applies to: regionally significant infrastructure that is '*specified infrastructure*'; mineral extraction that provides significant national public benefit that could not otherwise be achieved using resources within New Zealand; and aggregate extraction that provides significant national or regional public benefit that could not otherwise be achieved using resources within New Zealand. However, we also consider this must also include the NPSIB qualifiers that there is a functional need or operational need for the new subdivision, use or development to be in that particular location; and there are no practicable alternative locations for the new subdivision, use or development. This reflects clause 3.11 of the NPSIB and not just select parts.
619. The Panel accepts the recommendation to delete '*or adjacent to*' from clause (d) (now clause (f) below) is appropriate given the direction of the NPSIB.
620. The Panel recommends replacing the reference to '*Policy 9*' in clause (h) (now clause (j) below) as a consequential amendment to reflect the recommended deletion of ECO-P9. We consider this should be replaced with reference to two new appendices reflecting the principles in Appendix 3 and Appendix 4 of the NPSIB as these outline when biodiversity offsetting and biodiversity compensation is not appropriate. We consider that adding these principles will assist Plan users because they will not need to refer to another document.
621. The recommended new clause (k) was focussed on '*the extent of benefit*', which the Panel considers is not consistent with the RPS or NPSIB, and could include benefits that are not related to biodiversity values. We note the JWS records the planners agreed to replace '*net gain*' with '*benefit*' because this was not a requirement of compensation. However, we note the NPSIB uses this term in relation to both the principles of biodiversity offsetting (Appendix 3) and the principles of biodiversity compensation (Appendix 4). The Panel accepts the recommendation to add new clause (k) but consider the wording should be '*extent of net gain in indigenous biodiversity values*'. We note that earlier in this Report, we recommend adding a definition for '*net gain*' using the NPSIB definition to clarify this term and support its use in the policies.

### ECO – P8

622. The Panel generally accepts Ms Easton's reasoning and recommendation to amend ECO-P8 (renumbered as ECO-P9) as shown in her Right of Reply, which the exceptions outlined below. We note this policy was not included in Appendix 1. We accept the recommendation to renumber this to be the second policy in the Chapter.
623. The Panel does not consider there is scope to add '*at a district scale*' as suggested by the planners in Annexure 1 of the JWS. We note Ms Easton did not provide a footnote to a submission point requesting this change.

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624. The Panel consider using *'maintaining'* as recommended in clause (a) is incorrect given *'maintain'* is in the lead sentence and recommend *'protecting'* in this context, which is consistent with the objective in the NPSIB, where maintaining indigenous biodiversity is to be achieved by protecting and restoring indigenous biodiversity.
625. In relation to clause (c) (now renumbered (d)), the Panel agrees with the use of *'Protecting significant habitats of indigenous fauna'*, as requested by Bathurst, because this is more aligned with the RPS and NPSIB than the recommended amendment to *'Managing adverse effects'*, as requested by WMS Group and TiGa Minerals. It also avoids replacing *'protected wildlife'* with *'threatened and at risk species'*, which, although appropriate, was not requested in submissions.
626. The Panel accepts adding the new clause (g) (shown as new clause (f) in the Right of Reply) but consider the second part of the sentence should not be included because the NPSIB does not apply to the National Grid and Renewable Electricity Generation Activities. However, we agree that highlighting the exclusion from this policy is helpful given these activities are now specifically addressed in new ECO-P1C.

### ECO -P9

627. The Panel accepts Ms Easton's reasoning and recommendation to delete ECO-P9 and relocate part of this to ECO-P8 (renumbered ECO-1A below). We consider this addresses the submission points that seek to use the RPS or national direction for biodiversity offsetting and compensation. We accept it is appropriate to use the direction of the NPSIB in this regard.

### ECO – P10

628. The Panel generally accepts Ms Easton's reasoning and recommendation to amend ECO-P10, as shown in Appendix 1 of the Right of Reply. However, we consider this policy should reflect the general wording of NZCPS Policy 11(a) instead of referring to it for the ease of plan interpretation and use given this is an "avoid" direction.
629. The Panel accepts in part Forest and Birds submission point (S560.480) to delete *'from inappropriate subdivision, use and development'* because it does not reflect the clear wording of NZCPS Policy 11. We also recommend reordering the wording of clause (c) to *'Using the effects management hierarchy to avoid'* to improve interpretation. We are satisfied the wording of clause (c) encapsulates the key matters in NZCPS Policy 11.
630. The Panel agree with Ms Perkins that Te Mana o te Taiao – Aotearoa New Zealand Biodiversity Strategy includes relevant guidance for local authorities. However, we agree with Ms Easton that reference to it in ECO-P10 is not appropriate. We consider it is appropriate to reference this document in the ECO Chapter Overview and this is addressed earlier in this Report.

### ECO-P1C

631. The Panel generally accepts Ms Easton's recommendation to add new ECO-P11, as shown as ECO-P1C in Appendix 1 of the Right of Reply, to address the National Grid and renewable electricity generation activities. We acknowledge this came out of the planning caucusing with Ms Styles and Ms Whitney. We accept this new policy is needed because the NPSIB

does not apply to these activities. We are satisfied the new policy is consistent with the RPS provisions.

#### *New Policy*

632. The Panel accepts the submission point of Lynley Hargreaves (S481.026), in relation to the whole chapter, requesting recognition of climate change and the values that ecosystems play in mitigating climate change and its effects. We consider there should be a new policy giving effect to clause 3.6 of the NPSIB. We consider this also partly addresses the Manawa submission point S438.077 (in relation to ECO-P2) and Forest and Bird submission point S560.192. Importantly, it aligns with Strategic Direction CCR-P7.

633. The Panel consider this should reflect the wording of the NPSIB as follows:

#### **ECO – P12**

**To promote the resilience of indigenous biodiversity to climate change and recognise its role in mitigating the effects of climate change.**

#### **Hearing Panel’s Recommendation**

634. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommends the submission points identified in the footnotes below are accepted or accepted in part, and recommend the following changes to the **Ecosystems and Indigenous Biodiversity Policies**:

<b>ECO – P1</b>	<p>Identify areas of significant indigenous vegetation and fauna habitat <b><u>significant natural areas and include these in Schedule Four through a Plan Change introduced no later than August 2028. The Significant Natural Area identification process will be undertaken in accordance with the criteria and process set out in the National Policy Statement for Indigenous Biodiversity and as outlined in Appendix Thirteen and will include:</u></b></p> <p><del>1. In the Grey District these areas are identified in Schedule Four;</del></p> <p><b><u>1. In the Grey, Buller and Westland Districts-wide assessment, identification and mapping of Significant Natural Areas, which will be undertaken and completed by June 2027; and</u></b></p> <p><b><u>2. Confirming that areas already identified in Schedule Four, as well as Regionally Significant Wetlands identified in Schedule 1 of the West Coast Regional Land and Water Plan meet the National Policy Statement for Indigenous Biodiversity criteria.</u></b><sup>115</sup></p> <p><del>i. The criteria set out in Appendix 1 of the West Coast Regional Policy Statement will be used to assess significance;</del></p> <p><del>ii. Areas of significant indigenous vegetation and fauna habitat will be identified through the resource consent process until such time as district</del></p>
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<sup>115</sup> Director General of Conservation S602.067

~~wide identification and mapping of significant natural areas is undertaken;~~

- ~~iii. Buller and Westland district wide assessment, identification and mapping of significant natural areas will be undertaken and completed by June 2027; and~~
- ~~iv. Identified areas of significant indigenous vegetation and fauna habitat will be added to Schedule Four through a Plan Change.~~

### **Appendix Thirteen – Principles and Process for Significant Natural Area identification.**

#### **Existing Significant Natural Areas in Schedule Four**

**In the Grey District, some Significant Natural Areas (SNA) have already been identified, mapped and scheduled in Te Tai o Poutini Plan. The NPSIB provides for these to be confirmed as SNA meeting the NPSIB criteria without requiring a full new assessment. This will be undertaken primarily as a desk top exercise using existing ecological reports. Landowners will be advised, and if they would like a field re-assessment to confirm the boundaries and/or significance of their site, then this will be undertaken.**

**This process is restricted to existing sites scheduled in the Plan. No new SNA can be added through this process.**

#### **Existing Regionally Significant Wetlands**

**Regionally significant wetlands identified in the West Coast Regional Land and Water Plan, Schedule 1 are SNA under the NPSIB definition. No new regionally significant wetlands can be added through this process.**

#### **Identifying New Significant Natural Areas**

- [1] New SNA will be identified through a district-wide assessment for each of the three districts. While the Grey District has previously undertaken an SNA identification exercise, it was with different criteria than the RPS Appendix 1 or NPSIB Appendix 1, and it is expected that some more SNA could be identified.**
- [2] In the Buller and Westland Districts, there has been no previous SNA identification process and it is expected that a range of new SNA will be identified.**
- [3] The process that will be followed is that in the first instance a desk top study will be undertaken to identify potential SNA. Landowners will then be contacted to ask permission to undertake a field assessment to identify if the area, or part of the area, is an SNA, and what the boundaries are.**

- [4] If the landowner refuses permission for a field assessment, then the Councils will use the best information available to determine the values of the potential SNA and map it accurately.
- [5] Both the desk top and field assessment will be undertaken using the criteria set out in Appendix 1 of the NPSIB and in accordance with the principles detailed below.
- [6] All landowners will be notified in writing – including with maps and information on the ecological values of the sites, if the district-wide assessment identifies an SNA on their property.
- [7] The Councils will keep landowners informed as to the timeframe and Plan Change process to introduce the identified SNA into Te Tai o Poutini Plan.

Through this process the principles required by Section 3.8 of the NPSIB and set out below will be followed:

- a. partnership: Councils engage early with tangata whenua and landowners and share information about indigenous biodiversity, potential management options, and any support and incentives that may be available;
- b. transparency: Councils clearly inform tangata whenua and landowners about how any information gathered will be used and make existing information, draft assessments and other relevant information available to tangata whenua and relevant landowners for review;
- c. quality: wherever practicable, the values and extent of natural areas are verified by physical inspection; but if a physical inspection is not practicable (because, for instance, the area is inaccessible, or a landowner did not give access) the local authority uses the best information available to it at the time;
- d. access: if a physical inspection is required, permission of the landowner is first sought and the powers of entry under section 333 of the Act are used only as a last resort;
- e. consistency: the criteria in NPSIB Appendix 1 are applied consistently, regardless of who owns the land; and
- f. boundaries: the boundaries of areas of significant indigenous vegetation or significant habitat of indigenous fauna are determined without regard to artificial margins (such as property boundaries) that would affect the extent or ecological integrity of the area identified.

#### What Rules Apply Until the Plan Change

Until a site has been assessed as to whether it contains a Significant Natural Area and a Plan Change introduced with the new SNA, the general indigenous vegetation clearance rules will apply across the three districts.

**Once all SNA have been identified, the Ecosystems and Indigenous Biodiversity Chapter will also be reviewed as part of the Plan Change. This will implement the NPS-IB and is expected to introduce a new set of indigenous vegetation clearance rules, and will also address whether regulation is still required for indigenous vegetation clearance outside of an SNA.**<sup>116</sup>

**ECO – P2**

~~Allow~~ **Provide for** activities within areas of significant indigenous vegetation or significant habitats of indigenous fauna **biodiversity**<sup>117</sup> where:

- a. This is for a lawfully established activity **and the adverse effects are no greater in intensity, scale or character over time than at 4 August 2023, and do not result in the loss of ecosystem representation and extent or degradation of ecological integrity;**<sup>118</sup> or
- b. **This is for maintenance of improved pasture as part of a regular cycle of periodic maintenance; or**<sup>119</sup>
- c. It is for a Poutini Ngāi Tahu **Activities** cultural purpose;<sup>120</sup> or
- d. This is undertaken on Poutini Ngāi Tahu or Te Rūnanga o Ngāi Tahu<sup>121</sup> land in accordance with an Iwi/Papatipu Rūnanga Management Plan **or on specified Māori land;** or<sup>122</sup>
- e. **This is for the construction or upgrade of regionally significant infrastructure.**
- f. The activity has a functional need to be located in the area;
- g. ~~The activity has no more than minor adverse effects on the significant indigenous vegetation or fauna habitat.~~<sup>123</sup>

**ECO – P3**

**Provide for activities within Significant Natural Areas within Schedule Four where the adverse effects of the activity on the significant natural area are managed in accordance with the effects management hierarchy, the activity has a functional need or operational need to be located within the area and there is no practicable alternative location, and it is for the purpose of:**

- a. **Construction or upgrade or regionally significant infrastructure; or**
- b. **Mineral extraction that provides significant national public benefit that could not otherwise be achieved using resources within New Zealand; or**
- c. **Aggregate extraction that provides significant national or regional public benefit that could not otherwise be achieved using resources within New Zealand.**

<sup>116</sup> Director General of Conservation S602.068

<sup>117</sup> Royal Forest and Bird Protection Society of New Zealand Incorporated S560.476

<sup>118</sup> Director General of Conservation S602.067

<sup>119</sup> Federated Farmers of New Zealand S524.061

<sup>120</sup> Te Rūnanga o Ngāi Tahu, Te Rūnanga o Ngāti Waewae and Te Rūnanga o Makaawhio S620.139

<sup>121</sup> Consequential amendment to reflect new definition of 'Poutini Ngāi Tahu land' Te Tumu Paeroa Office of the Māori Trustee S440.003

<sup>122</sup> Te Tumu Paeroa the Office of the Māori Trustee S440.024

<sup>123</sup> Clare Backes S444.006

**ECO – P34** Encourage the protection, enhancement and restoration of significant indigenous biodiversity **and the protection of significant habitat for indigenous fauna**<sup>124</sup> by:

- a. ~~Allowing~~ **Providing for**<sup>125</sup> **up to three** additional ~~subdivision rights~~ **bonus allotments and reduced minimum allotment sizes when subdividing**<sup>126</sup> if an area of significant indigenous vegetation or significant habitat of indigenous fauna within the same property is **are** legally protected as part of the subdivision;
- b. Promoting the creation of connections and ecological corridors between areas of significant indigenous biodiversity;
- c. Promoting the use of eco-sourced species from the relevant ecological district;
- d. Supporting opportunities for Poutini Ngāi Tahu to exercise their cultural rights and responsibilities as mana whenua and kaitiaki in restoring, protecting and enhancing areas of significant indigenous biodiversity; ~~and~~
- e. Supporting initiatives by landowners, community groups and others to protect, restore and maintain areas of significant indigenous biodiversity;
- f. **Promoting site and landscape scale biodiversity programmes to manage plant and animal pests; and**<sup>127</sup>
- g. **Supporting any other measures to protect, enhance and restore indigenous biodiversity.**<sup>128</sup>

**ECO – P45** Provide for eco-tourism activities that complement the protection and/or enhancement of areas of significant indigenous vegetation or significant habitats of indigenous fauna and contribute to the vitality and resilience of the economy and wellbeing of the community.

**ECO – P56** Enable the use of Māori Purpose Zoned land with areas of indigenous vegetation and indigenous fauna habitat, where land use and subdivision is consistent with tikanga and mātauranga Māori and ~~minimises~~ **manages**<sup>129</sup> adverse effects on any significant values of the vegetation or fauna habitat.

<sup>124</sup> West Coast Penguin Trust S275.003

<sup>125</sup> Royal Forest and Bird Protection Society of New Zealand Incorporated S560.202

<sup>126</sup> Federated Farmers of New Zealand S524.062

<sup>127</sup> Director General of Conservation S602.069

<sup>128</sup> Director General of Conservation S602.069

<sup>129</sup> Frida Inta S553.069 and Buller Conservation Group S552.069, Royal Forest and Bird Protection Society of New Zealand Incorporated S560.204

**ECO – P67** In relation to all indigenous biodiversity,<sup>130</sup> ~~When assessing consents providing~~<sup>131</sup> for subdivision, use and development, avoid activities ~~which that~~<sup>132</sup> will:

- a. Prevent an indigenous species or community being able to persist in their habitats within their natural range in the Ecological District;
- b. Result in a degradation of the threat status, further measurable loss of indigenous cover or disruption to ecological processes, functions or connections in land environments in category one or two of the Threatened Environment Classification at the Ecological District level; ~~and~~
- c. Result in a ~~reasonably measurable~~ reduction in the local population size or occupancy of Threatened or At Risk (Declining) species of threatened taxa in the Department of Conservation Threat Categories 1 – 3a nationally critical, nationally endangered and nationally vulnerable or in the population or occupancy of locally endemic species; and<sup>133</sup>
- d. Within a Significant Natural Area, result in:
  - i. disruption to sequences, mosaics or ecosystem function;
  - ii. fragmentation or the loss of buffers or connections; or
  - iii. reduction in the function of the Significant Natural Area as a buffer or connection to important habitats or ecosystems.<sup>134</sup>

**Advice Note:**

**Information on the Threat Classification status of individual species can be found on the New Zealand Threat Classification System database at <https://nztns.org.nz>.**<sup>135</sup>

**ECO – P78** When assessing resource consents in areas of significant indigenous biodiversity ~~vegetation and significant habitats of indigenous fauna,~~<sup>136</sup> consider the following matters:

- a. The necessity for the activity to provide for ~~critical~~ regionally significant<sup>137</sup> infrastructure ~~or renewable electricity generation;~~<sup>138</sup>
- b. The functional need or operational need of regionally significant infrastructure, mineral extraction of significant national public benefit, or aggregate extraction of significant regional or national public benefit

<sup>130</sup> Manawa Energy Limited S438.078

<sup>131</sup> Westpower Limited S547.254

<sup>132</sup> RMA First Schedule, Clause 16

<sup>133</sup> Director General of Conservation S602.070

<sup>134</sup> Director General of Conservation S602.070

<sup>135</sup> Federated Farmers of New Zealand S524.063

<sup>136</sup> Consequential amendment to the new definition for 'Areas of Significant Indigenous Biodiversity'

<sup>137</sup> Manawa Energy Limited S438.079

<sup>138</sup> Consequential amendment to the new ECO-P1C

to locate in that area,<sup>139</sup> and whether there are any practicable alternative locations for those activities;<sup>140</sup>

c. Whether the adverse effects are minor or transitory;<sup>141</sup>

b.d. Whether formal protection and/or<sup>142</sup> active management of measures to restore or improve<sup>143</sup> all or part of any area of significant indigenous vegetation or habitat will occur as part of the subdivision, use or development;

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

d.f. The cumulative adverse<sup>144</sup> effects of activities on biodiversity<sup>145</sup> within or adjacent to<sup>146</sup> any area of significant indigenous vegetation or habitat;

e.g. The effects the activity may have on the introduction or spread of exotic weed species and pest animals,<sup>147</sup> both terrestrial and aquatic;

f.h. The impacts on mahinga kai;

g.i. The impact of the activity on the values of any area of significant indigenous vegetation or habitat, or threatened species,<sup>148</sup> and how any potential impact could be avoided, remedied or mitigated, including by applying the effects management hierarchy;<sup>149</sup> and

h.j. The appropriateness of any biodiversity offsetting or compensation in accordance with the principles in Appendix Fourteen and Appendix Fifteen from the NPSIB Policy 9 to offset address<sup>150</sup> any more than minor<sup>151</sup> residual adverse effects that remain after avoiding, remedying and mitigating measures have been applied; and

k. The extent of net gain in indigenous biodiversity values achieved by biodiversity offsetting or compensation.<sup>152</sup>

**ECO -P89**

Maintain indigenous habitats and ecosystems across the West Coast/Te Tai o Poutini by:

<sup>139</sup> Manawa Energy Limited S438.079, Director General of Conservation S602.071

<sup>140</sup> Director General of Conservation S602.071

<sup>141</sup> Buller District Council S538.203, Peter Langford S615.046, Karamea Lime Company S614.046, Koiterangi Lime Co Ltd S577.037, Catherine Smart-Simpson S564.030, William McLaughlin S567.177, Steve Croasdale S516.036, Geoff Volckman S563.025, Chris & Jan Coll S558.095, Chris J Coll Surveying Limited S566.095 and Laura Coll McLaughlin S574.095

<sup>142</sup> New Zealand Coal & Carbon Limited S472.016 and Straterra S536.049

<sup>143</sup> Royal Forest and Bird Protection Society of New Zealand Incorporated S560.478

<sup>144</sup> Frida Inta S553.070 and Buller Conservation Group S552.070

<sup>145</sup> Frida Inta S553.070 and Buller Conservation Group S552.070

<sup>146</sup> Manawa Energy Limited S438.079, Westpower Limited S547.0502

<sup>147</sup> RMA First Schedule, Clause 16

<sup>148</sup> RMA First Schedule, Clause 16

<sup>149</sup> Te Man Ora S190.322, Frida Inta S553.070, Buller Conservation Group S552.070, Director General of Conservation S602.071

<sup>150</sup> Consequential amendments to deleting ECO-P9 to give effect to the NPSIB

<sup>151</sup> Manawa Energy Limited S438.079

<sup>152</sup> Director General of Conservation S602.071

- a. ~~Maintaining~~, **Protecting**,<sup>153</sup> and where appropriate enhancing or restoring,<sup>154</sup> **indigenous biodiversity, including**<sup>155</sup> the functioning of ecological corridors, linkages, dunes and indigenous coastal vegetation and wetlands;
- b. Minimising adverse effects on, and providing access to, areas of indigenous biodiversity which are significant to Poutini Ngāi Tahu;
- c. Restricting the modification or disturbance of coastal indigenous vegetation, dunes, estuaries and wetlands;
- d. ~~Preserving~~**Protecting the significant habitats of indigenous fauna, protected wildlife including threatened and at-risk species**,<sup>156</sup> and
- e. Encouraging and enabling site and landscape scale biosecurity programmes to manage plant and animal pests; and**<sup>157</sup>
- ~~e.f.~~ Recognising the benefits of **Encouraging and enabling active conservation** management of indigenous biodiversity, including voluntary animal and plant pest and stock control and/or formal legal protection:

**Except in relation to the National Grid and Renewable Electricity Generation Activities.**<sup>158</sup>

**ECO – P9**

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

- ~~a. The goal of the biodiversity offsets is no net loss and, preferably, a net gain of biodiversity;~~
- ~~b. The conservation outcomes are measurable and positive; and~~
- ~~c. The biodiversity offsets or compensation are in accordance with best practice, including but not limited to NZ Government guidance on biodiversity offsetting.~~<sup>159</sup>

**ECO - P10**

Protect indigenous biodiversity in the coastal environment ~~from inappropriate subdivision, use and development~~<sup>160</sup> by:

- a. **Avoiding adverse effects on:**
  - i. **indigenous species that are listed as threatened or at risk in the New Zealand Threat Classification System lists;**

<sup>153</sup> West Coast Penguin Trust S275.005, Clare Backes S444.007 and RMA First Schedule, Clause 16

<sup>154</sup> RMA First Schedule, Clause 16

<sup>155</sup> Frida Inta S553.071 and Buller Conservation Group S552.071

<sup>156</sup> Bathurst Resources Limited and BT Mining Limited S491.017 and RMA First Schedule, Clause 16

<sup>157</sup> Director General of Conservation S602.072, New Zealand Agricultural Aviation Association S166.014

<sup>158</sup> Transpower New Zealand Limited S299.072, Manawa Energy Limited S438.074

<sup>159</sup> Royal Forest and Bird Protection Society of New Zealand Incorporated S560.209, Suzanne Hills S443.026, Westpower S547.257, Director General of Conservation S602.073

<sup>160</sup> Royal Forest and Bird Protection Society of New Zealand Incorporated S560.480 and S560.481

- ii. species that are listed by the International Union for Conservation of Nature and Natural Resources as threatened;
  - iii. indigenous ecosystems and vegetation types that are threatened in the coastal environment, or are naturally rare;
  - iv. habitats of indigenous species where the species are at the limit of their natural range, or are naturally rare;
  - v. areas containing nationally significant examples of indigenous community types;
  - vi. areas set aside for full or partial protection of indigenous biological diversity under other legislation; and<sup>161</sup>
- b. Avoiding adverse effects on significant indigenous biodiversity; and
- c. Using the effects management hierarchy to avoid<sup>162</sup>~~ing, remedying or mitigating other~~ significant<sup>163</sup> adverse effects on indigenous vegetation, dunes, estuaries, coastal wetlands, habitats and species within the coastal environment.<sup>164</sup>

**ECO – P11**

**In relation to the National Grid and renewable electricity generation activities, the adverse effects on indigenous biodiversity will be managed:**

- a. In relation to the National Grid by:
- i. Recognising and providing for the operation, maintenance and upgrade of existing National Grid assets, and in areas of significant indigenous biodiversity and SNA identified in Schedule Four, avoiding, remedying or mitigating adverse effects to the extent practicable;
  - ii. Where appropriate, using substantial upgrades as an opportunity to reduce existing adverse effects;
  - iii. For new activities, seeking to avoid adverse effects on areas of significant indigenous biodiversity and SNA identified in Schedule Four and where, having regard to the route, site and method selection and functional need or operational need, it is not practicable to avoid all adverse effects, to remedy or mitigate any residual adverse effects to the extent practicable;
  - iv. For new activities within the coastal environment seeking to avoid significant adverse effects on indigenous biodiversity values that meet the criteria in Policy 11 (b) of the NZCPS 2010, and where

<sup>161</sup> Director General of Conservation S602.074, Royal Forest and Bird Protection Society of New Zealand Incorporated S560.480 and S560.481

<sup>162</sup> Director General of Conservation S602.074

<sup>163</sup> WMS Group (HQ) Limited and WMS Land Co. Limited S599.053, TiGa Minerals and Metals Limited S493.057

<sup>164</sup> Director General of Conservation S602.074, Royal Forest and Bird Protection Society of New Zealand Incorporated S560.480 and S560.481

**adverse effects cannot be avoided, remedy or mitigate any residual adverse effects to the extent practicable;**

- b. In relation to renewable electricity generation activities by:**
- i. Recognising and providing for the operation, maintenance, repair and upgrade of existing renewable electricity generation activities, and in areas of significant indigenous biodiversity and SNA identified in Schedule Four, avoiding, remedying or mitigating adverse effects to the extent practicable;**
  - ii. Where appropriate, using substantial upgrades as an opportunity to reduce existing adverse effects;**
  - iii. Seeking to avoid adverse effects on areas of significant indigenous biodiversity and SNA identified in Schedule Four and where it is not practicable to avoid because of functional need or operational need, remedy or mitigate any residual adverse effects to the extent practicable;**
  - iv. Within the coastal environment, seeking to avoid significant adverse effects on indigenous biodiversity values that meet the criteria in Policy 11 (b) of the NZCPS 2010, and where adverse effects cannot be avoided, remedy or mitigate any residual adverse effects to the extent practicable;**
- c. By considering the net gain for biodiversity values of biodiversity offsetting or compensation where this is offered.**

**ECO- 12 To promote the resilience of indigenous biodiversity to climate change and recognise its role in mitigating the effects of climate change.**<sup>165</sup>

#### **4.5. ECO - Ecosystems and Indigenous Biodiversity Rules**

##### **Submissions and Further Submissions**

635. Fourteen submission points and 16 further submissions relating to the ECO rules (as a whole) were summarised in a Table on pages 147 - 150 of the s42A Report. Fourteen submission points sought amendments, with nine further submissions opposing amendments and seven further submissions supporting amendments.
636. Seven submission points and seven further submissions relating to the ECO permitted activities rules (as a whole) were summarised in a Table on pages 153 - 154 of the s42A Report. One submission point sought to delete the permitted rules and six submissions sought amendments. Five further submissions supported submissions that sought amendments, and two further submissions opposed submissions that sought amendments.
637. Eighty-eight submission points and 61 further submissions relating to **ECO-R1** were summarised in a Table on pages 155 - 169 of the s42A Report. Twelve submission points

<sup>165</sup> Lynley Hargreaves S481.026

sought to retain the rule as notified and 26 submissions sought amendments or clarification. Fourteen further submissions supported submissions, 45 further submissions opposed submissions, and one was neutral.

638. Sixty-one submission points and 28 further submissions relating to **ECO-R2** were summarised in a Table on pages 177 - 184 of the s42A Report. Five submission points sought to retain the rule as notified, 10 submission points sought to delete the rule, and 46 submissions sought amendments or clarification. Sixteen further submissions supported submissions, and 12 further submissions opposed submissions.
639. Seventeen submission points and one further submission relating to **ECO-R3** were summarised in a Table on pages 189 - 190 of the s42A Report. Two submission points sought to retain the rule as notified, two submission points sought to delete the rule, and 13 submissions sought amendments. The further submission supported a submission to amend the rule.
640. Seventy submission points and six further submissions relating to **ECO-R4** and **SUB-R7** were summarised in a Table on pages 192 - 199 of the s42A Report. Three submission points sought to retain the rule as notified, one submission point sought to delete the rule, and 66 submission points sought amendments. Five further submissions supported a submission to amend the rule, and one further submission supported the submission to delete the rule (ECO-R4).
641. Thirty-four submission points and eight further submissions relating to **ECO-R6** and **SUB-R9** were summarised in a Table on pages 203 - 208 of the s42A Report. One submission point sought to retain the rule as notified, one submission point sought to delete the rule, and 32 submission points sought amendments. Four further submissions supported a submission to amend the rule, and three further submissions supported submissions to amend the rule. One further submission supported deleting Rule ECO-R6.
642. Thirty-six submission points and two further submissions relating to **ECO-R8** and **SUB-R15** were summarised in a Table on pages 210 - 213 of the s42A Report. One submission point sought to retain the rule as notified, one submission point sought to delete the rule, and 34 submission points sought amendments. One further submission opposed a submission to amend the rule and one further submission supported deleting Rule ECO-R8.
643. Twenty-five submission points and one further submission relating to **ECO-R9** and **SUB-R27** were summarised in a Table on pages 215 - 216 of the s42A Report. One submission point sought to retain the rule as notified, 23 submission points sought to delete the rule, and one submission point sought amendments. One further submission supported deleting Rule ECO-R9.
644. Forty-four submission points and 10 further submissions relating to **ECO-R5** were summarised in a Table on pages 216 - 221 of the s42A Report. Six submission points sought to retain the rule as notified, 38 submission points sought amendments. Three further submissions supported a submission to amend the rule, and seven further submissions opposed amendments to the rule.
645. Thirty-one submission points and 19 further submissions relating to **ECO-R7** were summarised in a Table on pages 221 - 225 of the s42A Report. Thirteen submission points sought to retain the rule as notified, 18 submission points sought amendments. All the further submissions opposed amendments to the rule.

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646. Thirteen submission points relating to **ECO-R10** were summarised in a Table on pages 230 - 231 of the s42A Report. Twelve submission points sought to retain the rule as notified, and one sought amendment.
647. Thirteen submission points relating to **ECO-R11** were summarised in a Table on page 231 of the s42A Report. Twelve submission points sought to retain the rule as notified, and one sought amendment.

### **Section 42A Report**

#### *Rules (General)*

648. In response to the submission points made by the AQA (S521.001) and Straterra (S536.020) that both sought the rules be amended to reflect various aspects of the RPS, Ms Easton did not support the relief sought. This was consistent with her previous recommendations and the legal advice that the NPSIB overrules the RPS where there is any conflict.
649. Ms Easton did not support the submission point made by Forest and Bird (S560.010) that sought for an ecological assessment to be included with all consent applications for all indigenous vegetation clearance. She noted that there was very low capacity to undertake these assessments on the West Coast and she did not consider it to be necessary in instances where vegetation clearance would be minimal.
650. In response to the submission point made by Margaret Montgomery (S446.003) that sought for all natural environment rules to be restricted discretionary activities, Ms Easton did not support the relief sought. This was because the higher order documents set out a clear protective direction for indigenous biodiversity. She considered that when activities had a risk of significant adverse effects on indigenous biodiversity it was appropriate to apply a discretionary or non-complying activity status so that the full range of issues could be addressed.
651. In response to the submission point made by Hadley Mills (S543.003) that sought the addition of a series of permitted activity rules to allow for bush clearing, earthworks, waterway culverts, bridges and any other activity associated with multi-use recreation trails, Ms Easton did not support the relief sought. She acknowledged the rationale for the submission, but did not consider that rules should be drafted specifically for this purpose.
652. In response to submission points made by Forest and Bird (S560.483, S560.493, S560.024) that sought the inclusion of additional rules, Ms Easton responded as follows:
- (a) She did not support the need for additional rules in other chapters to protect significant habitats. She noted that while this may be necessary in the future, the first priority was to identify significant habitats;
  - (b) She did not support the inclusion of a controlled activity rule in the residential zones to clear indigenous vegetation for the purpose of establishing a building platform and access on sites where a building did not yet exist. This was because it assumed that all indigenous vegetation clearance would require a resource consent, and Ms Easton considered that in some scenarios it could be permitted; and

- (c) She did not support making all vegetation clearance necessary for mineral extraction a non-complying activity. This is because she did not consider it to be consistent with either the RPS or the NPSIB.
653. In response to the submission points from Papahaua Resources Limited (S500.029) and Rocky Mining Limited (S474.005) that sought a specific restricted discretionary activity for mining, Ms Easton did not support the relief sought. This was because she did not consider it was appropriate to have a blanket approach, and the NPSIB directed a more nuanced approach.
654. Ms Easton supported GDC's (S608.055) request for a new rule for permitted activities within an SNA because both the RPS and the NPSIB anticipate limited permitted activities within an SNA. However, she considered the rule drafted by GDC was too permissive given the direction of clause 3.15 of the NPSIB in relation to established activities. She considered a permitted rule relating to established activities and a maximum area of vegetation clearance would be appropriate, and recommended the addition of a new rule.
655. In response to the similar submission points made by BDC (S538.208) and Rebecca Inwood (422.001) that sought permitted activity provisions following the identification and scheduling of SNA in the Buller District, Ms Easton supported the relief sought. She considered the rule recommended in response to the GDC submission would also address these submission points.
656. The s42A Report recommended a new rule in response to the submissions as follows:

**ECO – R1B Indigenous Vegetation Clearance within a Significant Natural Area**

**Activity Status Permitted**

**Where this is:**

- 1. For the maintenance, operation and repair of established activities including but not limited to: tracks, fences, drains, structures, infrastructure and renewable electricity generation activities where the removal is within 3m of the established activity and is limited to a maximum area of 50m<sup>2</sup> per individual SNA;**
- 2. Necessary to remove vegetation that endangers human life or existing buildings or structures where this is certified by a Council Approved Arboricultural Contractor;**
- 3. For the safe and efficient operation (including maintenance and repair) of any formed public road, rail corridor or access where the removal is within 3m of the formed width of the road, rail corridor or access where this is undertaken by a Road or Rail Controlling Authority ;**
- 4. To comply with section 43 of the Fire and Emergency Act 2017;**
- 5. To enable removal of unwanted organisms declared under the Biosecurity Act 2015.**

**Permitted Rules**

657. Ms Easton did not support Brian Anderson's (S576.009) request to delete the permitted activity rules because she considered there were some circumstances where it was

appropriate to provide for vegetation clearance as a permitted activity, and that national direction expected this.

658. In response to the four submission points<sup>166</sup> that sought for the permitted activity rules to be more enabling, Ms Easton did not support the relief sought. She reiterated that any permitted activity should be within the scope of national and regional direction.
659. Ms Easton did not support Greg Maitland's (S571.013) request to change the rule so that land clearance and disturbance was based on a percentage of land area because she considered this was not effects based and could lead to significant adverse effects.
660. In response to Forest and Bird's (S560.0215) request, that the absence of the comprehensive identification of SNA, all indigenous vegetation clearance be treated as if it were in an SNA, Ms Easton did not support the relief sought. Nevertheless, she acknowledged the concern that SNA may be cleared before being identified and noted that this issue had been addressed in relation to ECO-P1, ECO-R1 and ECO-R2.
661. Ms Easton supported in part Katherine Gilbert's (473.003) request to amend the rule framework to ensure it protects the biodiversity of SNA prior to their identification. Similar to the Forest and Bird submission above, Ms Easton acknowledged the concern that SNA may be cleared before being identified and noted she had addressed this issue in relation to ECO-P1, ECO-R1 and ECO-R2.
662. The s42A Report recommended no amendments to the permitted activity rules generally, as a result of these submissions.

#### *ECO – R1*

663. Ms Easton acknowledged the submission points that sought to retain ECO-R1 as notified. However, she noted her recommended amendments in response to other submissions.
664. Ms Easton supported Lynne Lever and Greg Tinney's (S320.003) request for clarification regarding the permitted areas and clearance areas and agreed the notified rule was unclear.
665. In response to Poutini Ngāi Tahu's (S620.145) request to delete '*cultural harvest*' in clause (3)(x) and to refer to '*Poutini Ngāi Tahu Activities*', Ms Easton did not support the relief sought. This was because she considered the rule provided for Poutini Ngāi Tahu Activities on Māori Purpose land and the rule should not be widened to all land.
666. In response to GDC's (S608.493) request to change the wording of clause (3) to refer to '*in the margins of waterbodies*', Ms Easton noted that the submission had incorrectly referred to Rule NC-R1 rather than ECO-R1. Notwithstanding this, she did not consider the amendment was necessary.
667. In response to Westpower's (S547.259) and BDC (S538.208) requests that sought to split ECO-R1 into two rules so that there was a rule for activities in the Grey District and another rule for Buller and Westland Districts, Ms Easton supported the relief sought. She considered this would improve clarity of the rule and its implementation within different parts of the region.

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<sup>166</sup> Geoff Voickman (S563.029), Steve Croasdale (S516.040), William McLaughlin (S567.181 and S567.183)

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668. Ms Easton did not support BDC's (S538.209) request to remove the reference to the '*coastal environment*' in the heading of the rule because she considered it would result in vegetation clearance in the coastal environment being treated the same as the rest of the West Coast, which was not consistent with the NZCPS or the RPS, where coastal indigenous biodiversity must receive a higher degree of protection.
669. In response to Forest and Bird's (S560.216) request to include an advice note to explain where information can be found regarding the Threatened Environment Classification and protected species, Ms Easton supported the relief sought in part. She noted her recommendation to include a definition for '*Threatened Environment Classification*' and a link to where the information is found. She recommended deleting the reference to "*protected species*" as there was no need to define that term.
670. In response to the numerous submission points<sup>167</sup> that sought changes to the stringency of the rule, Ms Easton summarised the various relief sought in the s42A Report. She noted her recommendation considered the NPSIB direction, which sets the framework for which rules of the ECO Chapter should apply.
671. Ms Easton identified that the submission points raised some fundamental issues, the first being whether there should be a separate rule for the Grey District where SNA were already identified. Ms Easton supported the relief sought by Westpower and BDC to separate the rule to address this issue.
672. Ms Easton identified that the second fundamental issue raised in submissions was how best to manage indigenous vegetation clearance in Buller and Westland Districts until the SNA identification process was undertaken. For the same reasons as her recommendation for ECO-P1, Ms Easton gave priority to the NPSIB over the RPS.
673. Ms Easton recognised that there was a need for an interim approach that allowed for some appropriate permitted activities, but did not threaten the viability of yet to be identified SNA. She noted that her recommendation for ECO-P1 provided the basis for this approach. Taking account of the submission points, Ms Easton considered that the rule should provide for the following:
- (a) "Established activities" and their maintenance, operation, repair and upgrade.
  - (b) Poutini Ngāi Tahu Activities on Poutini Ngāi Tahu land and Māori Purpose Zoned land.
  - (c) Cultural harvest.

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<sup>167</sup> Forest & Bird (S560.216, S560.484, S560.485, S560.490, S560.491, S560.487, S560.488), Frida Inta (S553.213, S553.214, S553.075, S553.076), Director General (S602.075, S602.010), Buller Conservation Group (S552.211, S552.209, S552.075, S552.210, S552.076), Suzanne Hills (S443.028, S443.027), Clare Backes (S444.008, S444.009, S444.010), Brian Anderson (S576.013), Inger Perkins (S462.008), Katherine Gilbert (S473.016), Lynley Hargreaves (S481.020), Scoped Planning and Design Limited (S617.009, S617.008), NZ Agricultural Aviation Association (S166.015, S166.016), Koiterangi Lime Co Limited (S577.041), Catherine Smart-Simpson (S564.034), Geoff Volkerman (S563.171), Peter Langford (S615.050), Karamea Lime Company (S614.050), Leonie Avery (S507.039), Jared Avery (S508.039), Kyle Avery (S509.039), Avery Bros (S510.039), Bradshaw Farms (S511.039), Paul Avery (S512.039), Brett Avery (S513.039), Neil Mouat (S535.014), Avery Brothers (S609.038), Aggregate Quarry Association (S521.007), Emi Schroder (S369.003), Snodgrass Road Submitters (S619.030, S619.031), Te Rūnanga o Ngāi Tahu, Te Rūnanga of Ngāti Waewae and Te Rūnanga o Makaawhio (S620.398), Grey District Council (S608.056), West Coast Regional Council (S488.003), Tony Schroder (S343.004), Westpower Limited (S547.260, S547.261, S547.262, S547.263, S547.264, S547.265, S547.266, S547.267), Bathurst Resources Limited & BT Mining Limited (S491.018, S491.019), Transpower New Zealand (S299.075), Te Tumu Paeora (S440.027), Buller District Council (S538.207), Horticulture NZ (S486.030), Federated Farmers of NZ (S524.065), Manawa Energy Limited (S438.081), Chorus NZ Ltd, Spark NZ Trading Ltd, Vodafone NZ Ltd (S663.044)

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- (d) Maintenance of improved pasture for farming where it is part of a regular cycle of periodic maintenance.
  - (e) The construction of new fences and traplines associated with conservation activities, or to exclude stock or pest animals from indigenous vegetation, margins of waterbodies or the coast.
  - (f) To comply with Section 43 of the Fire and Emergency Act.
  - (g) To enable the removal of unwanted organisms declared under the Biosecurity Act.
  - (h) For the installation of temporary network activities following a state of emergency declaration.
  - (i) To establish a building platform and access for a residential dwelling where there is no dwelling on the allotment.
  - (j) For the construction of an above ground or below ground network utility or the National Grid.
674. Ms Easton recommended that in the circumstance prior to the identification of the SNA in the Buller and Westland Districts, the permitted activity rule should allow a maximum of 2,000m<sup>2</sup> of indigenous vegetation clearance per site over a three-year period, and 5,000m<sup>2</sup> for the specific identified purposes in the notified rule. In ONL in the Grey District, she recommended a maximum of 5,000m<sup>2</sup> for specific purposes.
675. In relation to clause 5(i) regarding kanuka/manuka and bracken, Ms Easton recommended an amendment to restrict the amount of clearance and link it to the maintenance of improved pasture as provided for in the NPSIB.
676. Ms Easton also considered that amendments to the rule were required for Grey District where an SNA assessment and identification had already been undertaken. She considered that in this District the rule should focus on the indigenous vegetation clearance provisions within ONL.
677. The s42A Report recommended amending **ECO-R1** as follows:

**ECO - R1 - Indigenous vegetation clearance and disturbance within the Buller and Westland Districts and outside of the coastal environment**

*Activity Status Permitted*

*Where:*

1. It is **on a site where an SNA assessment has been undertaken by a suitably qualified ecologist in accordance with the criteria in the NPSIB and is outside of:**
  - i. ~~an scheduled~~ **identified** Significant Natural Area ~~as identified~~ **including those** in Schedule Four; **and**
  - ii. **An Outstanding Natural Landscape identified in Schedule 5; and**

2. Within the Riparian Margin of a River, Lake or Coastal Wetland the ~~it is~~ clearance is permitted by the Natural Character and the Margins of Waterbodies Rule NC-R1ECO - RXXX; or
3. It is on a site where no SNA assessment has been undertaken and is a maximum area of 2000m<sup>2</sup> over any continuous 3 year period; or
4. It on a site where no SNA assessment has been undertaken, or is within an Outstanding Natural Landscape and is a maximum area of 5000m<sup>2</sup> per site over any continuous 3- year period; and it is necessary for one of the following purposes:
  - i. It is the removal of windthrown timber through:
    - a. Use of helicopter recovery methods; or
    - b. Where ground-based recovery is only undertaken from areas adjacent to existing vehicle tracks; or
  - ii. The maintenance, operation and repair of ~~lawfully~~ established **activities; including but not limited to roads, the rail corridor, accessways, tracks, fences, structures, buildings, ~~critical~~ regionally significant infrastructure, network utilities, renewable electricity generation activities, shelterbelts and woodlots or natural hazard mitigation ~~activities~~ structures;**
  - iii. For the installation of temporary network or electricity generation activities following a regional or local state of emergency declaration or environmental monitoring facilities;
  - iv. To prevent a serious threat to people, property, structures or services where this is certified by a Council Approved Arboricultural Contractor
  - v. ~~To ensure the safe and efficient operation (including maintenance and repair) of any formed public road, rail corridor or access;~~
  - vi. For the construction of new fences and traplines associated with Conservation Activities or to exclude stock or pest animals from indigenous vegetation or the margins of waterbodies, or the coast;
  - vii. To upgrade or create new public walking or cycling tracks up to 3m in width undertaken by the Council or its approved contractor;
  - viii. To comply with section 43 of the Fire and Emergency Act 2017;
  - ix. For construction, ~~or~~ operation, repair or upgrade of an above ground or below ground network utility or the national grid where:
    - a. The construction corridor did not exceed 3m in width; and
    - b. All machinery used in construction is cleaned and made free of weed material and seeds prior to entering the site; and
    - c. Rehabilitation of disturbed areas is undertaken following the completion of construction;
  - x. It is cultural harvest undertaken by Poutini Ngāi Tahu; or

- xī. *It is **for Poutini Ngāi Tahu Activities** on MPZ - Māori Purpose Zoned **or Poutini Ngāi Tahu** land and undertaken in accordance with an Iwi/Papatipu Rūnanga Management Plan; or*
  - xii. *It is within an area subject to a QEII National Trust Covenant or Ngā Whenua Rahui Kawaneta, a Reserves or Conservation Act covenant or a Heritage covenant under the Heritage New Zealand/Pouhere Taonga Act and the vegetation disturbance is authorised by that legal instrument;*
  - xiii. ***It is for the purpose of maintenance of improved pasture for farming and involves the removal or clearance of manuka, kānuka and bracken only that is not part of any wetland and which is under 15 years old; or***
  - xiv. ***It is for the establishment of a residential building platform and access to the site that did not exceed 500m<sup>2</sup> in area per allotment; or***
  - xv. ***The clearance is unavoidable in the course of removing pest plants and pest animals in accordance with any regional pest management plan or the Biosecurity Act 1993, or is removal of unwanted organisms declared under the Biosecurity Act 2015.***
- ~~5. Within the Grey District it is clearance outside of an Outstanding Natural Landscape identified in Schedule Five; or~~
- ~~i. It is the removal or clearance of mānuka, kānuka and bracken only that is not part of any wetland and which is under 15 years old, not exceeding 5ha per site over any continuous three year period, subject to provision of notice to the relevant District Council at least 20 working days prior to the proposed clearance including:
    - ~~a. Details of the location of the proposed clearance;~~
    - ~~b. Area of the proposed clearance; and~~
    - ~~c. Verification by documentary, photographic or other means that the vegetation is less than 15 years old and not part of any wetland; or~~~~
  - ~~ii. It is a maximum area of 5000m<sup>2</sup> per site, in total, over any continuous three year period.~~

**Advice Notes:**

1. *Where clearance of mānuka, kānuka or bracken is proposed under Standard 5 (xiii) of this rule, if proof that the vegetation is less than 15 years old or that the site is not a wetland, is unavailable, then a resource consent will be required.*
- ~~2. Where indigenous vegetation clearance is proposed within the riparian margins of a waterbody refer to these sections of the Plan for the Rules around this clearance.~~
3. *Where indigenous vegetation clearance is proposed in or on a site or area of significance to Māori then Rule SASM - R4 will also apply.*
4. *Where indigenous vegetation clearance is proposed within a wetland this is also subject to rules within the NES - Freshwater which is administered by the West Coast Regional Council.*
5. *This rule also applies to plantation **commercial** forestry activities, where this provision is more stringent than the NES - **PCF** in relation to significant natural areas.*

*Activity status where compliance not achieved:*

*Refer Rule ECO – R1B where standard 1 is not achieved. Refer Rule ECO – RXXX where standard 2 is not achieved.*

~~*Discretionary **Controlled** where standard 3 1 or 4 is not achieved.*~~

~~*Refer Natural Character and Margins of Waterbodies Chapter where standard 2 is not achieved.*~~

~~*Within the Grey District refer standard 4 where standard 3 is not achieved.*~~

~~*Within the Buller and Westland Districts Controlled or Restricted Discretionary (depending on activity type) where standard 5 is not achieved.*~~

678. The s42A Report also recommended adding a new Rule **ECO-R1A**, as follows:

*ECO - R1A - Indigenous vegetation clearance and disturbance within the Grey District and outside of the coastal environment*

*Activity Status Permitted*

*Where:*

- 1. It is outside of an identified Significant Natural Area including those in Schedule Four; and*
- 2. Within the Riparian Margin of a River, Lake or Coastal Wetland the It is clearance is permitted by the Rule ECO - RXXX; and*
- 3. Within an Outstanding Natural Landscape it is a maximum area of 5000m<sup>2</sup> per site over any continuous 3-year period and is necessary for one of the following purposes:*
  - i. It is the removal of windthrown timber through:*
    - a. Use of helicopter recovery methods; or*
    - b. Where ground based recovery is only undertaken from areas adjacent to existing vehicle tracks; or*
  - ii. The maintenance, operation and repair of lawfully established activities: including but not limited to: roads, the rail corridor, accessways, tracks, fences, structures, buildings, regionally significant infrastructure, network utilities, renewable electricity generation activities, shelterbelts, woodlots, and natural hazard mitigation structures; or*
  - iii. For the installation of temporary network or electricity generation activities following a regional or local state of emergency declaration or environmental monitoring facilities; or*
  - iv. To prevent a serious threat to people, property, structures or services where this is certified by a Council Approved Arboricultural Contractor; or*
  - v. For the construction of new fences and traplines associated with Conservation Activities or to exclude stock or pest animals from indigenous vegetation or the margins of waterbodies, or the coast; or*

- vi. To upgrade or create new public walking or cycling tracks up to 3m in width undertaken by the Council or its approved contractor; or
- vii. To comply with section 43 of the Fire and Emergency Act 2017; or
- viii. For construction, operation, repair or upgrade of an above ground or below ground network utility or the national grid where:
  - a. The construction corridor did not exceed 3m in width; and
  - b. All machinery used in construction is cleaned and made free of weed material and seeds prior to entering the site; and
  - c. Rehabilitation of disturbed areas is undertaken following the completion of construction; or
- ix. It is cultural harvest undertaken by Poutini Ngāi Tahu; or
- x. It is for Poutini Ngāi Tahu Activities on MPZ - Māori Purpose Zoned land or Poutini Ngāi Tahu Land and undertaken in accordance with an Iwi/Papatipu Rūnanga Management Plan; or
- xi. It is within an area subject to a QEII National Trust Covenant or Ngā Whenua Rahui Kawaneta, a Reserves or Conservation Act covenant or a Heritage covenant under the Heritage New Zealand/Pouhere Taonga Act and the vegetation disturbance is authorised by that legal instrument; or
- xii. It is for the purpose of maintenance of improved pasture for farming and involves the removal or clearance of manuka, kānuka and bracken only that is not part of any wetland and which is under 15 years old; or
- xiii. It is for the establishment of a residential building platform and access to the site that did not exceed 500m<sup>2</sup> in area per allotment; or
- xiv. The clearance is unavoidable in the course of removing pest plants and pest animals in accordance with any regional pest management plan or the Biosecurity Act 1993, or is removal of unwanted organisms declared under the Biosecurity Act 2015.

Advice Notes:

1. Where clearance of mānuka, kānuka or bracken is proposed under Standard 3 (xii) of this rule, if proof that the vegetation is less than 15 years old or that the site is not a wetland, is unavailable, then a resource consent will be required.
2. Where indigenous vegetation clearance is proposed in or on a site or area of significance to Māori then Rule SASM - R4 will also apply.
3. Where indigenous vegetation clearance is proposed within a wetland this is also subject to rules within the NES - Freshwater which is administered by the West Coast Regional Council.
4. This rule also applies to plantation commercial forestry activities, where this provision is more stringent than the NES - PF in relation to significant natural areas.

Activity status where compliance not achieved:

**Refer Rule ECO – R1B where standard 1 is not achieved. Refer Rule ECO – RXXX where standard 2 is not achieved. Discretionary where Standard 3 is not achieved.**

*ECO – R2*

679. Ms Easton acknowledged the submission points that sought to retain ECO-R2 as notified. However, she noted her recommended amendments in response to other submissions.
680. In response to three submission points<sup>168</sup> that sought deletion of the rule, Ms Easton did not support the relief sought. She referred to Policy 11 of the NZCPS and the RPS which both direct that all adverse effects on significant indigenous biodiversity should be avoided. She noted the NZCPS was the primary national direction in relation to this rule.
681. Ms Easton did not support Westpower’s (S547.0503) request to relocate this rule to the Coastal Environment Chapter because it specifically related to vegetation clearance in this overlay.
682. Ms Easton analysed the submission points in relation to this rule in two groups: those that sought to make the rule less restrictive; and those that sought to make it more restrictive. Ms Easton considered the submissions generally and in the context of Policy 11 of the NZCPS, the NPSIB and the RPS. She addressed the key matters raised as four questions as follows:

- a. Should the rule apply to urban areas?

Ms Easton noted that given the towns of Hokitika, Greymouth and Westport are all located in the coastal environment, she considered most significant habitats of fauna and areas of indigenous vegetation would be located in public open spaces. Therefore, she did not consider that the restrictions on vegetation clearance as set out in ECO-R2 should apply to urban zoned properties (i.e. Residential, Commercial and Industrial Zones).

- b. Should the rule be different in the Grey District compared to Buller and Westland?

Ms Easton noted that because the Grey District had identified SNA in the coastal environment, and the rule as notified excluded vegetation clearance from these areas, she had considered whether a less restrictive rule for the remaining area of the Grey District coastal environment would be appropriate. She recommended the rule should be the same across all districts because of the direction in the NZCPS and RPS that required significant adverse effects on all indigenous biological diversity in the coastal environment be avoided and that all adverse effects should be avoided, remedied or mitigated.

- c. What is an appropriate permitted activity limit for vegetation clearance outside of urban areas?

Ms Easton considered that the 500m<sup>2</sup> area as notified was an appropriate permitted area and reflected the sensitivity of the environment.

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<sup>168</sup> Birchfield Ross Mining Limited (S604.035), Tim and Phaedra Robins (S579.005) and Forest and Bird (S560.217)

- d. What activities should be provided for within the coastal environment in terms of allowing for indigenous vegetation clearance?

Ms Easton noted that the NZCPS provided direction for environmental outcomes, while the RPS provided a clearer path with specific exclusions for the National Grid. She noted both the RPS and the NZCPS made provision for activities with a functional need to be in the coastal environment, while the RPS also makes provision for activities to continue where they have been legally established.

683. In considering the submission points and her analysis of the key matters above, Ms Easton recommended the rule should allow for the following:

- (a) Indigenous vegetation clearance on RESZ - Residential, COMZ -Commercial and Mixed Use, PORTZ – Port and IND – Industrial zoned land.
- (b) Established activities and structures and their maintenance, operation and repair, where this was at the same or similar scale, character and intensity as at the date of notification of the Plan, including drains and improved pasture, tracks, infrastructure and buildings and other specified activities sought by submitters.
- (c) To prevent a serious threat to human life or existing buildings or structures.
- (d) Maintenance, repair, operation and upgrade of the National Grid, regionally significant infrastructure and environmental monitoring facilities.
- (e) Upgrading of public walking and cycling tracks.
- (f) Fencing.
- (g) Upgrading of network utilities, renewable energy generation or the National Grid.
- (h) Establishment of a building platform and access to a building site in an approved subdivision or where there is no existing residential building on the site.
- (i) Cultural harvest.
- (j) Vegetation clearance on Poutini Ngāi Tahu Land where this was undertaken in accordance with an Iwi/Papatipu Rūnanga Management Plan.

684. The s42A Report recommended amending **ECO-R2** as follows:

***ECO – R2 - Indigenous vegetation clearance in the Coastal Environment***

*Activity Status Permitted*

*Where:*

~~1. This is for:~~

~~i. Walking/cycling tracks, roads, farm tracks or fences;~~

~~ii. Operation, maintenance, repair, upgrading and installation of new network utility infrastructure and renewable electricity generation activities; or~~

~~iii. — Establishment of a building platform and access to a building site in an approved subdivision or where there is no existing residential building on the site~~

~~4. The indigenous vegetation clearance did not occur in any area identified as a Significant Natural Area in Schedule Four; **and**~~

~~2. The extent of indigenous vegetation disturbed and/or cleared per site did not exceed an area of 500m<sup>2</sup> in area per site in any three year period; **and**~~

~~3. The indigenous vegetation clearance did not disturb, damage or destroy nesting areas or habitat of ~~protected~~ **threatened or at risk** species; and~~

~~4. **The indigenous vegetation clearance did not occur in an area of land environment of category one or two of the Threatened Environment Classification; and**~~

~~5. **The indigenous vegetation clearance is for the following purposes:**~~

- ~~i. **For the maintenance, operation and repair of established activities and structures including but not limited to: roads, the rail corridor, accessways, tracks, fences, drains, structures, regionally significant infrastructure, network utilities, environmental monitoring facilities, natural hazard mitigation structures and renewable electricity generation activities, where this is at the same or similar scale, character and intensity as at 14 July 2022; or**~~
- ~~ii. **To prevent a serious threat to human life or existing buildings or structures where this is certified by a Council Approved Arboricultural Contractor; or**~~
- ~~iii. **To upgrade or create new public walking or cycling tracks up to 3m in width undertaken by the Council or its approved contractor or**~~
- ~~iv. **For the construction of new fences and traplines associated with Conservation Activities or to exclude stock or pest animals from indigenous vegetation or the margins of waterbodies, or the coast or**~~
- ~~v. **For the operation, maintenance, repair or upgrade of network utility infrastructure, renewable energy generation or the national grid; or**~~
- ~~vi. **It is cultural harvest undertaken by Poutini Ngāi Tahu; or**~~
- ~~vii. **It is for Poutini Ngāi Tahu Activities on MPZ - Māori Purpose Zoned land or Poutini Ngāi Tahu Land and undertaken in accordance with an Iwi/Papatipu Rūnanga Management Plan; or**~~
- ~~viii. **It is for the purpose of maintenance of improved pasture for farming and involves the removal or clearance of manuka, kānuka and bracken only that is not part of any wetland and which is under 15 years old; or**~~
- ~~ix. **It is for the establishment of a building platform and access to a building site in an approved subdivision or where there is no existing residential building on the site; or**~~
- ~~x. **The clearance is undertaken on a RESZ – Residential Zone, COMZ – Commercial and Mixed Use Zone or IND – Industrial Zone property within the towns of Greymouth, Hokitika or Westport.**~~

**Advice Notes:**

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- ~~1. Where indigenous vegetation clearance is proposed within the riparian margins of a waterbody refer these sections of the Plan for the Rules around this clearance.~~
2. Where indigenous vegetation clearance is proposed in or on a site or area of significance to Māori then Rule SASM - R4 will also apply.
3. Where indigenous vegetation clearance is proposed within a wetland this is also subject to rules within the NES - Freshwater which is administered by the West Coast Regional Council.
4. This rule also applies to ~~plantation~~ **commercial** forestry activities, where this provision is more stringent than the NES - **PCF**.

**Activity status where compliance not achieved: Restricted Discretionary**

### ECO – R3

685. Ms Easton acknowledged the submission points that sought to retain ECO-R3 as notified. However, she noted her recommended amendments in response to other submissions.
686. In response to the submission points made by Forest and Bird (S560.495) that sought to delete the rule because a controlled activity status was insufficient to manage the adverse effects, Ms Easton did not support the relief sought.
687. Ms Easton did not support the submission point made by Michael Orchard (S583.002) that sought to rely on MPI Indigenous Forestry rules to manage indigenous production forestry.
688. Ms Easton's recommendation to not support the submissions made by Forest and Bird and Mr Orchard was based on the direction from clause 3.10(b) of the NPSIB, which specifically excluded the harvesting of indigenous trees from an SNA when it is carried out in accordance with a forest management plan or permit under s3A of the Forests Act. Ms Easton considered that the Forests Act provided a robust mechanism for most matters related to managing the sustainable harvest of indigenous vegetation. She considered this combined with the NPSIB supported her view that a controlled activity status was appropriate.
689. In response to the numerous submission points<sup>169</sup> that sought for the rule to be more enabling of development, Ms Easton supported the relief in part.
690. In response to the submission point from GDC (S608.058) that sought to remove the phrase 'and outside of the coastal environment', Ms Easton did not support the relief sought. This was because the NZCPS and RPS have a strong policy direction to manage indigenous biodiversity in the coastal environment.
691. In response to the submission point made by Poutini Ngāi Tahu (S620.147) that sought to either delete ECO-P7 or add a new matter of control to ECO-R3 referencing Poutini Ngāi Tahu values, rights and interests, Ms Easton supported the relief sought in part. However, she was unclear if the concerns raised in the submission related to Poutini Ngāi Tahu values being affected by others undertaking indigenous forestry, or whether indigenous forestry undertaken by Poutini Ngāi Tahu should be better provided for. Ms Easton recommended

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<sup>169</sup> Peter Langford (S615.052), Karamea Lime Company (S614.052), Koiterangi Lime Co LTD (S577.043), Catherine Smart-Simpson (S564.036), William McLaughlin (S567.182), Steve Croasdale (S516.041), Geoff Volckman (S563.030), Chris & Jan Coll (S558.101), Chris J Coll Surveying Limited (S566.101), Laura Coll McLaughlin (S574.101)

including an additional matter of control relating to Poutini Ngāi Tahu values and invited Poutini Ngāi Tahu to comment further at the hearing if necessary.

692. The s42A Report recommended amending **ECO-R3** as follows:

***ECO – R3 - Indigenous vegetation clearance or disturbance where this is in accordance with an approved plan or permitted issued under the Forests Act 1949***

*Activity Status Controlled*

*Where:*

1. *The indigenous vegetation clearance and disturbance is in accordance with an approved Sustainable Forest Management Plan or permit or personal use approval issued by the Ministry for Primary Industries under the Forests Act 1949;*
2. *The indigenous vegetation clearance is outside of ~~any Significant Natural Area identified in Schedule Four and outside of the Coastal Environment;~~ and*
3. *The indigenous vegetation clearance is not located in an area of land environment of category one or two of the Threatened Environment Classification.*

*Matters of control are:*

- a. *The matters outlined in Policies ECO - P6, ECO - P7 and where relevant NFL - P6;*
- b. *The protection of habitats of threatened or at risk species;*
- c. ***The management of impacts on Poutini Ngāi Tahu values as set out in the Tangata Whenua chapter***
- d. *Compliance with the terms of an approved Sustainable Forest Management Plan or permit or personal use approval issued by the Ministry for Primary Industries under the Forests Act 1949; and*
- e. *The measures to avoid, remedy, or mitigate any adverse effects on any significant indigenous vegetation and significant habitats of indigenous fauna.*

*Advice Note:*

1. *Where indigenous vegetation clearance is proposed within the riparian margins of a waterbody refer to these sections of the Plan for the **additional** Rules around this clearance.*
2. *Where indigenous vegetation clearance is proposed in or on a site or area of significance to Māori then Rule SASM - R4 will also apply.*
3. *Where indigenous vegetation clearance is proposed within a wetland this is also subject to rules within the NES - Freshwater which is administered by the West Coast Regional Council.*

*Activity status where compliance not achieved: Restricted Discretionary*

**ECO – R4/SUB – R7**

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693. Before analysing the submissions received in relation to these rules (which are identical in both chapters), Ms Easton explained that the rule was published in both the ECO and SUB Chapter for the purposes of the notification of the Plan. This was to assist with context and consultation. However, she noted the intention was that the rule would only be included in the SUB Chapter when the Plan became operative. Notwithstanding this, she advised that consideration of the rule had been allocated to this hearing stream.
694. Ms Easton acknowledged the submission points<sup>170</sup> that sought to retain ECO-R4 as notified. However, she noted her recommended amendments in response to other submissions. She also acknowledged and supported the submission point made by the Director General (S602.077) to delete the duplicate ECO-R4 rule.
695. In response to the numerous submission points<sup>171</sup> that sought for the rule to only apply to subdivision within a Scheduled area of significant indigenous biodiversity, that there be no requirement for legal protection of vegetation, and that clearance of significant indigenous vegetation be allowed where the adverse effects could be offset or compensated, Ms Easton did not support the relief sought. This was because the rule was intended as an incentive where some public benefit is obtained in exchange for the creation of lots.
696. In response to the submission points that sought for alternative wording related to the legal protection of significant indigenous biodiversity, Ms Easton supported the relief sought in the submission point made by BDC (S538.211 and S538.260) that sought to delete the specific reference to a conservation covenant with an authorised agency. This was because she considered other legal mechanisms such as consent notices were also appropriate. Ms Easton did not support the relief sought in the other submission points<sup>172</sup> which sought the use of private covenants because there would be no organisation administering the covenant.
697. In response to the submission point made by Poutini Ngāi Tahu (S620.148 and S620.186) that sought for the matters of control to include “*Poutini Ngāi Tahu values, rights and interests*” and other matters in ECO-P7, Ms Easton supported the relief sought in part. She did not support inclusion of the reference to other matters in ECO-P7 because she considered the rule did not allow for development within an area of significant indigenous biodiversity.
698. Ms Easton supported the relief sought in the submission point from Westpower (S547.268) to have Advice Note (2) refer to SUB-R2 because it provided clarity to the plan user.
699. In response to the submission points made by Forest and Bird (S560.219 and S560.269) that sought to make various amendments to the rule, Ms Easton advised the following:
- (a) She did not support the amendment to refer to “*Significant Natural Areas*” as she did not support the previous submission relating to the definition of this term.

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<sup>170</sup> Te Mana Ora (S190.329, S190.422), Waka Kotahi NZ Transport Agency (S450.089, S450.126) and Federated Farmers of New Zealand (S524.067, S524.084)

<sup>171</sup> Neil Mouat (S535.017, S535.024), Leonie Avery (S507.041, S507.049), Jared Avery (S508.041, S508.049), Kyle Avery (S509.049, S509.041), Avery Bros (S510.041, S510.049), Bradshaw Farms (S511.049, S511.041), Paul Avery (S512.041, S512.049), Brett Avery (S513.041, S513.049), Avery Brothers (S609.103, S609.039, S609.102), Chris & Jan Coll (S558.226), Chris J Coll Surveying Limited (S566.226) and Laura Coll McLaughlin (S574.226)

<sup>172</sup> Laura Coll McLaughlin (S574.228), Chris J Coll Surveying Limited (S566.228), William McLaughlin (S567.298) and Chris & Jan Coll (S558.228)

- (b) She supported the addition requiring an assessment against the significance criteria where an SNA assessment had not already been undertaken but recommended use of the NPSIB criteria (rather than the RPS) and that it be undertaken by a “*suitably qualified ecologist*”.
- (c) She supported the amendment to clause (3) that referred to a future building site and the requirement for including the location of residential building platforms and access. However, she considered that a consent notice (rather than a covenant) was the appropriate mechanism.
- (d) She supported amending the reference to “*minimise*” to “*avoid, remedy or mitigate*”.
700. Ms Easton supported the submission points<sup>173</sup> that sought to amend the title of the rule to provide clarity. To make it clear that ECO-R4/SUB-R7 was an incentive and only applied to subdivision that results in an area of significant indigenous biodiversity being protected, Ms Easton recommended amending the rule title to add ‘*where legal protection of an area of significant indigenous biodiversity is proposed*’.
701. In response to the submission points that were concerned that “*Areas of Significant Indigenous Biodiversity*” have not been mapped in the Buller or Westland Districts, Ms Easton considered that the addition of a definition resolved the concerns. Additionally, she considered the reference to the performance standard in the rule, made the requirements clearer.
702. In response to multiple submission points<sup>174</sup> that sought to clarify the term “*parent title*”, Ms Easton explained that it was the title that existed when the plan was notified. She recommended including a definition for the term as follows:
- Parent title means a resource of title in existence on 14 July 2022.**
703. In response to multiple submission points<sup>175</sup> that sought to make the rule less restrictive, Ms Easton did not support the relief sought. This was because the rule was an incentive rule and she considered the level of restriction was reasonable given it has a controlled activity status and offered a bonus lot.
704. In response to the submission point made by Davis Ogilvie & Partners Limited (S465.015) that sought to amend the rule so that the new allotment must contain the area of significant indigenous biodiversity and be for the purpose of legal protection, Ms Easton did not support the relief sought. She considered it was not critical which allotment contained the area of significant indigenous biodiversity given the key matter was that it be protected.
705. In response to another submission point made by Davis Ogilvie & Partners (S465.017) that sought the rule be amended so there be no minimum allotment size, Ms Easton supported the relief sought in part. She considered that in a rural location it was normal for at least 1,000m<sup>2</sup> to accommodate on-site servicing. She also accepted that there would be occasion where subdivision was intended to create an allotment to contain a small area of significant

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<sup>173</sup> Chris & Jan Coll (S558.224), William McLaughlin (S567.294), Chris J Coll Surveying Limited (S566.224) Laura Coll McLaughlin (S574.224)

<sup>174</sup> William McLaughlin (S567.297), Chris & Jan Coll (S558.227), Chris J Coll Surveying Limited (S566.227) and Laura Coll McLaughlin (S574.227)

<sup>175</sup> Steve Croasdale (S516.051), Karamea Lime Company (S614.074), Peter Langford (S615.074), Koiterangi Lime Co LTD (S577.056), Catherine Smart-Simpson (S564.052), Geoff Volckman (S563.046), Laura Coll McLaughlin (S574.223), Chris & Jan Coll (S558.223), Lara Kelly (S421.006), William McLaughlin (S567.293) and Chris J Coll Surveying Limited (S566.223)

indigenous biodiversity. Therefore, she recommended amending the minimum lot size to 1,000m<sup>2</sup>.

706. In response to the multiple submission points<sup>176</sup> that sought to remove the requirement for all the significant indigenous biodiversity to be contained within one allotment, Ms Easton did not support the relief sought. She referred to feedback from the QEII Trust received during the development of the plan that advised when areas had been split across multiple titles, poorer environmental outcomes resulted, at a greater financial cost.
707. Ms Easton supported the relief sought in the submission points made by Frida Inta (S553.117) and the Buller Conservation Group (S552.117) that requested the words “*within the area*” be added to clause (3) to make it clear that no clearance of any part of the area of significant indigenous biodiversity should occur.
708. Ms Easton supported the relief sought in the submission point made by GDC (S608.637) to include a matter of control related to the provision of three waters infrastructure and services.
709. In response to the submission point made by Westpower (S547.367) that sought the addition of new clauses to the matters of control, Ms Easton commented as follows:
- (a) The addition relating to the provision of infrastructure was addressed by her recommendation to accept the relief sought by GDC.
  - (b) The addition relating to the provision of easements was addressed by the requirements of the Subdivision Standards.
  - (c) The addition relating to the management of reverse sensitivity effects was supported.
710. In response to the submission point made by BDC (S538.254 and S538.261) that sought for references to “*natural hazards or geotechnical considerations*” and “*critical infrastructure*” be included, Ms Easton supported the relief sought and agreed that these matters should be added to the matters for control.
711. The s42A Report recommended deleting **ECO-R4**.
712. The s42A Report recommended amending **SUB-R7** as follows:

***SUB – R7 – Subdivision of Land to Create Allotments Containing an Area of Significant Indigenous Biodiversity Where Legal Protection of the Area of Significant Indigenous Biodiversity is Proposed***

*Activity Status Controlled*

*Where:*

1. *One new allotment with a minimum lot size of 41,000m<sup>2</sup> is created from the parent title, provided that in the GRUZ - General Rural Zone there is a balance area remaining on the original title of at least 4 ha; and*

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<sup>176</sup> Chris & Jan Coll (S558.225), William McLaughlin (S567.295), Chris J Coll Surveying Limited (S566.225) and Laura Coll McLaughlin (S574.225)

2. **An assessment of the site against the significance criteria in the NPSIB is provided with the application and this is undertaken by a suitably qualified ecologist where this has not already been undertaken as part of a district wide SNA assessment;**
3. *The area of significant indigenous biodiversity is legally protected in perpetuity by way of a conservation covenant with an authorised agency **or via consent notice on the title and is contained within a single allotment;***
4. *The subdivision will not result in buildings or access ways being located within the identified area of significant indigenous biodiversity or the need for clearance **within the area** of significant indigenous vegetation to provide for **a future building site or** future access to any site; and*
5. *Subdivision standards S2-S11 are complied with.*

**Matters of control are:**

- a. *Subdivision layout, access, design, location and proximity of building platforms to areas of significant indigenous biodiversity;*
- b. **The provision of infrastructure and services for drinking water, wastewater, stormwater, telecommunications and energy;**
- c. **The adequacy of water supply for firefighting;**
- d. **Specification of the location of building sites and access through the use of consent notices;**
- e. **Management of potential reverse sensitivity effects on existing land uses, including network utilities and regionally significant infrastructure, rural activities or significant hazardous facilities;**
- f. **Measures to address any natural hazards or geotechnical constraints;**
- g. *Management of earthworks, including earthworks for the location of building platforms and access ways;*
- h. *The protection of habitats of threatened or at risk species; and*
- i. *The measures to ~~minimise~~ **avoid, remedy or mitigate** any adverse effects on:*
  - i. *The significant indigenous biodiversity;*
  - ii. *~~The cultural significance to Poutini Ngāi Tahu~~ **Values.***

**Advice Note:** This rule did not apply to subdivisions to create allotments for network utilities, access or reserves which are subject to **either of Rules SUB – R2 or SUB - R4.**

**Activity status where compliance not achieved:** Restricted Discretionary where standard 1 is not complied with. Discretionary where standards 2-45 are not complied with.

ECO – R6/SUB – R9

713. Ms Easton acknowledged that most submission points relating to this rule were the same as those made in reference to ECO-R4/SUB-R7. Therefore, she did not analyse these

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submission points in detail, as her recommendations largely aligned with those made for ECO-R4/SUB-R7. In summary, her recommendations were as follows:

- (a) She supported the submission point made by the Director General (S602.079) to delete ECO-R6 (duplicate rule).
- (b) She supported the submission point made by Poutini Ngāi Tahu (S620.150) to refer to Poutini Ngāi Tahu values.
- (c) She did not support multiple submission points<sup>177</sup> that sought for the rule to only apply to scheduled areas of significant indigenous biodiversity, provide for buildings and accessways to be located within SNA if there was alternative mitigation through biodiversity offsetting and environmental compensation.
- (d) She supported the submission point made by BDC (S538.213) that sought the use of a consent notice as a legal protection mechanism.
- (e) She supported the part of the submission point made by Forest and Bird (S560.221 and S560.270) that sought to include an assessment of significance as a performance standard, to include a reference to future building sites or accessways and to replace “*minimise*” with “*avoid, remedy or mitigate*” in relation to adverse effects. She did not support changing the title of the rule to refer to SNA.
- (f) She did not support the submission point made by Davis Ogilvie & Partners (S465.016) that sought for allotments created by the parent title to contain the area of significant indigenous biodiversity.
- (g) She supported in part the submission point made by Davis Ogilvie & Partners (S465.018) that sought no minimum lot size and recommended reducing the minimum lot size to 1,000m<sup>2</sup>.
- (h) She supported the submission points made by Westpower (S547.375) and GDC (S608.639) that sought to include infrastructure and services for drinking water, wastewater and stormwater as well as water supply for firefighting services as matters of discretion.
- (i) She did not support the submission point made by Westpower (S547.376) that sought to add a matter of discretion related to easements.
- (j) She supported the submission point made by Westpower (S547.377) that sought to add a matter of discretion to manage reverse sensitivity effects.
- (k) She supported the submission point made by BDC (S538.256 and S538.261) that sought to include a matter of discretion relating to critical/regionally significant infrastructure, natural hazards and geotechnical considerations.

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<sup>177</sup> Avery Brothers (S609.040), Peter Langford (S615.075), Karamea Lime Company (S614.075), Koiterangi Lime Co LTD (S577.058), Catherine Smart-Simpson (S564.053), Steve Croasdale (S516.052), Geoff Volckman (S563.047), Avery Brothers (S609.100), Avery Brothers (S609.040), Leonie Avery (S507.042, S507.051), Jared Avery (S508.042, S508.051), Kyle Avery (S509.042, S509.051), Avery Bros (S510.042, S510.051), Bradshaw Farms (S511.042, S511.051), Paul Avery (S512.042, S512.051), Brett Avery (S513.042, S513.051), Neil Mouat (S535.018, S535.025)

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- (l) She partially supported the submission point made by Lara Kelly (S421.007) that sought to amend the rule heading, but not to make the rule less restrictive.
714. In response to the submission points made by Frida Inta (S553.079) and the Buller Conservation Group (S552.079) that sought to add additional matters of discretion, Ms Easton did not support the relief sought. This was because she considered the matters were unnecessary given that the rule was an incentive rule that did not provide for any vegetation clearance to establish the lots or the residential units on them.
715. In response to the submission point made by Margaret Montgomery (S446.055) that sought more clarity when determining the ecological value of the site, Ms Easton supported the relief sought. She considered that the recommendation to change the title of the rule would address the relief sought.
716. The s42A Report recommended deleting **ECO-R6**.
717. The s42A Report recommended amending **SUB-R9** as follows:

***SUB – R9 – Subdivision of Land to Create Allotments Containing an Area of Significant Indigenous Biodiversity Where Legal Protection of the Area of Significant Indigenous Biodiversity is Proposed not meeting Rule SUB-R7***

*Activity Status Restricted Discretionary*

*Where:*

1. *Up to three allotments with a minimum lot size of **41,000m<sup>2</sup>** are created from the parent title;*
2. ***An assessment of the site against the significance criteria in the NPSIB is provided with the application and this is undertaken by a suitably qualified ecologist where this has not already been undertaken as part of a district wide SNA assessment;***
3. *The area of significant indigenous biodiversity is legally protected in perpetuity by way of a conservation covenant with an authorised agency **or via consent notice on the title** and is contained within a single allotment;*
4. *The subdivision will not result in buildings or access ways being located within any Significant Natural Area identified in Schedule Four **or the need for clearance of significant indigenous vegetation to provide for a future building site or future access to any site;** and*
5. *Subdivision standards S2-S11 are complied with.*

*Discretion is restricted to:*

- i. *Whether there are other regulations impacting the site that have meant the land is unable to be used for economic rural uses;*
- ii. *The extent to which the subdivision layout, access, allotment size and design and the location of building platforms may adversely impact the significant indigenous vegetation and/or significant habitat of indigenous fauna;*
- iii. ***The provision of infrastructure and services for drinking water, wastewater, stormwater, telecommunications and energy***

- iv. The adequacy of water supply for firefighting
- v. Management of potential reverse sensitivity effects on existing land uses, including network utilities and regionally significant infrastructure rural activities or significant hazardous facilities
- vi. Management of earthworks including earthworks for the location of building platforms and access ways;
- vii. The protection of habitats of threatened or at risk species.
- viii. The measures to ~~minimise~~ avoid, remedy or mitigate any adverse effects on:
  - i. The significant indigenous biodiversity; and
  - ii. ~~The particular cultural, spiritual and/or heritage values, interests or associations of importance to Poutini Ngāi Tahu Values as kaitiaki and mana whenua that are associated with the significant indigenous vegetation and/or significant habitats of indigenous fauna and the potential impact on those values, interests or association~~

**Activity status where compliance not achieved:** Discretionary

#### ECO – R8/SUB – R15

718. Ms Easton acknowledged the submission points from Te Mana Ora that (S190.333 and S190.430) that sought to retain ECO-R8/SUB-R15 as notified. However, she noted her recommended amendments in response to other submissions.
719. Ms Easton supported the submission point made by the Director General (S602.081) to delete the duplicate ECO-R8 rule. However, she recommended a consequential amendment to add an advice note to SUB-R15 referring the relevance of the Ecosystem and Biodiversity Chapter.
720. In response to submission points<sup>178</sup> that sought to delete the performance standards and the escalation of the activity status to non-complying, Ms Easton supported the relief sought. Ms Easton acknowledged the submitters' concerns that within the Buller District the majority of the indigenous vegetation is likely to meet the NPSIB criteria and be an SNA, and therefore subdivision of these areas would be a non-complying activity. She also acknowledged that clause 3.10 of the NPSIB applied and that the listed effects in 3.10(2) must be avoided, and that all other adverse effects must be managed by applying the effects management hierarchy. Ms Easton concluded that the NPSIB anticipated that there may be appropriate subdivision within SNA. She reviewed how subdivision was managed in relation to other RMA s6 matters and recorded that these were generally restricted discretionary or discretionary activities. She advised she had not found a district plan where subdivision was a non-complying activity in an SNA.

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<sup>178</sup> Avery Brothers (S609.041), Neil Mouat (S535.019, S535.026), Leonie Avery (S507.043, S507.053), Jared Avery (S508.043, S508.053), Kyle Avery (S509.043, S509.053), Avery Bros (S510.043, S510.053), Bradshaw Farms (S511.043, S511.053), Paul Avery (S512.043, S512.053), Brett Avery (S513.043, S513.053) and the Buller District Council (S538.215, S538.267), Peter Langford (S615.080), Karamea Lime Company (S614.080), Koiterangi Lime Co LTD (S577.063), Catherine Smart-Simpson (S564.058), Lara Kelly (S421.009), William McLaughlin (S567.309), Steve Croasdale (S516.056), Geoff Volckman (S563.052), Chris & Jan Coll (S558.240) and Chris J Coll Surveying Limited (S566.240)

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721. Ms Easton did not support submission points made by Forest and Bird (S560.223 and S560.271), Buller Conservation Group (S552.121) and Frida Inta (S553.121) that sought further restrictions in relation to activities subject to this rule because of the reasons set out above.
722. The s42A Report recommended deleting **ECO-R8**.
723. The s42A Report recommended amending **SUB-R15** as follows:

***SUB – R15 – Subdivision of Land to Create Allotments Containing an Area of Significant Indigenous Biodiversity not meeting Rule SUB-R9***

*Activity Status Discretionary*

*Where:*

- ~~1. The area of significant indigenous biodiversity is legally protected in perpetuity by way of a conservation covenant with an authorised agency and is contained within a single allotment;~~
- ~~2. The subdivision will not result in buildings or accessways being located within any Significant Natural Area identified in Schedule Four; and~~
- ~~3. Subdivision Standards S2 – S11 are complied with.~~

**Activity status where compliance not achieved: ~~Non-complying~~ N/A**

**Advice Note: When assessing resource consent applications under this rule, the policies in the ECO Chapter should also be referred to.**

### *ECO – R9/SUB – R27*

724. Ms Easton acknowledged the submission point from Te Mana Ora (S190.334 and S190.442) that sought to retain ECO-R9/SUB-R27 as notified. However, she noted her recommendation to delete the rule in response to other submissions and previous recommendations.
725. Ms Easton supported the submission point made by the Director General (S602.082) to delete the duplicate ECO-R9 rule.
726. Ms Easton did not support the relief sought by Forest and Bird (S560.225 and S560.273) given her previous recommendations in relation to SUB-R15.
727. The s42A Report recommended deleting **ECO-R9** and **SUB-R27**.

### *ECO – R5 and ECO – R7*

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728. Ms Easton acknowledged the submission points that sought to retain ECO-R5<sup>179</sup> and ECO-R7<sup>180</sup> as notified. However, she noted her recommended amendments in response to other submissions.
729. Ms Easton did not support the relief sought in the submission points<sup>181</sup> that sought that both rules be amended to be more enabling. She noted the submitters had not provided any detail to support the relief sought.

### ECO – R5

730. In response to the submission point made by Federated Farmers (S524.068) that sought ECO-R5 be a controlled activity rather than a restricted discretionary activity, Ms Easton did not support the relief sought. She considered that, until a regionwide assessment of the indigenous vegetation had been undertaken in accordance with the NPSIB (or RPS), a restricted discretionary activity rule was necessary to meet the requirements of the higher order documents.
731. Ms Easton supported in part the relief sought by Poutini Ngāi Tahu (S620.149) to have a matter for discretion include Poutini Ngāi Tahu values because this was consistent with her other recommendations.
732. In response to the similar submission points<sup>182</sup> that sought to have a new matter of discretion included in the rule related to the functional or operational need for the activity to locate within the area where indigenous vegetation clearance was proposed, Ms Easton supported the relief sought. This was because the NPSIB specifically provides for activities that have a functional or operation need to be in the location.
733. Ms Easton did not support the submission point made by Westpower (S547.269) that sought for the inclusion of a duplicate rule in the Coastal Environment Chapter for the reasons previously outlined in response to a similar submission point made by Westpower.
734. In response to similar submission points made by Westpower (547.270), Forest and Bird (S560.497) and the Director General (S602.078) that sought amendments or the deletion of clause (1)(i) of the rule, Ms Easton supported the relief sought in part. She noted the submission points acknowledge that in Buller and Westland it can be expected that there would be unidentified areas of SNA that the rule would apply to and the submitters had suggested ways to address the matter. Ms Easton did not recommend deleting the rule, but rather recommended adding a clarification to the rule as follows:

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<sup>179</sup> Buller Conservation Group (S552.078), Frida Inta (S553.078), Snodgrass Road submitters (S619.032), Te Mana Ora (S190.330), KiwiRail Holdings Limited (S442.053), Buller District Council (S538.212) and Transpower New Zealand Limited (S299.077)

<sup>180</sup> Director General of Conservation (S602.080), WMS Group (S599.061), TiGa Minerals and Metals Limited (S493.057), Te Mana Ora (S190.332), Birchfield Coal Mines Ltd (S601.043), BRM Developments Limited (S603.032), Birchfield Ross Mining Limited (S604.037), Phoenix Minerals Limited (S606.033), Whyte Gold Limited (S607.031), Transpower New Zealand Limited (S299.078), New Zealand Coal & Carbon Limited (S472.017) and Buller District Council (S538.214), Ngāi Tahu (S620.142)

<sup>181</sup> Peter Langford (S615.053, S615.054), Karamea Lime Company (S614.053, S614.054), Koiterangi Lime Co LTD (S577.044, S577.045), Catherine Smart-Simpson (S564.037 S564.038), William McLaughlin (S567.185, S567.186), Steve Croasdale (S516.042, S516.043), Geoff Volckman (S563.031, S563.032), Chris & Jan Coll (S558.104, S558.105), Chris J Coll Surveying Limited (S566.103, S566.105), Laura Coll McLaughlin (S574.104, S574.105) and Neil Mouat (S535.067, S535.068)

<sup>182</sup> WMS Group (S599.060), TiGa Minerals and Metals Limited (S493.056), Birchfield Coal Mines Ltd (S601.042), Birchfield Ross Mining Limited (S604.036), Whyte Gold Limited (S607.030), Phoenix Minerals Limited (S606.093), Birchfield Ross Mining Limited (S604.115) and BRM Developments Limited (S603.069)

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- i. *A Significant Natural Area identified in Schedule Four or in an area that has been assessed in accordance with the Significant Natural Area criteria in the NPSIB that meets the criteria to be a Significant Natural Area*

735. Ms Easton supported the submission point made by Westpower (S547.271) to add “*at the ecological district level*” to clause 1(ii) of the rule.
736. In response to the similar submission points made by Westpower (S547.272) and the Director General (S602.078) that sought to change the wording of the matter of discretion (b), Ms Easton supported the submissions in part. She recommended amendments to the matter and using guidance from the NPSIB and her previous recommendations to refer to “*regionally significant infrastructure*” instead of “*critical infrastructure*”.
737. Ms Easton did not support the addition of a new matter of discretion referring to the benefits of the proposed activity as sought by Westpower (S547.273).
738. Ms Easton did not support the relief sought by Forest and Bird (S560.497) that sought specific additions relating to the National Grid, which was consistent with her recommendation on their similar submission point relating to ECO-R1. She noted her view was consistent with that for the previous rule.
739. Ms Easton did not support the relief sought by Forest and Bird (S560.220) that sought to change the title of the rule, which was consistent with her recommendation on their similar submission points relating to ECO-R1 to ECO-R3.
740. Ms Easton did not support the relief sought by Forest and Bird (S560.494) that sought a specific provision for indigenous forestry, which was consistent with her recommendation on their similar submission point relating to ECO-R3.
741. In response to Forest and Bird’s (S560.496) request for the performance standards to be amended in relation to cycle and walking tracks, Ms Easton did not support the relief and noted her recommendations to include these matters in the controlled activity rule.
742. In response to similar submission points made by Forest and Bird (S560.498) and the Director General (S602.078) that sought amendment to clause (c) to replace “*protected*” with “*at risk (declining) species*” or “*at risk*”, Ms Easton supported the relief sought in part. She recommended amendment using “*threatened or at risk (declining) species*”, which was consistent with the NPSIB.
743. Ms Easton did not support the submission point made by Forest and Bird (S560.499) that sought to amend clause (h) to replace the reference to ECO-P6 and ECO-P7 because these policies were specific assessment criteria policies that Ms Easton considered appropriate.
744. In response to the submission point by Forest and Bird (S560.500) that sought amendments to the advice notes, Ms Easton supported the relief sought in part. She supported amendments to Advice Note (1) to improve clarity. However, she did not support deleting Advice Note (4) which was consistent with previous recommendations.
745. Ms Easton did not support the submission point made by Forest and Bird (S560.501) that sought to make amendments to direct the plan user to other rules that apply when compliance was not achieved with ECO-R5, including references to the CE Chapter rules.

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746. In response to the submission point made by BDC (S538.254) that sought to include a new matter of discretion relating to natural hazards and geotechnical constraints, Ms Easton supported the relief sought. This was because the clearance of vegetation could have impacts on these matters.
747. In response to the submission point made by BDC (S538.261) that sought a reference to critical infrastructure in the matters of discretion, Ms Easton supported the relief sought. She considered that the recommendations responding to Westpower and the Director General addressed this submission point.
748. The s42A Report recommended amending **ECO-R5** as follows:

### **ECO - R5**

#### ***Indigenous vegetation clearance not meeting Permitted or Controlled Activity Standards***

#### ***Activity Status Restricted Discretionary***

*Where:*

1. *This is not within:*
  - i. *A Significant Natural Area identified in Schedule Four **or in an area that has been assessed in accordance with the Significant Natural Area criteria in the NPSIB that meets the criteria to be a Significant Natural Area;***
  - ii. *An area of land environment of category one or two of the Threatened Environment Classification **at the ecological district level;***
  - iii. *An Outstanding Natural Landscape identified in Schedule Five;*
  - iv. *An Outstanding Natural Feature identified in Schedule Six;*
  - v. *An area of High Coastal Natural Character identified in Schedule Seven; or*
  - vi. *An area of Outstanding Coastal Natural Character identified in Schedule Eight.*

*Discretion is restricted to:*

- a. ~~*Whether there are other regulations impacting the site that have meant the land is unable to be used for economic rural uses;*~~
- b. ~~*Constraints imposed by*~~ ***Consideration of the functional need*** ~~*or operational need of network utilities, **renewable energy generation** and ~~critical~~ **regionally significant infrastructure;***~~
- c. ***The functional or operational need for the activity to locate within the area where indigenous vegetation clearance is proposed to occur***
- d. *Effects on habitats of any threatened or ~~protected~~ **at risk (declining)** species;*
- e. *Effects on the threat status of land environments in category one or two of the Threatened Environments Classification;*
- f. *Effects on ecological functioning and the life supporting capacity of air, water, soil and ecosystems;*

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- g. Effects on the intrinsic values of ecosystems;*
- h. Effects on recreational values of public land;*
- i. **Natural hazard management and geotechnical considerations;***
- j. **Poutini Ngāi Tahu values** and*
- k. The matters outlined in Policies ECO - P6 and ECO - P7.*

### **Advice Note:**

- ~~1. Where indigenous vegetation clearance is proposed within the riparian margin of a waterbody refer to this section of the Plan for the Rules around this clearance.~~
2. Where indigenous vegetation clearance is proposed in or on a site or area of significance to Māori then Rule SASM - R4 will also apply.
3. Where indigenous vegetation clearance is proposed within a wetland this is also be subject to rules within the NES - Freshwater and Regional Land and Water Plan which are administered by the West Coast Regional Council.
4. This rule also applies to ~~plantation~~ **commercial** forestry activities, where this provision is more stringent than the NES – ~~PCF~~ and the indigenous vegetation clearance is within the coastal environment.

### ECO – R7

749. In response to the submission point made by Forest and Bird (S560.222) that sought amendment to require an assessment to demonstrate that the clearance and disturbance was not within an SNA, and in the case that it was, that the activity status should be non-complying, Ms Easton did not support the relief sought. She has referred to the NPSIB provisions and concluded that only vegetation clearance within an SNA that was not provided for in the exceptions listed in clause 3.11 and would result in adverse effects outlined in clause 3.10(2) should be a non-complying activity.
750. In response to the submission point made by Forest and Bird (S560.502) that sought an amendment to the activity status when compliance was not achieved, Ms Easton supported the relief sought where this aligned with her other recommendations.
751. In response to the submission point made by Forest and Bird (S560.504) that sought a new ECO discretionary rule, Ms Easton did not support the relief sought, as a consequence of not accepting previous submission points also made by Forest and Bird.
752. In response to the submission point made by Forest and Bird (S560.224) that sought to add a new ECO non-complying rule and a new advice note, Ms Easton supported the relief in terms of the non-complying activity status where it aligned with her other recommendations. This was because Ms Easton considered it was appropriate to address clause 3.10(2) of the NPSIB. She did not support the addition of the new advice note.

753. In response to the submission points made by Westpower (\$547.274) and Bathurst (\$491.020) that sought amendments to Advice Note (1), Ms Easton supported the relief sought because the changes were either grammatical or improved clarity for Plan users.

754. The s42A Report recommended amending **ECO-R7** as follows:

***ECO - R7***

***Indigenous vegetation clearance not meeting ECO - R5***

***Activity Status Discretionary***

**Where:**

1. **An ecological assessment undertaken by a suitably qualified ecologist identifies that the clearance will not result in any of the following:**
  - a. **Loss of ecosystem representation and extent**
  - b. **Disruption to sequences, mosaics or ecosystem function**
  - c. **Fragmentation of Significant Natural Areas or the loss of buffers or connections with a Significant Natural Area**
  - d. **A reduction in the function of the Significant Natural Area as a buffer or connection to important habitats or ecosystems**
  - e. **A reduction in the population size or occupancy of any threatened or at risk (declining) species that use the Significant Natural Area.**

**OR**

2. **This is for mineral extraction (other than coal) that provides significant national public benefit that could not otherwise be achieved using resources within New Zealand ; or**
3. **This is for the operation or expansion of any coal mine that was lawfully established before 4 August 2023; except that, after 31 December 2030, this exception applies only to such coal mines that extract coking coal; or**
4. **This is for a single residential dwelling on an allotment created before 4 August 2023; or**
5. **This is for a commercial forestry activity and is required for the commercial forestry activity to continue.**

**Advice Note:**

1. **Where assessing resource consents for indigenous vegetation clearance under this rule, assessment against the **objectives and** policies of ~~both~~ the Ecosystems and Biodiversity Chapter and Natural Features and Landscapes Chapters and the **MINZ and BCZ Zone objectives and policies** will be required **where relevant.****
2. **This rule also applies to ~~plantation~~ **commercial** forestry activities, where this provision is more stringent than the NES - PCF.**

***Activity status where compliance not achieved: ~~N/A~~ Non-complying***

755. The s42A Report recommended adding new Rule **ECO-R8A** to the Plan as follows:

***ECO – R8A***

***Indigenous vegetation clearance not meeting ECO – R7***

***Activity Status Non – complying.***

***Activity status where compliance not achieved: N/A***

756. Ms Easton made minor amendments to the recommended wording of this rule in her supplementary statement to reflect the RMA Amendment Act relating to coal mining. The recommended wording related to clause (2) as follows:

***2. This is for mineral extraction (other than coal) that provides significant national public benefit that could not otherwise be achieved using resources within New Zealand ; or***

***ECO – R10 and ECO – R11***

757. Ms Easton acknowledged the large majority of submission points that sought to retain ECO-R10 and ECO-R11 as notified.

758. In response to the submission points from Forest and Bird (S560.226 and S560.227) that sought to make these rules prohibited activities, Ms Easton did not support the relief sought. This was because she was aware of research involving biological techniques to manage pest species and a prohibited activity status could have unforeseen consequences.

759. The s42A Report recommended no amendments to either ECO-R10 or ECO-R11.

**Hearing and Submitter Evidence/Statements**

***Rules (General) and Permitted activity rules***

760. Mr Brass, for the Director General, acknowledged the s42A Report recommendation to include a new rule (ECO-R1B) and accepted that there could be circumstances where an activity could appropriately be permitted in an SNA. He confirmed he was generally comfortable with the new rule. However, he did consider clause (5) was too broad and suggested a minor amendment as follows:

***5. Necessary to enable removal of unwanted organisms declared under the Biosecurity Act 2015.***

761. Ms Snoyink, on behalf of Forest and Bird, reiterated the submission point that, as a comprehensive survey had not yet been undertaken to map the SNA, it was necessary to require a resource consent for indigenous vegetation clearance (other than for specific purposes and within limits). She also considered that a rule related to general vegetation clearance outside of SNA that would apply after the SNA assessment and mapping was complete could be included in the plan now. She considered there should be limited clearance for specific purposes and with appropriate limits, but not within the coastal environment.

762. Ms Snoyink supported new Rule ECO-R1B, as set out in the s42A Report. She agreed that there were circumstances where some vegetation clearance could be permitted within an SNA. However, she expressed uncertainty for how the rule might apply to ‘*assessed areas*’ that were not identified in the Plan. Nevertheless, she generally accepted clauses (2), (3), (4) and (5) of the rule, although noted some uncertainty about how clause (2) was intended to work. She also supported the amendment to clause (5) as proposed by the Director General.

763. With regard to clause (1), Ms Snoyink had concerns related to what might constitute “*established activities*”. She acknowledged that the NPSIB provided direction for local authorities with respect to established activities but noted this was for “*specified established activities*” only. She did not consider that the necessary requirements of the Council were met as clause (1) of ECO-R1B was currently drafted. She suggested the following amendment:

1. For the maintenance, operation and repair of **lawfully established activities buildings and structures including tracks, fences, drains, structures, infrastructure and renewable electricity generation activities where:**

a. ~~This is at the same or similar scale, character and intensity as at 14 July 2022; and~~

b. **The clearance is within 3m of the lawfully established activity building or structure and clearance is limited to a maximum area of 50m<sup>2</sup> per individual SNA;**

764. Mr Kennedy, for Westpower, acknowledged the reason for the inclusion of new rule ECO-R1B was to provide for the maintenance, operation and repair of infrastructure and renewable electricity generation. However, he considered it was problematic in terms of existing electricity infrastructure because of the electricity operator’s obligations to comply with electrical safety distances around lines. He also identified differences in the wording of clause (1) and the NPSIB in terms of providing for the “*repair*” rather than “*upgrade*” of an established activity. He also identified differences in the wording of clause 1(b), noting that the NPSIB made provision for retaining any existing rights under sections 10 or 20A of the RMA. He accepted the rationale for the rule but considered that it required fine-tuning.

765. Ms Linscott, for Federated Farmers, commented on the recommended addition of new rule ECO-R1B. She noted an SNA on a farmer’s property could impinge on their day to day operations and could result in costly and cumbersome requirements to ensure compliance. She suggested there was an opportunity on the West Coast to strike a balance between protecting ecosystems and landowner property rights. She supported a permitted activity for the maintenance, operation and repair of established farming activities within SNA. However, she opposed the spatial limits recommended in the rule and considered there was no evidence for the limits, which appeared arbitrary. She considered 50m<sup>2</sup> was unworkable given that there was likely to be large areas of SNA on privately owned rural land. She noted that greater areas may need to be cleared in (for example) emergency situations, such as restoring access after a storm event. Ms Linscott suggested amended wording for clause (1) as follows:

1. For the maintenance, operation and repair of established activities including but not limited to: tracks, fences, drains, structures, infrastructure and renewable electricity generation activities ~~where the removal is within 3m of the established activity and is limited to a maximum area of 50m<sup>2</sup> per individual SNA~~ **and the removal is limited to the smallest extent practicable to undertake that activity.**

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766. Ms Linscott did not support the requirement in clause (2) that a Council approved contractor must certify that it was necessary to remove vegetation when it endangered human life or buildings. She considered this would add delays and cost that was unacceptable in the circumstances. She suggested amended wording for clause (2) as follows:

2. *Necessary to remove vegetation that endangers human life or existing buildings or structures. ~~where this is certified by a Council Approved Arboricultural Contractor~~*

767. Ms Hills considered that, prior to the identification of SNA, the rules relating to vegetation clearance should apply to all vegetation and any clearance should be only for a specific purpose and within limits. She also commented on new rule ECO-R1B. She was unsure about the application of the 50m<sup>2</sup> limit and whether this was in relation to an annual area or per activity and considered the rule should apply to all SNA. She supported Forest and Bird's position in regard to this rule.

768. Ms Whitney, for Transpower, commented on the recommended addition of new ECO-R1B. She noted concerns with the rule and the potential for it to capture vegetation clearance related to the National Grid. To address this, she suggested amendments to the rule to recognise the National Grid, as well as the addition of a new controlled activity rule relating to the upgrade, maintenance, operation and repair of the National Grid within an SNA as follows:

**ECO - R1C Indigenous Vegetation Disturbance and Clearance within an identified Significant Natural Area associated with the maintenance, operation, repair or upgrade of the National Grid, where not regulated by the Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009**

**Activity Status Controlled**

**Where this is:**

1. **Associated with the maintenance, operation, repair or upgrade of the National Grid**

**Matters of control are:**

- a. **The measures to avoid, remedy or mitigate any adverse effects on the significant indigenous biodiversity.**
- b. **The operational needs and technical requirements of the National Grid**

**Activity Status where compliance not achieved: N/A**

### ECO-R1

769. Mr Brass supported, in principle, the s42A Report recommendation to separate this rule based on where SNA had already been identified. However, he noted concerns regarding the specific content of the rules as follows:

- (a) In scenarios where an SNA assessment had been undertaken and the site was outside of any SNA, Mr Brass considered that this would allow for a site-specific assessment to be a permitted activity. He noted this relied on a third party to determine a permitted activity status, without Council having the ability to test the assessment. He considered this failed to meet the Council's obligations under RMA s6(c), the NPSIB and the RPS.

- (b) The addition of “and” and “or” between clauses created conflict and confusion about the interpretation of the rule and depending on the interpretation, the area of vegetation clearance could be unrestricted. This was not supported by Mr Brass and he supported a maximum clearance of 5,000m<sup>2</sup> per site in any three year period for any area outside of an SNA.
- (c) There could be additional areas in the Grey District containing significant indigenous vegetation or significant habitats of indigenous fauna. Therefore, Mr Brass considered that all three districts should be treated the same.
- (d) The reference to ECO-RXXX (relating to riparian margins) was uncertain and the content of this rule was not included in the recommendations. He presumed this came from recommendations in the Natural Character and Margins of Waterbodies s42A Report.
770. Mr Brass suggested that ECO-R1A be deleted and Rule ECO-R1 be revised (a clean version) as follows:

**ECO - R1 - Indigenous vegetation clearance and disturbance outside of the coastal environment**

**Activity Status Permitted**

**Where:**

**2. It is outside of:**

- i. any identified Significant Natural Area including those in Schedule Four; and**
- ii. any Outstanding Natural Landscape identified in Schedule 5;**

**and it meets one of the following criteria;**

- 3. Within the Riparian Margin of a River, Lake or Coastal Wetland the clearance is permitted by Rule ECO - RXXX; or**
- 4. Until a District-wide SNA assessment in accordance with Policy ECO-P1 has been undertaken for the District where the site is located and Schedule Four has been updated to include the identified SNA, it is a maximum area of 2000m<sup>2</sup> over any continuous 3 year period; or**
- 5. After a District-wide SNA assessment in accordance with Policy ECO-P1 has been undertaken for the District where the site is located and Schedule Four has been updated to include the identified SNA, it is a maximum area of 5000m<sup>2</sup> over any continuous 3 year period; or**
- 6. It on a site where no District-wide SNA assessment in accordance with Policy ECO-P1 has been undertaken and Schedule Four updated to include the identified SNA, or is within an Outstanding Natural Landscape, and is a maximum area of 5000m<sup>2</sup> per site over any continuous 3-year period; and it is necessary for one of the following purposes:...”**

771. Ms Snoyink reiterated Forest and Bird’s submission point that until a comprehensive assessment to map significant natural areas as been completed, any permitted activity for indigenous vegetation clearance must be relatively stringent. She considered that a consenting requirement should apply, until the plan was updated to include mapped SNA,

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to ensure that an appropriate assessment against the SNA criteria was undertaken. In reference to recommended new ECO-R1A, she supported Mr Brass' evidence and considered the rule should be deleted. She considered that until a full assessment was completed to identify SNA across all three districts, any clearance of vegetation should be treated as if it were within an SNA.

772. Mr Kennedy supported the s42A Report recommendation to separate ECO-R1 based on where SNA were already identified. However, he had concerns regarding the specific content of the rules as follows:

- (a) Use of the word 'sites'. He suggested amendments to clarify that it was "*identification in the plan*" that guides the components of the rule.
- (b) A limit of 5,000m<sup>2</sup> of vegetation clearance limit was problematic for linear infrastructure and the NPSIB has no limit for specified established activities. He suggested that in reference to "*established activities*" that there should be no limit for vegetation removal.
- (c) The rule made provision for the "*repair*" of "*established activities*" but also needed to include "*upgrade*" of established activities (at clause 4(ii) of the rule) to give effect to the NPSIB.
- (d) The submission point that sought to provide for a 10m construction corridor width was not discussed in the s42A Report and was necessary to ensure the rule was achievable and provided for electrical safety distances.
- (e) Similar amendments should also apply to clauses 3(ii) and 3(viii) of new Rule ECO-R1A, including as it relates to ONL, especially as they relate to established activities.

773. Ms Inta on behalf of herself and the Buller Conservation Group commented on the recommended changes to each clause in ECO-R1 as follows:

- (a) Ms Inta considered clause (1) of the rule would enable "*carte blanche*" removal of vegetation not identified as SNA. She also considers that a reference to the RPS should be included in the rule and that the use of the word "*site*" should be reconsidered.
- (b) Ms Inta did not support the word "*and*" at the end of clause (1) or the word "*or*" at the end of clause (2). She considered these words confused the rule and that clause (2) should stand alone.
- (c) Ms Inta supported the addition of clause (3).
- (d) Ms Inta suggests amendments to clarify the wording of clause (4) and did not support the 5,000m<sup>2</sup> maximum area for vegetation clearance. She suggested amendments:
  4. It is on a site where no SNA assessment has been undertaken, ~~or is~~ including within an Outstanding Natural Landscape ...
- (e) Ms Inta noted that the removal of windthrown timber for anything other than firewood would require an MPI sustainable harvest permit (clause 4(i)).

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(f) Ms Inta considered it was unnecessary to construct fence lines (especially requiring up to 5,000m<sup>2</sup> of clearance) within indigenous vegetation as provided in clause 4(vi) and considered this would only be necessary on the forest boundary.

(g) Ms Inta suggested that the 3m width provided in clause 4(vii) was excessive and that it should be reduced to 1.5m. She also recommended additional wording to protect mature trees, as follows:

vii. *To upgrade or create new public walking or cycling tracks up to ~~3m~~ **1.5m** in width undertaken by the Council or its approved contractor **provided mature trees (greater than 30cm diameter) are avoided;***

(h) Ms Inta suggested that the age of the vegetation referred to in clause (4)(xiii) should be reduced to 10 years, as by 15 years moss ecosystems may have begun establishing.

774. Despite the suggested amendments Ms Inta made regarding clause (4) of the rule, she ultimately did not think the clause was necessary because she considered clause (3) was sufficient. She considered the removal of 5,000m<sup>2</sup> every three years would continue to allow the degradation of the ecosystems. Additionally, she considered ECO-R1A and ECO-R1B both breached policies in the RPS and the NPSIB by providing for up to 5,000m<sup>2</sup> of vegetation clearance. She noted the reference to ECO-RXXX in ECO-R1 was confusing and was unsure exactly what it referred to.

775. Ms Linscott, for Federated Farmers, commented on the recommended amendments to ECO-R1 as follows:

(a) Clause 4(ii) should include “*drains and waterlines*” as established activities.

(b) “*Council Approved Arboricultural Contractor*” should be deleted from clause 4(iv).

(c) While clause 4(xiii) supported the ability to remove indigenous vegetation for the purpose of maintenance of improved pasture, the restriction of 5,000m<sup>2</sup> per site over 3 years should be deleted, along with the reference to the vegetation only being manuka, kanuka and bracken. She suggested that clause 4(xiii) be deleted and renumbered to clause (5) and amended as follows:

5. ***It is on a site where no SNA assessment has been undertaken or is within an Outstanding Natural Landscape and it is for the purpose of maintenance of improved pasture for farming and involves the removal or clearance of ~~manuka, kānuka and bracken~~ only indigenous vegetation** that is not part of any wetland and which is under 15 years old.*

(d) As a consequence of the above request, Advice Note (1) should be deleted.

(e) That the same amendments as set out above also be made to ECO-R1A.

776. Ms Sannazzaro, for Federated Farmers, also considered ECO-R1/ECO-R1A and largely reiterated the submission points and the points made by Ms Linscott. She made the following additional comments:

(a) A reference to “*animals*” should be added to clause 4(iv).

(b) As an alternative to clause 4(xiii), she suggested a separate clause would work better, as follows:

5. *It is on a site where no SNA assessment has been undertaken or is within an Outstanding Natural Landscape and it is for the purpose of maintenance of improved pasture for farming, and*
  - v. *It is part of a regular cycle of periodic maintenance and any adverse effects are no greater in intensity, scale, or character than previously;*
  - vi. *and involves the removal or clearance of ~~manuka, kānuka and bracken~~ only indigenous vegetation that is not part of any wetland and which is under 15 years old.*

(c) Advice Note (1) should be deleted.

777. Ms Pull, for Poutini Ngāi Tahu, considered the definition for “Poutini Ngāi Tahu land” recommended in the s42A Report would narrow the application of what Ms Pull understood this to mean. She considered the rules should apply to land owned or managed by Poutini Ngāi Tahu, and proposed alternative wording for ECO-R1 clause (4)(xi) and ECO-R1A clause (3)(x) as follows:

ECO-R1

- ii. *It is for Poutini Ngāi Tahu Activities on MPZ - Māori Purpose Zoned or **land managed or owned by** Poutini Ngāi Tahu—~~land~~ and undertaken in accordance with an Iwi/Papatipu Rūnanga Management Plan; or*

ECO-R1A

- x. *It is for Poutini Ngāi Tahu Activities on MPZ - Māori Purpose Zoned or **land managed or owned by** Poutini Ngāi Tahu—~~land~~ and undertaken in accordance with an Iwi/Papatipu Rūnanga Management Plan; or*

778. Te Tumu Paeroa and Poutini Ngāi Tahu reached an agreed position on ECO-R1 to resolve the submission point S440.027, in their joint statement dated 14 August 2024, which incorporated an additional clause to say “*it is on Māori Land and clearance is limited to manuka, kanuka and bracken*”, and an additional advice note stating “*some indigenous vegetation may impact Taonga Species identified in the Ngāi Tahu Claims Settlement Act*”.

779. Ms Styles, for Manawa, reiterated that the submission points that sought to ensure the rule was clear and made appropriate provision for renewable electricity generation. She considered rules ECO-R1, ECO-R1A, ECO-R1B, ECO-R2 and ECO-R7 as a group and was of the view the recommended amendments made them very complex. She did not support the permitted limit of 2,000m<sup>2</sup> for indigenous vegetation clearance outside of SNA and considered this was too restrictive for renewable electricity generation activities, and that it did not adequately enable renewable electricity generation activities as a matter of national importance. She also considers that it was appropriate for the rules to allow for the upgrade and construction of renewable electricity generation activities, in the same way as it did for other activities. Overall, Ms Styles sought a less complex rule and a separate clause allowing for greater indigenous vegetation clearance for renewable electricity generation activities.

780. Ms Hunter, for Bathurst, reiterated that it would be appropriate to maintain a permitted activity status for the clearance of indigenous vegetation in the BCZ and MINZ, particularly where such clearance may already be authorised by an existing approval suite such as a Coal Mining Licence. She noted the redrafted rule had no clear provision for clearing or disturbing indigenous vegetation where it may be associated with an existing mineral extraction operation. She suggested that this could be resolved by retaining a reference to “*lawfully established activities*” and that the associated definition be as proposed in her evidence presented in the Mineral Extraction hearing. Notwithstanding this, she considered a more effective approach to address the submission point would be to have a standalone rule in either the ECO or BCZ Chapters, as follows:

**Indigenous vegetation clearance and disturbance in the BCZ.**

**Activity Status Permitted**

**Where:**

1. **It is associated with either a permitted or controlled activity in accordance with Rule BCZ -X and X.**

**Indigenous vegetation clearance and disturbance in the BCZ.**

**Activity Status Restricted Discretionary**

**Where:**

1. **It is associated with a restricted discretionary activity in accordance with Rule BCZ – X; and**
2. **The effects management hierarchy is applied.**

781. Mr Horne, for the Telecommunications Companies, acknowledged the amendments to ECO-R1 and generally supported these in regard to indigenous vegetation clearance for network utilities as they applied to telecommunication networks. He suggested it would be appropriate to provide a rule allowing for up to 20m<sup>2</sup> of vegetation clearance for network utilities per site over a rolling three-year period.

782. Ms Hills considered ECO-R1 was difficult to understand and interpret. She was concerned that the confusion would risk misinterpretation and put indigenous biodiversity at risk. She considered the clearance of 2,000m<sup>2</sup> of indigenous vegetation should not be a permitted activity. She questioned the meaning of “*site*”, vegetation status, the justification for allowing clearance of manuka and kanuka that was less than 15 years old, and the need to clear vegetation to construct a fence. She noted her comments also apply to ECO-R1A.

783. Ms Whitney, for Transpower, considered the recommended rule framework was difficult to navigate and interpret. She attributes this to the following:

- (a) Provision of a default activity status but with no specific default rule reference;
- (b) No rule ECO-RXXX despite it being referenced;
- (c) The duplication and the contradictory nature of the provisions for the operation or repair of the National Grid; and
- (d) The mix of terminology within the ECO Chapter (e.g. “*areas of significant indigenous vegetation and significant habitats of indigenous fauna*”, “*Significant Natural Areas*”, “*Area of Significant Indigenous Biodiversity*”).

784. Ms Whitney noted clause (4)(ix) was the primary part of the rule that was relevant for the National Grid but considered the 3m wide construction corridor was unlikely to be sufficient. She also commented that it was unclear what rule would apply if compliance with clause (4) could not be met, and confusion related to the 5,000m<sup>2</sup> clearance limit. She considered clause (4)(ii) would be a better clause for enabling vegetation clearance associated with existing National Grid assets. She suggested the following amendments to the rule:

**ECO - R1**

...

3. *It is on a site where no SNA assessment has been undertaken and is a maximum area of 2000m<sup>2</sup> over any continuous 3 year period or is associated with the operation, maintenance, repair or upgrade of the National Grid; or*

4. *It is on a site where no SNA assessment has been undertaken, or is within an Outstanding Natural Landscape and is a maximum area of 5000m<sup>2</sup> per site over any continuous 3- year period; and it is necessary for one of the following purposes:*

...

ii. *The maintenance, operation and repair of established activities: including but not limited to roads, the rail corridor, accessways, tracks, fences, structures, buildings, regionally significant infrastructure, network utilities, renewable electricity generation activities, shelterbelts and woodlots or natural hazard mitigation structures and the operation, maintenance, repair and upgrade of the National Grid;*

...

ix. *For construction, or operation, repair or upgrade of an above ground or below ground network utility, or for the development of the national grid where:*

785. Ms Whitney also considered the addition of ECO-R1A and while she acknowledged the similarities with ECO-R1, she noted subtle differences as follows:

(a) There was no general clause to enable up to 2,000m<sup>2</sup> of vegetation clearance;

(b) Clause (3) was confined only to within ONL;

(c) Clauses (1) and (2) were followed by “and” which was different from ECO-R1 where “or” was used.

786. Ms Whitney’s concerns with ECO-R1A were similar to those set out in relation to ECO-R1, and she suggested amendments as follows:

**ECO - R1A**

...

**X.** *It is a maximum area of 2,000m<sup>2</sup> over any continuous 3 year period, or is associated with the operation, maintenance, repair, upgrade or development of the National Grid; or*

3. *It is on a site where no SNA assessment has been undertaken, or is Within an Outstanding Natural Landscape and it is a maximum area of 5000m<sup>2</sup> per site over any continuous 3-year period and is necessary for one of the following purposes:*

...

ii. *The maintenance, operation and repair of lawfully established activities: including but not limited to: roads, the rail corridor, accessways, tracks, fences, structures, buildings, regionally significant infrastructure, network utilities, renewable electricity generation activities, shelterbelts, woodlots, and natural hazard mitigation structures and the operation, maintenance, repair and upgrade of the National Grid; or*

...

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1. For construction, operation, repair or upgrade of an above ground or below ground network utility, or **for the development of the** national grid where:
  - a. The construction corridor did not exceed 3m in width; and
  - b. All machinery used in construction is cleaned and made free of weed material and seeds prior to entering the site; and
  - c. Rehabilitation of disturbed areas is undertaken following the completion of construction; or

...

787. Ms Lynne Lever spoke at the hearing on behalf of herself and Mr Greg Tinney in relation to ECO-R1 and ECO-R2. She sought clarification of the limit for indigenous vegetation clearance within and outside the coastal environment, particularly in relation to small land parcels and those landowners letting gorse regenerate into bush. She considered the 500m<sup>2</sup> in the coastal environment would force people into getting a resource consent for activities such as relocating water tanks and letting light in for sphagnum moss growth. She considered the 5,000m<sup>2</sup> for listed activities only was concerning, as was the requirement to use a Council Approved Arboricultural Contractor. She considered they should be able to take the odd Rimu tree to restore their cottage by getting a permit under the Forest Act and not the RMA as well.
788. The statement from WCRC acknowledged and supported the addition of “*environmental monitoring facilities*” to the rule. It noted 20m<sup>2</sup> of permitted vegetation clearance in riparian margins was appropriate and provided for minimal vegetation trimming around hydrology monitoring equipment. However, it noted that combining “*environmental monitoring facilities*” in the same clause as “*temporary electricity generation activities*” had created uncertainty. To address this, it suggested adding a comma after the reference to “*state of emergency declaration*” or moving “*environmental monitoring facilities*” to the start of clause (iii).
789. The statement from WCRC acknowledged and supported the addition of ECO-R1B subject to two amendments as follows:
- (a) The reference to necessary vegetation removal that “*endangers*” human life or existing buildings was not considered to be appropriate in relation to structures and should be amended to “*interferes with the functioning of*” or similar.
  - (b) The requirement to have vegetation trimming certified by a Council Approved Agricultural Contractor was considered to be unnecessarily onerous.

### ECO-R2

790. Mr Brass acknowledges the recommended amendments to this rule were not exactly as sought in the submission. However, he was satisfied that the recommended redrafting largely aligned with the recommended permitted activities outside the coastal environment where an SNA assessment had not been carried out. He confirmed he was therefore comfortable with the recommendation.
791. Ms Snoyink acknowledged the recommended amendments were an improvement but retained concerns regarding the specific content of the rule as follows:
- (a) The references to “*established activities*” in the same line as set out for ECO-R1B.
  - (b) A width should be specified with regard to clauses (5)(i), (iv) and (v).

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- (c) Clause (5)(iv) should be clarified to restrict fencing to where indigenous vegetation would be protected and restored.
- (d) Clause (5)(ix) should not apply to subdivision approved after the plan becomes operative.
- (e) Clause (5)(x) could result in the clearance of significant indigenous biodiversity given SNA have not been comprehensively identified.
- (f) The use of the term “*improved pasture*” should not be used until SNA are identified. She suggested the following wording for clause (5)(viii):

*It is for the purpose of **maintaining lawfully established** ~~maintenance of improved pasture for farming and involves~~ **and is limited to** the removal or clearance of manuka, kānuka and bracken only that is:*

*a. **less than 15 years old** ~~not part of any wetland~~ and*

*b. which is **not part of any wetland** ~~under 15 years old~~*

792. Mr Kennedy for Westpower, maintained his view that ECO-R2 should be relocated to the Coastal Environment Chapter but acknowledged Council staff preferred the current format. With regard to the recommended amendments to the rule, he noted many of his concerns were the same as those relating to ECO-R1, as follows:

- (a) The 500m<sup>2</sup> vegetation clearance limit was problematic for linear infrastructure and should be increased for infrastructure, with reference to a “work site”, and no limit for vegetation removal for “*established activities*”.
- (b) Threatened Environment Classification areas referred to in clauses (3) and (4) should be mapped to assist plan users.
- (c) Provision for the “*repair*” of “*established activities*” and the “*upgrade*” of established activities (at clause (5)(i) of the rule) to give effect to the NPSIB.
- (d) Clause (5)(v) relates to new activities and limit for vegetation clearance would apply.
- (e) Clause (5)(x) achieves the opposite of the intended outcome and it appears to limit the clearance of vegetation on urban sites rather than it being unrestricted; and should be addressed by removing the coastal environment mapping from urban areas to avoid confusion.

793. Ms Inta considered the 3m width for creating or upgrading a cycle or walking track was overly generous and risked the coastal ecosystems. She reiterated her concerns regarding providing for vegetation clearance for fence lines and the age for permitting manuka, kanuka and bracken clearance. She also noted the Forest and Bird submission did not request for Advice Note 1 to be deleted, rather it requested more explanation.

794. Ms Linscott and Ms Sannazzaro reiterated the same concerns for ECO-R2 as discussed in relation to ECO-R1. They opposed clause (2) restricting vegetation clearance to 500m<sup>2</sup> over three years because it was unworkable for farmers and would lead to an influx of resource consent applications that Councils were ill equipped to deal with, or non-compliance with the rule.

795. Ms Styles considered the permitted activity rules as a whole, as summarised above.
796. Mr Horne acknowledged the amendments and noted these had removed the provision for the installation of new infrastructure as a permitted activity in the coastal environment. He considered there should be a permitted pathway for the provision of network utility infrastructure in the coastal environment and noted there was a permitted pathway to clear vegetation for new dwellings where there was not one already on a site. He considered clearance of vegetation within a road reserve should be permitted and suggested the amendment to ECO-R2 as follows:

***ECO – R2***

...

5. *The indigenous vegetation clearance is for the following purposes:*

...

v. *For the operation, maintenance, repair ~~or~~, upgrade **or construction** of network utility infrastructure, renewable energy generation or the national grid; or*

...

xi. ***The clearance is undertaken in a formed road reserve***

797. Ms Hills noted similar concerns to her concerns with ECO-R1, that ECO-R2 was difficult to understand and interpret. She also questioned the need for a separate rule for Grey District.
798. Ms Whitney noted the rule only applied to the coastal environment and there was only a small area of Transpower assets in this area which were regulated by NESETA. She therefore accepted the recommended wording for ECO-R2.
799. The KiwiRail letter reiterated the submission point that was necessary to provide for vegetation clearance when it was related to activities related to critical infrastructure. It acknowledged the recommended amendments and raised concerns that the original intent of the rule has changed as follows:

- (a) Installation and upgrading were no longer provided for as a permitted activity;
- (b) The maintenance, operation and repair of established activities was limited to where this was the same or similar scale, character and intensity as at 14 July 2022;
- (c) The rule included a permitted pathway for network utility provision where it was for operation, maintenance, repair or upgrade without the same or similar scale, character and intensity caveat, but did not include installation; and
- (d) A new area of protection had been added to the rule (Threatened Environment Classification) and it was uncertain where these areas were.

800. KiwiRail requested amendments to the rule as follows:

- (a) *“Installation”* and *“upgrading”* be reinstated to the rule at clause (5)(i) to be consistent with clause (5)(v);
- (b) Delete the three year period;
- (c) Delete clause (4) (Threatened Environment Classification) or map the areas; and

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(d) Clarify clause (5)(ii) did not preclude the application of RMA s330 (Emergency works).

801. Mr Tuck's letter on behalf of Silver Fern Farms confirmed he accepted the s42A Report recommendation regarding the permitted activities under rule ECO-R2(5)(i) and (x).

802. The statement from WCRC acknowledged and supported the addition of "*environmental monitoring facilities*" to the rule, but considered that the requirement to have any clearance certified by a Council Approved Arboricultural Contractor was unnecessarily onerous.

### ECO-R3

803. Ms Snoyink noted Forest and Bird retained the position set out in the submission, which was to delete the rule.

804. Ms Pull supported the inclusion of a matter of control related to ensuring that Poutini Ngāi Tahu values are considered when making decisions on relevant resource consents. She considered the matter of control should be consistent with ECO-P7 and use the same terminology as follows:

**The extent to which the proposed activity recognises and provides for Poutini Ngāi Tahu cultural and spiritual values, rights and interests (including impact on mahinga kai).**

### ECO-R4/SUB-R7

805. Ms Linscott and Ms Sannazzaro, for Federated Farmers, did not support the addition of the words "*where legal protection is proposed*" to the title of the rule and were not satisfied with the explanation in the s42A Report. They were unclear what planning provision enabled "*proposed*" legal protection. They also opposed the addition of clause (2) on the basis that the NPSIB placed the responsibility for identifying SNA with district councils and not consent applicants. They noted the s42A Report referred to the public benefit of indigenous vegetation and that clause (2) privatised the cost of the public benefit to private landowners.

806. Ms Inta considered SUB-R7 should include an advice note referencing the ECO Chapter. She also considered that clause (i) should refer to all indigenous biodiversity, not only that which was significant, and that the effects management hierarchy should apply.

807. Mr Kennedy, for Westpower, maintained his view that there should be a matter of control that related to the provision of easements. He did not consider it sufficient to refer to the subdivision standards, including SUB-S10. He suggested adding a new matter of control as follows:

j. **The provision of easements, including for both existing and proposed energy activities and associated infrastructure.**

808. Ms Pull accepted the amendment to refer to Poutini Ngāi Tahu values.

### ECO-R6/SUB-R9

809. Ms Linscott and Ms Sannazzaro noted that their comments made in relation to ECO-R4/SUB-R7 also applied to this rule.

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810. Ms Inta accepted the s42A Report recommendation to add additional matters of discretion requested. She also referred to a submission point made in relation to SUB-R9 which related to a buffer distance for development (i.e. building, roads and access) from an SNA. She noted that in the Subdivision Chapter hearing the recommendation was to transfer the submission point to this hearing stream, but that this had not been addressed.
811. Mr Kennedy, for Westpower, noted his comments made in relation to ECO-R4/SUB-R7 also applied to this rule and he maintained his view that there should be a matter of discretion that related to the provision of easements.
812. Ms Pull accepted the amendment to refer to Poutini Ngāi Tahu values.

### *ECO-R8/SUB-R15*

813. Ms Snoyink recorded Forest and Bird was generally supportive of deleting the duplicated subdivision rules from the ECO Chapter. However, she suggested that the recommended advice note for this rule should also be added to all the relevant subdivision rules. She did not support the removal of the clauses from SUB-R15, or the removal of the non-complying default where compliance was not achieved, for the reasons as set out in the submission.
814. Ms Inta considered that an advice note should refer to clause 3.10 and 3.11 of the NPSIB. She also reiterated the matter of a buffer zone and considered an explanation of the term “N/A” was needed.

### *ECO-R9/SUB-R27*

815. Ms Snoyink recorded Forest and Bird was concerned about the recommendation to delete this rule, and the subsequent reliance on SUB-R15 as the “catch-all” rule for any other subdivision. She explained that this was because SUB-R15 was specific to creating lots to contain an SNA, while SUB-R27 was broader and captured any subdivision within an SNA. Therefore, it is Ms Snoyink’s opinion that SUB-R27 should be retained to capture subdivision within SNA where the subdivision is not to “create allotments containing an SNA”. She also remained concerned that the use of the term “*area of significant indigenous biodiversity*” created inconsistency and uncertainty with other terms used in the ECO Chapter. Ms Snoyink maintained her view that any subdivision within an SNA where it was not intended to protect the SNA within an allotment should have a non-complying activity status.

### *ECO-R5/ECO-R7/ECO-R8A*

816. Ms Snoyink noted Forest and Bird was generally supportive of the recommendations but continued to have some minor concerns as follows:
- (a) That the rule could be applied to an area that has not been assessed;
  - (b) It was unclear what benefit the addition of “*at ecological level*” brings to clause (2) of ECO-R5;
  - (c) She questioned whether the matters of discretion were adequate to consider the policies from the RPS and the NPSIB; and
  - (d) ECO-R7 as recommended could be read as the requirements for granting consent, which was not appropriate.

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817. Mr Brass, for the Director General, acknowledged the recommended amendments were not exactly as those sought, but noted he was generally supportive of the recommended structure of the redrafted rules. However, he made comment as follows:
- (a) He agreed and was supportive of the recommendations to ECO-R5 that require an assessment in accordance with SNA criteria for sites outside of already identified SNA.
  - (b) He noted some uncertainty as to why some exceptions from the NPSIB 3.11 were reflected in the rule structure and others are not.
  - (c) He had some concern that a non-complying consenting pathway was provided for activities that the NPSIB seek to avoid.
  - (d) He considered there was a policy gap for the assessment of non-complying activities, and without this, he considered that ECO-R8A should be split to create a prohibited activity status for any activity that would breach NPSIB 3.10(2).
818. Mr Kennedy, for Westpower, generally supported the recommendation relating to ECO-R5. However, he maintained his view that ECO-R5 should be relocated to the Coastal Environment Chapter and that a new matter of discretion should be included that would enable the consideration of the benefits of the proposed activity.
819. Mr Kennedy considered the recommended changes to ECO-R7 were significant in the context of the rules and had not been appropriately assessed. He noted that only some of the exceptions from clause 3.11 of the NPSIB had been incorporated into ECO-R7. He did not agree with the amendments to limit the applicability of the rule, including the lack of provision for infrastructure matters, and preferred the rule as notified with a minor amendment to Advice Note (1).
820. Ms Whitney, for Transpower, noted ECO-R5 did not relate to disturbance and therefore considered there was a rule gap relating to disturbance activities within ECO-R1 and ECO-R1A. She advised that, subject to an amendment to the rule to add “*disturbance*”, she supported the amended rule.
821. Ms Whitney also commented that ECO-R7 did not include provision for “*disturbance*” in the rule. She had concerns that a non-complying resource consent application would be necessary for the development or construction of National Grid assets and considered this would not give effect to the NPSET or ENG-P8. She suggested the addition of a new rule, ECO-R7A as follows:

### **ECO-R7A**

**Indigenous Vegetation Disturbance and Clearance within an identified Significant Natural Area or not meeting ECO-R5 or ECO-R7, associated with the development of the National Grid**

**Activity Status Discretionary**

**Where this is:**

**1. Associated with the development of the National Grid**

**Activity Status where compliance not achieved: N/A**

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822. Ms Styles, for Manawa, noted that changing the recommended default status for ECO-R7 to non-complying could result in renewable electricity generation activities being non-complying while mineral extraction and forestry would remain discretionary activities. She considered that the rule cascade from restricted discretionary to discretionary was unusual.
823. Ms Linscott, for Federated Farmers, considered adding “*by the District Council*” to clause (1)(i) of ECO-R5 would help clarify that the obligation for completing an SNA assessment was the responsibility of the Council and not consent applicants (or landowners).

*A Significant Natural Area identified in Schedule Four or in an area that has been assessed **by the District Council** in accordance with the Significant Natural Area criteria in the NPSIB that meets the criteria to be a Significant Natural Area.*

824. Ms Hunter, for Bathurst, reiterated the submission point to have lawfully established activities acknowledged, and that regard be had to the objectives and policies of the BCZ and MINZ Chapters. She considered the redrafted rule and the amendments to Schedule Four would likely trigger a requirement for a resource consent where indigenous vegetation removal was undertaken as part of existing mining operations. She explained that this was because an area of the zone was identified as a Schedule 2 Regionally Significant Wetland in the West Coast Regional Land and Water Plan. Given this, she did not support the recommended amendments to Schedule Four that elevate the status of all scheduled regional wetlands to SNA.
825. Ms Pull accepted the amendment to refer to Poutini Ngāi Tahu values. Her summary statement highlighted the enablement of Māori land through the permitted activity rule but noted the change in the default activity status to non-complying was a significant change from notified. She noted the need to avoid activities that impact Threatened Environment Classifications, but considered this needed to be balanced against ECO-P6, which seeks to enable use and development of Māori land. She considered that if the Threatened Environment Classification remained in ECO-R2, then ECO-R5 should be consequentially amended to enable Māori land within this category to be considered.
826. Ms Inta considered the matters of discretion in clauses (b) and (c) in ECO-R5 were similar and should be combined. She also suggested that in clause (1) should reference both the NPSIB and RPS and she suggested the following wording:

*An ecological assessment undertaken by a suitably qualified and experience ecologist identifies, **using NPS-IB Appendix 1, supported by WC-RPS Appendix 1**, that the clearance will not result in any of the following:*

827. Ms Hills considered ECO-R5 should include a requirement to assess areas that were yet to be assessed against the SNA criteria. She noted that in ECO-R7 the first two clauses from NPSIB clause 3.11 were referred to, but not clause (c).
828. Mr Tuck’s letter on behalf of Silver Fern Farms confirmed that he accepted the s42A Report recommendation regarding the permitted activities under rule ECO-R5(1)(c).
829. Mr Phil McKinnel tabled a letter on behalf of Birchfield Coal Mines reiterating support for the rules as notified, and outlined concerns with the amended wording for ECO-R7 and the addition of ECO-R8A as follows:
- (a) The requirements of the NPSIB clause 3.10(2) were applied more widely than SNA without justification;

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- (b) There was no justification to support the default non-complying status for vegetation clearance;
- (c) The non-complying activity status was considered to be prohibitive in the context of the objectives and policies and did not fit with the scheme of the Plan, as non-complying activities were not in other chapters;
- (d) There was no scope for having greater control over indigenous vegetation clearance in category 1 or 2 Threatened Environment Classification, ONL, ONF, high natural character areas and outstanding natural character areas;
- (e) NPSIB provisions have been cherry-picked without any explanation and did not give effect to the NPSIB; and
- (f) Regard must be given to the NPSIB through a s104 assessment in any event.

### **Reporting Officer Reply Evidence (including JWS)**

830. The JWS records the planners agreed to redraft the permitted activity rules focusing on activities. They also agreed to move the clearance limits into standards to apply to the permitted activity rules to improve clarity. While they agreed to change the structure of the rules, the JWS notes the individual submission points on the content, the standards, or the activity status were subject to remaining disagreement.
831. The JWS records areas of disagreement between the planners were as follows:
- (a) Ms Easton retained the view that a different approach was warranted in Grey District where SNA identification had taken place; and
  - (b) Mr Kennedy retained the position set out in his evidence and the Westpower submission.
832. The wording for the permitted activity rules (replacing both ECO-R1 and ECO-R2 as notified, and ECO-R1, ECO-R1A and ECO-R2 from the s42A Report recommendation) in the JWS were shown in Annexure 1 of the JWS.

### *ECO – R1, ECO – R1A and ECO – R2*

833. In her Right of Reply, Ms Easton provided information from her review of other district plans in relation to exclusions from indigenous clearance rules for maintenance and advised these did not make exceptions for trimming. However, she acknowledged the West Coast context was quite unique with electricity distribution and telecommunication lines substantially traversing bush clad areas. She noted two of the plans reviewed had vegetation clearance restrictions within SNA and the coastal environment only and the other plans with more comprehensive rules with specific exclusions for gardens, shelterbelts, plantation forestry and horticulture. She noted that in all cases the exclusions were addressed in the rules and not in the definition of indigenous vegetation clearance.
834. Ms Easton's Right of Reply reconsidered her recommendation for ECO-R1 and ECO-R1A in light of her analysis of other district plans and the evidence presented at the hearing by various submitters. She noted the following points:

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- (a) The planner caucusing recommended a significant restructure of the permitted activity rules, resulting in five separate rules, which Ms Easton considered addressed the matters raised in evidence relating to readability and complexity.
- (b) The new structure of the rules was generally set out as follows:
- i. ECO – RXX1A – General standards
  - ii. ECO – RXX2 to ECO – RXX4 – Specific circumstances
  - iii. ECO – RXX5 – All other circumstances
- (c) As recorded in the JWS, the planners generally considered that it was simpler to have the same rules apply across all three districts. However, Ms Easton did not support this view because she considered the rules should recognise that SNA had already been identified in the Grey District. Her recommendation, therefore, included an amendment to clause 3(b) of ECO-RXX1A to reflect this.
- (d) In response to statements presented by some landowners (e.g. Ms Lynne Lever) that the recommended rules would require resource consent for very small areas of vegetation clearance if it were not linked to a specific activity, Ms Easton recommended an amendment to ECO-RXX1A enabling a small area of vegetation clearance outside of the coastal environment when it was not linked to a specific activity.
- (e) In response to Mr Brass' evidence which set out the maximum areas of vegetation clearance that would be acceptable to the Director General of Conservation, Ms Easton confirmed she had incorporated this into the relevant rule.
835. Ms Easton also responded to the tabled letter from KiwiRail in relation to this rule. She considered some of the matters raised by KiwiRail had been addressed by the suite of permitted activity rules redrafted as part of the planner caucusing, including:
- (a) Providing for maintenance, operation, repair and upgrade of lawfully established activities and structures;
  - (b) Providing for clearance of 20m<sup>2</sup> per linear 100m length for linear infrastructure; and
  - (c) Providing for installation of new network utility infrastructure where the construction corridor did not exceed 3m in width.
836. Ms Easton confirmed that it had been recommended to include the Threatened Land Environment maps in the TTPP, which was a point raised by KiwiRail.
837. The JWS between Ms Pull (Poutini Ngāi Tahu), Ms Huirama (Te Tumu Paeroa) and Ms Easton records the parties agreed to further amendments to ECO-RXX4 as follows:

*ECO – R4 Indigenous vegetation clearance **on Māori Purpose Zoned Land, Poutini Ngāi Tahu Land for Poutini Ngāi Tahu Activities or on Specified Māori Land** outside of Significant Natural Areas*

*Activity Status: Permitted*

*Where:*

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1. *It is cultural harvest undertaken by Poutini Ngāi Tahu; or*
2. *It is ~~for Poutini Ngāi Tahu Activities~~ on Māori Purpose Zoned land or Poutini Ngāi Tahu land and undertaken in accordance with an Iwi/Papatipu Rūnanga Management Plan;*  
*or*
3. ***It is clearance of kanuka, manuka or bracken on Specified Māori Land.***  
*Activity status where compliance not achieved: Restricted Discretionary*

838. Appendix 1 of the Right of Reply showed Ms Easton's recommended replacement of previously recommended rules ECO-R1, ECO-R1A and ECO-R2 with new rules ECO-RXX1A, ECO-RXX1, ECO – RXX2, ECO-RXX3, ECO-RXX4 and ECO-RXX5, as follows:

### **ECO – RXX1A General Standards**

All Permitted activities outside of a Significant Natural Area must comply with the following relevant standards.

1. Within the coastal environment:
  - a. Any indigenous vegetation clearance is a maximum of 500m<sup>2</sup> per site over any continuous 3-year period or is a maximum of 20m<sup>2</sup> on any individual infrastructure work site, or 20m<sup>2</sup> per linear hundred metre length for linear infrastructure; and
  - b. The indigenous vegetation clearance did not disturb, damage or destroy nesting areas or habitat of threatened or at risk species; and
  - c. The indigenous vegetation clearance did not occur in an area of land environment of category one or two of the Threatened Environment Classification; and
2. Within the riparian margin of a water body:
  - a. It is a maximum of 20m<sup>2</sup> per linear 200m length of riparian margin; and
3. In all other locations outside of a Significant Natural Area it is:
  - a. A maximum of 2000m<sup>2</sup> on any site over any continuous 3-year period on a site that has not had an SNA assessment undertaken in accordance with Policy ECO – P1; or
  - b. A maximum of 5000m<sup>2</sup> on any site over any continuous 3-year period on a site that has had an SNA assessment in accordance with Policy ECO – P1 or within the Grey District, has an SNA included within Schedule 4 that is located on the same property; or
  - c. Is a maximum of 20m<sup>2</sup> on any individual infrastructure work site, or 20m<sup>2</sup> per linear 100m length for linear infrastructure; and
4. Unless carried out by a statutory agency or their nominated contractor responsible for natural hazard mitigation, the clearance is not located within areas used and identified for natural hazard mitigation structures that are owned or managed by a statutory agency.

Except that the maximum vegetation clearance provisions in these general standards do not apply where:

- i. Specific to Clause 3, it is necessary to provide for the ongoing safe and efficient operation, maintenance and repair of the National Grid, electricity distribution and telecommunications lines; or

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- ii. For all Clauses, the indigenous vegetation clearance is for network utility operations within any RESZ – Residential Zone, COMZ – Commercial and Mixed Use Zone, PORTZ – Port Zone, or IND – Industrial Zone property within the towns of Greymouth, Hokitika or Westport;
- iii. For all clauses, the indigenous vegetation clearance is of vegetation planted and managed:
  - I. as part of a domestic or public garden for amenity purposes; or
  - II. as a shelterbelt; or
  - III. for the purpose of harvesting as plantation forestry

**Activity status where compliance not achieved: Restricted Discretionary**

### **ECO – RXX1 Indigenous Vegetation Clearance for Network Utility Operations, Renewable Electricity Generation Activities and the National Grid outside of Significant Natural Areas**

#### **Activity Status: Permitted**

Where:

1. It is for the maintenance, operation, repair or upgrade of lawfully established activities and structures ; or
2. It is for the installation of temporary network or electricity generation activities following a regional or local state of emergency declaration; or
3. It is necessary to remove vegetation that endangers human life or existing buildings or structures; or
4. It is for construction of new network utility infrastructure, renewable electricity generation activities or the national grid where:
  - a. The construction corridor for linear infrastructure such as pipes and lines does not exceed 3m in width; and
  - b. All machinery used in construction is cleaned and made free of weed materials and seeds prior to entering the site; and
  - c. Rehabilitation of disturbed areas is undertaken following completion of construction; and
  - d. Within a riparian margin of a waterbody new network utilities and connections are underground or located within a legal road or attached to an existing bridge.

**Activity status where compliance not achieved: Restricted Discretionary**

### **ECO – RXX2 Indigenous vegetation clearance for maintenance and repair of lawfully established structures and activities outside of Significant Natural Areas not provided for in Rule ECO – R1**

#### **Activity status: Permitted**

Where:

1. The clearance is for the maintenance and repair of established activities and structures including but not limited to tracks, accessways, fences, pipelines, drains, natural hazard mitigation structures, shelterbelts and woodlots, environmental monitoring facilities and infrastructure; or
2. The clearance is for the maintenance of improved pasture for farming, where this is clearance of manuka, kanuka or bracken only that is less than 15 years old and not part of any wetland.

#### **Advice Notes:**

1. Where clearance of mānuka, kānuka or bracken is proposed under this rule, if proof that the vegetation is less than 15 years old or that the site is not a wetland, is unavailable, then a resource consent will be required.
2. In relation to standard 1, the reference to infrastructure applies where the infrastructure is not regulated by Rule ECO – RXX1.

**Activity status where compliance not achieved: Restricted Discretionary**

**ECO – RXX3 Indigenous vegetation clearance in urban areas outside of Significant Natural Areas not provided for in Rule ECO – R1 or ECO – R2**

**Activity Status: Permitted**

Where

1. It is undertaken on a RESZ – Residential Zone, COMZ – Commercial and Mixed Use Zone, PORTZ – Port Zone, or IND – Industrial Zone property within the towns of Greymouth, Hokitika or Westport;

**Activity status where compliance not achieved: Restricted Discretionary**

**ECO – RXX4 Indigenous vegetation clearance on Māori Purpose Zoned Land, Poutini Ngāi Tahu Land or on Specified Māori Land outside of Significant Natural Areas**

**Activity Status: Permitted**

Where

1. It is cultural harvest undertaken by Poutini Ngāi Tahu; or
2. It is on Māori Purpose Zoned land or Poutini Ngāi Tahu land and undertaken in accordance with an Iwi/Papatipu Rūnanga Management Plan;
3. It is clearance of kanuka, manuka or bracken on Specified Māori Land.

**Activity status where compliance not achieved: Restricted Discretionary**

**ECO – RXX5 Indigenous vegetation clearance outside of a Significant Natural Area not provided for in another Permitted Activity Rule**

**Activity Status Permitted**

Where this is:

1. For the construction of new fences and traplines associated with Conservation Activities or to exclude stock or pest animals from indigenous vegetation or the margins of waterbodies, or the coast; or
2. Necessary to remove vegetation that endangers human life or existing buildings or structures; or
3. For the construction of parks facilities, parks furniture or public access points within an Open Space and Recreation Zone; or
4. For installation of an environmental monitoring and extreme weather event monitoring facility; or
5. For the establishment of a river crossing point up to 3m wide; or
6. For new natural hazard mitigation structures undertaken by a statutory agency or their nominated contractor; or
7. Unavoidable in the course of removing pest plants and pest animals in accordance with any regional pest management plan or the Biosecurity Act 1993, or is removal of unwanted organisms declared under the Biosecurity Act 2015; or
8. To comply with section 43 of the Fire and Emergency Act 2017; or
9. To upgrade public walking or cycling tracks up to 3m in width undertaken by the Council or its approved contractor; or
10. Within an area subject to a QEII National Trust Covenant or Ngā Whenua Rahui Kawaneta, a Reserves or Conservation Act covenant or a Heritage covenant under the Heritage New Zealand/Pouhere Taonga Act and the vegetation disturbance is authorised by that legal instrument; or

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11. For the establishment of a building platform and access to a building site in an approved subdivision or where there is no existing residential building on the site that did not exceed 500m<sup>2</sup> clearance per allotment and where this is not located within a riparian margin of a waterbody; or
12. For mineral exploration or prospecting activities within the MINZ - Mineral Extraction Zone or BCZ – Buller Coalfield Zone; or
13. Outside of the coastal environment or riparian margins of waterbodies it is removal of windthrow timber through:
  - i. Use of helicopter recovery methods; or
  - ii. Where ground-based recovery is only undertaken from areas adjacent to existing vehicle tracks
14. For any other purpose, where this is not located within a riparian margin of a waterbody or the coastal environment, and did not exceed 2,000m<sup>2</sup> clearance per property over a 3 year period.

**Activity status where compliance not achieved:** Controlled Activity where this is indigenous vegetation clearance with an approved plan or permit issued under the Forests Act, Otherwise Restricted Discretionary.

### ECO – R1B

839. Ms Easton recommended adding ‘lawfully established activities’ to clause (1) and deleting ‘Arboricultural’ from clause (2). Appendix 1 of the Right of Reply showed recommended new rule ECO-R1B, as follows:

#### **ECO-R1B Indigenous Vegetation Clearance within a Significant Natural Area**

##### **Activity Status Permitted**

Where this is:

1. For the maintenance, operation and repair of lawfully established activities and structures including tracks, fences, drains, structures, infrastructure and renewable electricity generation activities where:
  - a. This is at the same or similar scale, character and intensity as at 14 July 2022; and
  - b. The clearance is within 3m of the established activity and is limited to a maximum area of 50m<sup>2</sup> per individual SNA;
2. Necessary to remove vegetation that endangers human life or existing buildings or structures where this is certified by a Council Approved Contractor;
3. For the safe and efficient operation (including maintenance and repair) of any formed public road, rail corridor or access where the removal is within 3m of the formed width of the road, rail corridor or access where this is undertaken by a Road or Rail Controlling Authority;
4. To comply with section 43 of the Fire and Emergency Act 2017;
5. To enable removal of unwanted organisms declared under the Biosecurity Act 2015.

### ECO – R3

840. Ms Easton’s Right of Reply made no comment regarding this rule.

### ECO – R4/SUB – R7

841. Ms Easton’s Right of Reply reconsidered her recommendation for SUB – R7 in light of the evidence presented at the hearing by various submitters and questions from the Panel. She made the following points:

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- (a) In response to Ms Inta's request to add reference to the effects management hierarchy to give effect to the NPSIB, Ms Easton noted this was outside of the scope of Ms Inta's submission. However, she acknowledged could be within the scope of Mr Neil Mouat's submission.
- (b) Ms Easton did not consider that having reference to the effects management hierarchy would be appropriate in the context of this rule because it was an incentive-based rule giving a bonus lot for subdivision. She considered allowing for vegetation clearance if there was an alternative mitigation, such as biodiversity offsetting or compensation, would defeat the purpose of the rule and was inappropriate.
- (c) In response to questions from the Panel as to whether there was scope to add a timeframe for any assessment, Ms Easton did not find any scope in submissions. However, she noted the RPS became operative in 2020 and she did not believe that many assessments had been carried out with reference to the significance criteria. As such, she considered the concern of an 'old' assessment was only likely to arise towards the end of the life of the Plan.
- (d) In response to the questions relating to a gap in the rule (and SUB-R9) to avoid significant adverse effects on other biodiversity, Ms Easton noted that she could not find a submission that provided scope to address this.
- (e) Due to the recommended reference to the RPS significance criteria in the definition of "Area of Significant Indigenous Biodiversity", Ms Easton considered that clause (2) of SUB-R7 should also refer to the RPS rather than the NPSIB.
- (f) Ms Easton also recommended minor amendments to the drafting of the rule to improve clarity.

842. Appendix 1 of the Right of Reply showed **ECO-R4** deleted (as recommended in the s42A Report) and recommended changes to **SUB-R7** as follows:

### **SUB - R7**

#### ***Subdivision of Land to Create Allotments Containing an Area of Significant Indigenous Biodiversity Where Legal Protection of the Area of Significant Indigenous Biodiversity is Proposed***

*Activity Status: Controlled*

*Where:*

1. *One new allotment with a minimum lot size of 41,000m<sup>2</sup> is created from the parent title, provided that in the GRUZ - General Rural Zone there is a balance area remaining on the original title of at least 4 ha; and*
2. **An assessment of the site against the significance criteria in the NPSIB WCRPS Appendix 1 is provided with the application and this is undertaken by a suitably qualified or experienced ecologist unless the site has already been assessed identified as to be an SNA as part of a district – wide SNA assessment process; and**
3. ~~The~~ **Any** ~~areas~~ **of significant indigenous biodiversity is-are** ~~legally protected in perpetuity by way of a conservation covenant with an authorised agency~~ **or via consent notice on the title** ~~and is-are~~ **contained within a single allotment; and**
4. *The subdivision will not result in buildings or access ways being located within the identified area of significant indigenous biodiversity or the need for clearance **within***

*the area* of significant indigenous vegetation to provide for **a future building site or future access to any site**; and

5. Subdivision standards S2-S11 are complied with.

**Matters of control are:**

- a. Subdivision layout, access, design, location and proximity of building platforms to areas of significant indigenous biodiversity;
- b. **The provision of infrastructure and services for drinking water, wastewater, stormwater, telecommunications and energy;**
- c. **The adequacy of water supply for firefighting;**
- d. **Specification of the location of building sites and access through the use of consent notices;**
- e. **Management of potential reverse sensitivity effects on existing land uses, including network utilities and regionally significant infrastructure, rural activities or significant hazardous facilities;**
- f. **Measures to address any natural hazards or geotechnical constraints;**
- g. Management of earthworks, including earthworks for the location of building platforms and access ways;
- h. The protection of habitats of threatened or at-risk species; and
- i. The measures to ~~minimise~~ **avoid, remedy or mitigate** any adverse effects on:
  - i. The significant indigenous biodiversity;
  - ii. ~~The cultural significance to Poutini Ngāi Tahu Values.~~

**Advice Note:**

This rule does not apply to subdivisions to create allotments for network utilities, access or reserves which are subject to **either of Rules SUB – R2 or SUB - R4.**

**Activity status where compliance not achieved:** Restricted Discretionary where standard 1 is not complied with. Discretionary where standards 2-~~4~~5 are not complied with.

**ECO – R6/SUB – R9**

843. Ms Easton’s Right of Reply reconsidered her recommendation for SUB-R9 in light of the evidence presented at the hearing by various submitters and questions from the Panel. In response Ms Inta’s point regarding buffer areas, she noted the relevant submission points (S552.121 and S553.121) had been incorrectly assigned to SUB-R15. She considered that it would be appropriate to amend the matters of discretion to include a reference to buffers in clause (b). Ms Easton also recommended similar minor amendments to SUB-R7.
844. Appendix 1 of the Right of Reply showed **ECO-R6** deleted (as recommended in the s42A Report) and recommended changes to **SUB-R9** as follows:

**SUB – R9**

**Subdivision of Land to Create Allotments Containing an Area of Significant Indigenous Biodiversity Where Legal Protection of the Area of Significant Indigenous Biodiversity is Proposed not meeting Rule SUB-R7**

Activity Status: Restricted Discretionary

Where:

1. Up to three allotments with a minimum lot size of **41,000m<sup>2</sup>**, are created from the parent title;

2. **An assessment of the site against the significance criteria in the NPSIB RPS Appendix 1 is provided with the application and this is undertaken by a suitably qualified or experienced ecologist unless the site has already been assessed identified as to be an SNA as part of a district – wide SNA assessment process;**
3. ~~The~~**Any** areas of significant indigenous biodiversity ~~is~~ **are** legally protected in perpetuity by way of a conservation covenant with an authorised agency or via consent notice on the title and ~~is~~ **are** contained within a single allotment;
4. The subdivision will not result in buildings or access ways being located within any Significant Natural Area identified in Schedule Four **or the need for clearance of significant indigenous vegetation to provide for a future building site or future access to any site;** and
5. Subdivision standards S2-S11 are complied with.

**Discretion is restricted to:**

- a. Whether there are other regulations impacting the site that have meant the land is unable to be used for economic rural uses;
- b. The extent to which the subdivision layout, access, allotment size and design and the location of building platforms may adversely impact the significant indigenous vegetation and/or significant habitat of indigenous fauna **and whether buffering of significant areas is also appropriate;**
- c. **The provision of infrastructure and services for drinking water, wastewater, stormwater, telecommunications and energy;**
- d. **The adequacy of water supply for firefighting;**
- e. **Management of potential reverse sensitivity effects on existing land uses, including network utilities and regionally significant infrastructure, rural activities or significant hazardous facilities;**
- f. Management of earthworks including earthworks for the location of building platforms and access ways;
- g. The protection of habitats of threatened or at risk species;
- h. The measures to ~~minimise~~ **avoid, remedy or mitigate** any adverse effects on:
  - i. The significant indigenous biodiversity; and
  - ii. ~~The particular cultural, spiritual and/or heritage values, interests or associations of importance to Poutini Ngāi Tahu Values as kaitiaki and mana whenua that are associated with the significant indigenous vegetation and/or significant habitats of indigenous fauna and the potential impact on those values, interests or association.~~

**Activity status where compliance not achieved: Discretionary**

ECO – R8/SUB – R15

845. In Reply, Ms Easton made no further comment regarding this rule.

ECO – R9/SUB – R27

846. In response to questions from the Panel whether it was necessary for there to be a non-complying activity for subdivision in order to give effect to the “avoid” directions in the NPSIB, Ms Easton considered there was not. She reiterated that the “avoid” direction specifically related to identified SNA, and therefore she considered SUB-R27 was inappropriate as it related to bonus lots. She also did not consider that the NPSIB specifically sets a direction that a non-complying activity status for the subdivision on land in an SNA was required. She instead referred to the specific matters in clause 3.10(2) which she

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considered were addressed in ECO-P6 and which any discretionary activity would be assessed against.

847. In Reply, Ms Easton made no further amendments to her recommendations for this rule.

### *ECO – R5 and ECO – R7*

848. The JWS records the planners did not agree and that the submissions and evidence relating to ECO-R5 still stood. However, Annexure 1 showed agreed minor amendments to the recommended wording of both ECO-R5 and ECO-R7.

849. The JWS between Ms Pull (Poutini Ngāi Tahu), Ms Huirama (Te Tumu Paeroa) and Ms Easton records the parties agreed to adding a new advice note in ECO-R7 as follows:

1. When assessing resource consents for indigenous vegetation clearance on Specified Māori Land under this rule, the provisions of subclause 3.18(2) of the NPSIB in relation to Specified Māori Land must be taken into account.

850. The JWS also identified that there was insufficient scope within the submissions to make more substantial changes to reflect the direction on Specified Māori Land within the NPSIB. Therefore, they recommend including a new Method to highlight that these additional changes would need to occur when the Plan was updated to reflect the NPSIB requirements, as follows:

#### **Method ECO – M1: The TTPP Committee will**

- a. Identify in conjunction with Specified Māori Land owners how best to implement the NPSIB in relation to Specified Māori Land in accordance with the decision making principles in Schedule xxx of the TTPP and the provisions of the NPSIB; and
- b. Identify in partnership with Poutini Ngāi Tahu how best to fully implement the NPSIB in relation to the decision making principles, tanqata whenua provisions and the Ngāi Tahu Claims Settlement Act; and
- c. As part of giving effect to the NPSIB, the TTPP Committee will consider a Plan Change to implement the actions of this method and Policy ECO-P1.

851. Appendix 1 of the Right of Reply recommended amendments to ECO-R5 and ECO-R7 as follows:

#### ***ECO - R5 Indigenous vegetation clearance not meeting Permitted or Controlled Activity Standards outside of a Significant Natural Area***

##### ***Activity Status Restricted Discretionary***

Where:

1. This is not within:

- i. ~~A Significant Natural Area identified in Schedule Four or in an area that has been assessed in accordance with the Significant Natural Area criteria in the NPSIB that meets the criteria to be a Significant Natural Area;~~
- ii. An area of land environment of category one or two of the Threatened Environment Classification **at the ecological district level;**
- iii. An Outstanding Natural Landscape identified in Schedule Five;
- iv. An Outstanding Natural Feature identified in Schedule Six;
- v. An area of High Coastal Natural Character identified in Schedule Seven; or

vi. An area of Outstanding Coastal Natural Character identified in Schedule Eight.

**Discretion is restricted to:**

- a. ~~Whether there are other regulations impacting the site that have meant the land is unable to be used for economic rural uses;~~
- b. ~~Constraints imposed by~~ **Consideration of the functional need** or operational need of network utilities, **renewable energy generation** and ~~critical~~ **regionally significant** infrastructure;
- c. **The functional or operational need for the activity to locate within the area where indigenous vegetation clearance is proposed to occur;**
- d. Effects on habitats of any threatened or ~~protected~~ **at risk (declining)** species;
- e. Effects on the threat status of land environments in category one or two of the Threatened Environments Classification;
- f. Effects on ecological functioning and the life supporting capacity of air, water, soil and ecosystems;
- g. Effects on the intrinsic values of ecosystems;
- h. Effects on recreational values of public land;
- i. **Natural hazard management and geotechnical considerations;**
- j. **Poutini Ngāi Tahu values; and**
- k. ~~The matters outlined in Policies ECO - P6 and ECO - P7.~~ **Effects on any values that would meet the significance criteria in Appendix 1 of the NPSIB.**

**Advice Note:**

1. ~~Where indigenous vegetation clearance is proposed within the riparian margin of a waterbody refer to this section of the Plan for the Rules around this clearance.~~
2. Where indigenous vegetation clearance is proposed in or on a site or area of significance to Māori then Rule SASM - R4 will also apply.
3. Where indigenous vegetation clearance is proposed within a wetland this is also be subject to rules within the NES - Freshwater and Regional Land and Water Plan which are administered by the West Coast Regional Council.
4. This rule also applies to ~~plantation~~ **commercial** forestry activities, where this provision is more stringent than the NES - PF and the indigenous vegetation clearance is within the coastal environment.

**Activity status where compliance not achieved:** Discretionary

**ECO - R7 Indigenous vegetation clearance not meeting ECO - R5 Permitted, Controlled or Restricted Activity Rules**

**Activity Status Discretionary**

**Where:**

**1. An ecological assessment undertaken by a suitably qualified and experience ecologist identifies that the clearance will not result in any of the following:**

**a. Loss of ecosystem representation and extent**

**b. Disruption to sequences, mosaics or ecosystem function**

**c. Fragmentation of Significant Natural Areas or the loss of buffers or connections with a Significant Natural Area**

- d. A reduction in the function of the Significant Natural Area as a buffer or connection to important habitats or ecosystems**
- e. A reduction in the population size or occupancy of any threatened or at risk (declining) species that use the Significant Natural Area.**
- 2. This is for mineral extraction (other than coal) that provides significant national public benefit that could not otherwise be achieved using resources within New Zealand ; or**
- 3. This is for the operation or expansion of any coal mine that was lawfully established before 4 August 2023; except that, after 31 December 2030, this exception applies only to such coal mines that extract coking coal; or**
- 4. This is for a single residential dwelling on an allotment created before 4 August 2023; or**
- 5. This is for a commercial forestry activity and is required for the commercial forestry activity to continue; or**
- 6. This is for a renewable electricity generation activity, the national grid or regionally significant infrastructure.**

**Advice Notes:**

1. Where assessing resource consents for indigenous vegetation clearance under this rule, assessment against the **relevant objectives and** policies of ~~both~~ the Ecosystems and Biodiversity Chapter, ~~and~~ Natural Features and Landscapes Chapter, **the Coastal Environment Chapter, the Energy, Infrastructure and Transport Chapters** and the **MINZ and BCZ objectives and policies Zone Chapters** will be required.
2. **In relation to Significant Natural Areas, this rule also applies to plantation-commercial forestry activities, where this provision is more stringent than the NES - PCF.**
3. **When assessing resource consents for indigenous vegetation clearance on Specified Māori Land under this rule, the provisions of subclause 3.18(2) of the NPSIB in relation to Specified Māori Land must be taken into account.**

Activity status where compliance not achieved: ~~N/A~~ **Non-complying**

ECO – R8A

852. In Reply, Ms Easton made no further recommendations in relation to this new rule.

ECO – R10 and ECO – R11

853. In Reply, Ms Easton made no further recommendations in relation to these rules

**Hearing Panel's Evaluation**

854. The Panel acknowledges the significant input from submitters and the expert planners into the ECO rules to achieve a clearer and less complex rule framework. This was no simple task given the important nuances of the NZCPS and the NPSIB, and the fact the RPS is yet to give effect to the NPSIB. In making our recommendations, we have had regard to the outcomes of the planners JWS and the JWS between Ms Huirama, Ms Pull and Ms Easton.

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855. The Panel has also had regard to the outstanding submission and further submission points. Our evaluation focuses on where the Panel disagrees with Ms Easton's recommendations. Where the Panel accept Ms Easton's recommendations, and this is not discussed, it can be assumed we accept her reasoning as outlined in her s42A Report or Right of Reply.
856. The Panel notes the submission points of the Director General on ECO-R1 and ECO-R2 (as well as other submitters on the whole chapter), which seek to ensure significant indigenous biodiversity values are protected in the interim period until district-wide SNA assessments have been completed, remain outstanding. As noted earlier, the requirements of the NPSIB assume this has occurred and the provisions distinguish between inside and outside SNA.
857. A key issue for the Panel in considering the rule framework is how to protect significant indigenous vegetation and significant habitats of indigenous fauna, while enabling established activities to continue and new subdivision, use and development to occur, before a district-wide SNA assessment has been undertaken and incorporated into the Plan. We are mindful that the plan change required to include identified SNA under ECO-P1, as required under the RPS, will also involve a review of the ECO provisions. In our view, this is when the provisions may be able to be more permissive outside SNA because there will be more certainty that significant values will be protected. It will also be the time to give full effect to the NPSIB, which is drafted on the basis of indigenous vegetation being inside or outside of an SNA. In this regard, we consider the ECO rules are an 'interim' rule framework where activities outside those that are permitted and controlled need to be assessed through a consent process.
858. In recognition of the work done in the Grey District, the Panel accepts that there is sufficient certainty to have a restricted discretionary rule that applies outside SNA. While there is some risk that some significant values have not been identified, we consider the work undertaken justifies a more lenient approach in the interim period. This is also reflected in an increased permitted limit of vegetation clearance in the Grey District in ECO-R1.
859. The Panel must give effect to the RPS, NZCPS and NPSIB, and we consider there is a very high level of alignment in this higher order direction that significant indigenous biodiversity values must be protected and indigenous biodiversity generally must be maintained to give effect to s6(c) of the RMA. We also agree that the environmental bottom lines in the RPS and NPSIB must be reflected in the rule framework, as sought by some submitters.

### *ECO - R1 and ECO - R2*

860. The Panel accepts Ms Easton's recommendation to delete ECO-R1 and ECO-R2 as notified and replace these rules with new rules ECO-RXX1A, ECO-RXX1, ECO – RXX2, ECO-RXX3, ECO-RXX4, ECO-RXX5 and ECO – R1B, as shown in Appendix 1 of the Right of Reply. We agree that these two rules as notified were trying to do too much and as a result were quite complex and difficult to interpret. We acknowledge this new permitted activity rule framework largely reflects the agreements reached in the planners' JWS. However, we also acknowledge that there are a few submission points that remain and have considered these in making our recommendations below. We have largely accepted the permitted activity rules as recommended by Ms Easton.
861. For new rules ECO-RXX1A (new ECO-R1), ECO-RXX1 (new ECO-R2), ECO – RXX2 (new ECO – R3), ECO-RXX3 (new ECO-R4), ECO-RXX4 (new ECO-R5), ECO-RXX5 (new ECO-R6) and ECO-R1B (new ECO-R7), the Panel does not identify specific submission points for the new rules. We consider the scope to make changes to ECO-R1 and ECO-R2 (as notified) is very broad

and we are satisfied that the recommended replacement rules respond to matters raised in submissions.

862. The Panel has made minor amendments to change from past tense to present tense by replacing 'did' with 'will'; and replacing 'nominated contractor' with 'authorised contractor acting on its behalf', which is a plan-wide amendment for consistency. We consider ECO-R1(4) is very poorly worded. We consider the clause is trying to enable the clearance of vegetation on and around hazard mitigation structures, however, this is not clear as drafted. We consider the wording should be amended to begin the clause with 'Except where' (instead of 'Unless') and to delete the word 'not' to improve clarity.
863. In relation to new rules ECO-R1 and ECO-R6 (recommended ECO-RXX1A and ECO-RXX5), the Panel considers use of the term 'over any continuous 3-year period' is problematic for three key reasons. First, it is fraught with difficulty in terms of determining compliance because there is no date from which this three year period starts. Second, allowing ongoing indigenous vegetation clearance after each three-year period does not give effect to the NPSIB or RPS because it will not avoid the cumulative loss of indigenous vegetation and will not maintain indigenous biodiversity. Third, the limits in the permitted activity rules will need to be reviewed following completion of the district-wide SNA assessment, which is required to be completed in three years time. It is therefore unnecessary to provide for ongoing vegetation clearance beyond this interim period, particularly given the extent of activities provided for, including lawfully established activities and regionally significant infrastructure, such as network utility infrastructure, the National Grid, renewable electricity generation activities.
864. For these reasons, the Panel recommends deleting the reference to 'over any continuous 3-year period' and consider activities (excluding those provided for) that require the clearance of indigenous vegetation above the limits agreed should be assessed through a resource consent process to ensure areas of significant biodiversity are protected and indigenous biodiversity is maintained by applying the effects management hierarchy. The Panel records that this recommendation in relation to removing the three year period is not supported by Commissioner Becker as detailed in Appendix 2.
865. The Panel has considered the full range of submissions seeking greater restrictions and reduced restrictions, but accept Ms Easton's view that the limits set in the permitted activity rules are appropriate to give effect to the high order statutory direction, while enabling vegetation clearance until the district-wide SNA assessments are complete.
866. The Panel has considered the evidence of submitters presented at the Natural Character and Margins of Waterbodies Chapter hearing in relation to the ECO rules. We consider the concerns raised by Ms Styles (for Manawa) and Mr Kennedy (for Westpower) in relation to riparian margins are addressed by the permitted activity rules. We acknowledge that Westpower sought integration between the rules for vegetation clearance limits in riparian margins and earthworks to enable network utility operations involving above and below ground linear infrastructure. We have reviewed the relevant rules and consider these have been appropriately provided for. However, the Panel notes that Ms Easton's recommendation at the Natural Character and Margins of Waterbodies Chapter was to increase the extent of allowed vegetation clearance in a riparian margin from 20m<sup>2</sup> to 25m<sup>2</sup> per linear 200 m length to align with the Regional Land and Water Plan. She did not support increasing the width of permitted river crossings from 3m to 10m for energy activities, as sought by Westpower, because of the potential for adverse effects on the natural character

of the margins of waterbodies. We accept these recommendations and have amended ECO-R2(a) to 25m<sup>2</sup>.

867. The Panel considers that network utility operations are appropriately provided for in new Rule ECO-R2. However, we agree with Mr Kennedy that 3m in ECO-R2(4)(a) should be increased to 10m given this clause specifically applies to indigenous vegetation clearance for new network utility operations, renewable electricity generation activities and the National Grid outside of SNA.
868. The Panel acknowledges the submissions that sought to enable vegetation clearance for building sites. We consider the permitted activity rules appropriately provide for this while recognising the sensitivity of the coastal environment in terms of indigenous biodiversity values and habitats. We have provided for an exception in ECO-R1(1)(a) for the Hartmount Place and Ross Place subdivision where indigenous vegetation clearance is a maximum of 500m<sup>2</sup> per site in the, provided that at least an equivalent amount is retained on the site. This reflects the recommendation in the Settlement Zone Chapter Recommendation Report in response to a submission that sought to prevent the clearance of the entire 1,000m<sup>2</sup> sites given the unique bush covered coastal environment in that location.
869. In relation to new Rule ECO-R2(3), the Panel has deleted '*outside of a SNA it is*' because this is already in the lead sentence before the clause.
870. In new Rule ECO-R4 (recommended ECO-RXX3), the Panel considers it is appropriate to include Reefton.
871. The Panel considers renumbered new Rule ECO-R5 (recommended ECO-RXX4) appropriately enables customary harvest and use of Poutini Ngāi Tahu land outside of an SNA, but as recommended we consider it is too restrictive in relation to specified Māori land. We consider owners of specified Māori land should be able to rely on the vegetation clearance limits in new rule ECO-R1 to the extent that owners of freehold title can. Poutini Ngāi Tahu have the ability to produce iwi management plans in order to provide for application of the rule, which is not a pathway available to other owners of specified Māori land. This would effectively create a new barrier to development of specified Māori land, which would not give effect to clause 3.18 of the NPSIB.
872. While the Panel accepts that more work is required to fully give effect to this aspect of the NPSIB, it would be contrary to national direction to introduce a more restrictive regime on specified Māori land than exists on freehold title. For that reason, the Panel does not recommend incorporating ECO-R5(3) "*it is clearance of kānuka, manuka or bracken on Specified Māori Land*". The Panel note that Te Tumu Paeroa submission point S440.027 originally identified disadvantage to Māori land owners in notified ECO-R1 and sought greater leniency in recognition of the history of Māori land. Rather than greater leniency, the Panel recommendation ensures no disadvantage and compliance with national direction by amending the clause to require owners of specified Māori land to comply with ECO-R1 and ECO-R3, in circumstances where there is no applicable iwi management plan.
873. The Panel acknowledges new rule ECO-R7 (recommended ECO-R1B) gives effect to NPSIB clause 3.15 in relation to managing the effects of established activities on SNA. Clause 3.15(2) requires councils to include objectives, policies and methods to enable specified established activities, or specific types of established activities, to continue where the effects of the activity on an SNA (including cumulative effects):

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(a) are no greater in intensity, scale, or character over time than at the commencement date; and

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

874. However, the Panel notes that only clause 3.15(2)(a) has been included in the rule and not clause 3.15(2)(b). We consider it is not an option to only include one of the qualifiers when this is clearly an 'and' requirement. We consider both clauses provide important limits to enabling established activities to continue having adverse effects on SNA and both must be included in the rule to give effect to the NPSIB and RMA s6(c).
875. The Panel has considered whether clause (b) of the rule as recommended by Ms Easton (and agreed in the planner JWS) - '*The clearance is within 3 metres of the lawfully established activity and is limited to a maximum area of 50m<sup>2</sup> per individual Significant Natural Area*' - is sufficient to ensure there is no loss of extent, or degradation of ecological integrity of an SNA. We conclude it is, given the activities listed in clause (1) of the rule, combined with the limits in clauses (a) and (b), which are conjunctive.
876. The Panel considers indigenous vegetation clearance for mineral extraction activities in the BCZ and MINZ should not be permitted and should be assessed through a resource consent process.

### ECO – R3

877. The Panel accepts Ms Easton's reasoning and recommended amendments to ECO-R3 (renumbered as ECO-R8), as shown in Appendix 1 of the Right of Reply, with the exception of reference to manuka, kanuka and bracken in clause (2). The Panel did not receive evidence supporting the inclusion of this clause and therefore adhere to the NPSIB clause 3.17 approach of towards '*improved pasture*'. We note the recommended inclusion of '*additional*' in Advice Note (1) was not referenced in the s42A Report but accept this is a clarification for plan users under clause 16 of the Schedule 1 of the RMA. We have made consequential changes to the advice notes to reflect the renumbering of the ECO rules. We have also updated the advice note in relation to vegetation clearance within riparian margins to reflect that ECO-R1 or ECO-R10 apply.

### ECO-R4/SUB-R7

878. The Panel accepts Ms Easton's recommendation to delete ECO-R4 and the recommended amendments to SUB-R7, as shown in Appendix 1 of the Right of Reply. Overall, the Panel considers Ms Easton's recommendations are appropriate given the intention of the rule is to incentivise the protection of significant biodiversity values, while enabling some subdivision and use. We agree that in this context, the use of biodiversity offsetting and compensation is not appropriate. We also agree that cross reference to the ECO Chapter is not appropriate given the intention of the rule.
879. The Panel notes that Appendix 1 of the s42A Report and Appendix 1 of the Right of Reply do not include clause (b) '*The design and provisions of access*' as notified. It seems to have been unintentionally omitted from the matters of control and is not shown with strike through for deletion either. We consider this is a drafting error and have therefore shown this in the recommendation box below.

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880. The Panel agrees with Ms Easton's reasoning in relation to new clause (2) to require use of the RPS Appendix 1 criteria until a district-wide assessment is undertaken using the NPSIB Appendix 1 criteria. However, we consider the wording as recommended could be clearer that the district-wide SNA assessment required under ECO-P1 must use the NPSIB Appendix 1 criteria.
881. The Panel agree with Ms Easton's recommended changes to enable different forms of legal protection to be used to achieve protection of significant indigenous biodiversity. We also agree the additional matters of control are appropriate.
882. The Panel agree that recommended new clause (b) in relation to the provision of infrastructure and services is appropriate, but consider using '*electricity*' rather than '*energy*' is consistent with definitions used in the plan.
883. The Panel accepts Ms Easton's recommendation to add '*and whether buffering of significant areas is also appropriate*' to clause (a), and accept that its omission from Appendix 1 of the Right of Reply was an oversight. We note Ms Easton recommended adding this to SUB-R7 and SUB-R9 in response to Ms Inta.
884. The Panel notes Ms Easton's recommendation to add an advice note to SUB-R15, as a consequence of deleting ECO-R8, that advises '*When assessing resource consent applications under this rule, the policies in the ECO Chapter should also be referred to*'. We consider this advice note is also appropriate for SUB-R7 given the deletion of ECO-R4. However, we consider this advice note should also include reference to the '*objectives*'.

### ECO-R5

885. The Panel generally accepts Ms Easton's reasoning and recommended amendments to ECO-R5 (renumbered as ECO-R9), as shown in Appendix 1 of the Right of Reply. However, as discussed above, we consider this restricted discretionary activity is only appropriate in the Grey District in recognition of the work undertaken to identify SNA. We are strongly of the view that a rule such as this '*outside an SNA*' cannot be applied to Buller and Westland at this time. We therefore recommend this adding '*in the Grey District*' to the heading of the rule.
886. The Panel acknowledges Mr Brass for the Director General preferred to have all three districts treated the same until the district-wide assessment is undertaken, but we consider the restricted discretionary rule appropriately recognises that some of the significant ecological values have been protected across the district.
887. The Panel recommends deleting clause (1)(i) referring to outside SNA given the changes to the heading.
888. The Panel considers a matter of discretion must include effects on indigenous biodiversity.
889. The Panel acknowledges Ms Pull's request for a consequential amendment to enable Māori land to be considered because of concern regarding the matter of discretion in relation to Threatened Environment Classifications. However, we consider this is an important environmental bottom line in the RPS to protect and maintain remaining biodiversity in category one and two threatened land environments. We acknowledge that the provisions can only partly give effect to the NPSIB in relation to specified Māori land, and that further processes in accordance with new Method ECO-M1 will address this.

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890. The Panel recommends consideration of functional need or operational need should be limited to the matters set out in clause (b) to give effect to the NPSREG, NESETA and the RPS.
891. The Panel does not consider that it is necessary to reference the ecological district in the matter pertaining to threatened land classifications because any such effects will be considered in the context of each case.
892. The Panel accepts Ms Easton's recommendation from the Coastal Environment Chapter hearing to address a gap in relation to potential adverse effects on the natural character of the coastal environment from indigenous vegetation clearance. We accept her recommendation to add a new matter of discretion "*Effects on natural character, natural landscapes, and natural features in the coastal environment*" in response to a submission point from Forest and Bird S560.32. This is discussed further in our Coastal Environment Chapter Recommendation Report in relation to Policy CE-P2.

### ECO-R6/SUB-R9

893. The Panel accepts Ms Easton's recommendation to delete ECO-R6 and the recommended amendments to SUB-R9, as shown in Appendix 1 of the Right of Reply. Like SUB-R7, the Panel considers Ms Easton's recommendations are appropriate given the intention of the rule is to incentivise the protection of significant biodiversity values, while enabling some subdivision and use. We agree that in this context, the use of biodiversity offsetting and compensation is not appropriate. We also agree that cross reference to the ECO Chapter is not appropriate given the intention of the rule.
894. The Panel confirms that it has had regard to the submission points from Frida S553.118 and the Buller Conservation Group S552.118 that sought to include a minimum distance/buffer from SNA to buildings or other development such as access roads, which was not included in the s42A Report. This was addressed at the hearing by Ms Easton and is included as a recommended amendment to SUB-R9(a) as a matter of discretion.
895. The Panel notes that Appendix 1 of the s42A Report and Appendix 1 of the Right of Reply incorrectly showed clause (a) '*Whether there are other regulations impacting the site that have meant the land is unable to be used for economic rural uses*', which was not in the provision as notified. We consider this is a drafting error and therefore have not shown it in the recommendation box below given the tracked changes are shown to the rule as notified.
896. The Panel consider Ms Easton's recommendation to add a new matter of control to SUB-R7 relating to '*Specification of the location of building sites and access through the use of consent notices*' should also be added to SUB-R9. We note Forest and Bird made similar submission points to both rules and accept this is an appropriate matter of discretion given the context of the rule.
897. The Panel accepts Ms Easton's recommendation to add new clause (4) but recommend adding '*within the area*' to be consistent with the recommended wording of equivalent clause (4) in SUB-R9.
898. As noted above in relation to SUB-R7, the Panel notes Ms Easton's recommendation to add an advice note to SUB-R15, as a consequence of deleting ECO-R8, that advises '*When assessing resource consent applications under this rule, the policies in the ECO Chapter should also be referred to*'. We consider this advice note is also appropriate for SUB-R9 given

the deletion of ECO-R6. As with our recommendation of SUB-R7, we consider this advice note should also include reference to the *'objectives'*.

*ECO - R7*

899. The Panel acknowledges Ms Easton's reasoning and recommended amendments to ECO-R7 (renumbered as ECO-R10), as shown in Appendix 1 of the Right of Reply. We acknowledge the JWS records that agreement was only reached between the planners to not add clause (3) in relation to coal mining and to add a new clause excluding renewable electricity generation activities, the National Grid and regionally significant infrastructure.
900. It is important to note that renumbered ECO-R10 is the default rule for indigenous clearance that does not meet the permitted, controlled and restricted discretionary rules, which provide for a range of existing and new activities. While we generally agree with Ms Easton regarding the general intent of the rule, we agree with Ms Whitney (for Transpower) and Ms Styles (for Manawa) that activities subject to the NPSREG and NESETA should have a separate rule to recognise the NPSIB does not apply to these activities. We also agree that these should not default to a non-complying activity. The Panel considers it is also appropriate to include regionally significant infrastructure in this rule in recognition of the direction of the RPS and the Strategic Directions in the Plan. We recommend new Rule ECO-R11 is added to achieve this.
901. As discussed earlier, the Panel accepts that there is a need to ensure the provisions protect significant biodiversity values until the district-wide assessment under ECO-P1 is completed. We therefore consider it appropriate for all indigenous clearance not meeting the permitted activity, controlled or discretionary activity rules to be assessed as a discretionary activity.
902. The Panel acknowledges that the intention of Ms Easton's recommended wording is to give effect to NPSIB clause 3.10(2), which sets out the matters that must be avoided by applying the effects management hierarchy in relation to managing adverse on SNA. However, we consider it is important to reflect all the requirements of clause 3.10 and the exemptions in clause 3.11, without cherry picking only some of the requirements. We consider clause 3.10(2) are environmental bottom lines that must be avoided, unless the activity meets the exemptions in clause 3.11. We have made amendments to be consistent with clauses 3.11 and 3.10. We consider it is appropriate to apply these in the interim period until a district-wide SNA assessment is complete. We have considered the alternative of applying the environmental bottom lines set out in policy in Chapter 7 of the RPS but consider these are already reflected in ECO-P6.
903. The structure of the recommended rule recognises that, in the absence of any district-wide SNA assessment, any indigenous vegetation to be cleared in excess of permitted activity allowances needs to be assessed through the consent process. The clauses of the rule separate out the following:
- (1) Where an ecological assessment shows the indigenous vegetation to be cleared does not meet the significance criteria under the RPS Appendix 1, the rule requires managing adverse effects on indigenous biodiversity by applying the effects management hierarchy – see ECO-R10 (1) and (2).
  - (2) Where an ecological assessment shows the indigenous vegetation to be cleared meets the significance criteria under the RPS Appendix 1, the rule requires the avoidance of the matters set out in clause 3.10 of the NPSIB - see clause (3).

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(3) Activities that are exempt from clause 3.10(2) of the NPSIB under clause 3.11 are required to manage adverse effects by applying the effects management hierarchy, including demonstrating how each step is applied and having regard to the principles of biodiversity offsetting and biodiversity compensation.

904. The Panel acknowledges Ms Easton's recommendation that where compliance is not achieved this defaults to non-complying. We consider this is appropriate for non-compliance with the adverse effects set out in clause 3.10(2), given the "avoidance" direction. We consider activities covered by the other parts of the rule should remain as discretionary activities.

905. The Panel considers the recommended amendments address submission points and are required to give effect to the RPS and NPSIB until the district-wide SNA assessment is completed and the rule framework reviewed as part of the plan change process.

906. The Panel notes that as a consequence of moving the indigenous vegetation clearance from the Natural Character and Margins of Waterbodies Chapter to the ECO Chapter there is a lack of policy guidance in relation to maintaining natural character. We therefore recommend adding new Advice Note (4) cross referencing the objectives and policies in the Natural Character and Margins of Waterbodies Chapter.

### *ECO-R8/SUB-R15*

907. The Panel accepts Ms Easton's recommendation to delete ECO-R8.

908. The Panel disagrees with Ms Easton's recommended amendments to SUB-R15, as shown in Appendix 1 of the Right of Reply. Unlike SUB-R7 and SUB-R9, this rule does not require the legal protection of areas of significant biodiversity by allowing subdivision and the creation of new allotments and is therefore not an incentive rule.

909. The Panel considers Ms Easton's assessment of the submission points is flawed because she has erroneously taken into account that there are likely to be large areas within the Buller district that will meet the RPS and NPSIB significance criteria, where subdivision will become a non-complying activity. The amount of land that will likely meet the significance assessment criteria is not a relevant matter for consideration in giving effect to the RMA, NPSIB and RPS requirements to protect significant indigenous vegetation and the significant habitats of fauna. It is not open to the Panel to provide for new subdivision, use and development that is not provided for in the RPS or NPSIB just because an area has a large amount of land that meets the significance criteria.

910. The Panel agree with Ms Easton that NPSIB clause 3.10(2) will apply to any resource consent application under this rule, and consider this should be included within the rule. We also agree that the adverse effects of any subdivision should be managed by applying the effects management hierarchy and consider this should also be included in the rule, along with the requirements in NPSIB clause 3.10(4)(a) and (b).

911. The NPSIB also includes adverse effects that must be avoided in clause 3.10(2) to achieve the objective of NPSIB and to give effect to RMA s6(c). We consider these are environmental bottom lines that must be included to give effect to the NPSIB.

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912. The Panel notes SUB-R15 as notified did not include clause (3) '*Subdivision Standards S2 – S11 are complied with*', but that this was included on ECO-R8 as notified. We consider this clause should be added because it is appropriate that these general standards are met.
913. The Panel considers the appropriate default activity status for the rule is non-complying as notified. This will ensure that any subdivision within an SNA or area of significant indigenous biodiversity can only be granted under s104D if either the adverse effects are minor or less than minor or the subdivision is not contrary to the relevant objectives and policies of the plan. This is the appropriate threshold given it is a matter of national importance to protect significant indigenous biodiversity.

### ECO – 8A

914. The Panel accepts Ms Easton's recommendation to add new rule ECO-8A (renumbered as ECO-R12), as shown in Appendix 1 if the Right of Reply, as the default status non-complying rule for activities not meeting ECO-R10. For the reasons outlined, the Panel considers it is appropriate that any activities not meeting the discretionary activity standards are assessed as non-complying activities given the national direction to maintain indigenous biodiversity and to protect significant indigenous biodiversity values.

### ECO-R9/SUB-R27

915. The Panel accepts Ms Easton's recommendation to delete ECO-R9 as notified.
916. The Panel recommends SUB-R27 is retained as notified, for the subdivision of land that does not comply with SUB-R15, except for adding an advice note to SUB-27 to cross reference the ECO objectives and policies, as a consequential change to deleting ECO-R9.

### ECO – R10 and ECO – R11

917. The Panel accepts Ms Easton's recommendation to retain ECO-R10 and ECO-R11 (renumbered as ECO-R13 and ECO-R14 respectively), as notified, except for reordering the words to replace '*habitat of significant fauna*' with '*significant habitat of indigenous fauna*' to be consistent with the RMA and RPS wording.

### New Method

918. The Panel accepts Ms Easton's recommendation to add new Method ECO-M1, as shown in Appendix 1 of the Right of Reply and as agreed by Ms Pull and Ms Huirama.

### Hearing Panel's Recommendation

919. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommends the submission points identified in the footnotes below are accepted or accepted in part, and recommend changes to the **Ecosystems and Indigenous Biodiversity Rules** and **Subdivision Rules SUB-R7, SUB-R9, SUB-R15 and SUB-R23**, and adding new **Method ECO-M1**, as follows:

<b>Ecosystems and Indigenous Biodiversity Rules</b>
<b>Permitted Activities</b>

~~ECO – R1 – Indigenous vegetation clearance and disturbance outside of the coastal environment~~

- ~~1. It is outside of a scheduled Significant Natural Area as identified in Schedule Four;~~
- ~~2. It is clearance permitted by the Natural Character and the Margins of Waterbodies Rule NC-R1; or~~
- ~~3. It is necessary for one of the following purposes:
  - ~~i. It is the removal of windthrown timber through:
    - ~~a. Use of helicopter recovery methods; or~~
    - ~~b. Where ground based recovery is only undertaken from areas adjacent to existing vehicle tracks; or~~~~
  - ~~ii. The maintenance, operation and repair of lawfully established tracks, fences, structures, buildings, critical infrastructure, network utilities, renewable electricity generation activities or natural hazard mitigation activities;~~
  - ~~iii. For the installation of temporary network activities following a regional or local state of emergency declaration;~~
  - ~~iv. To prevent a serious threat to people, property, structures or services;~~
  - ~~v. To ensure the safe and efficient operation (including maintenance and repair) of any formed public road, rail corridor or access;~~
  - ~~vi. For the construction of new fences and traplines associated with Conservation Activities or to exclude stock or pest animals;~~
  - ~~vii. To upgrade or create new public walking or cycling tracks up to 3m in width undertaken by the Council or its approved contractor;~~
  - ~~viii. To comply with section 43 of the Fire and Emergency Act 2017;~~
  - ~~ix. For construction or operation of an above ground or below ground network utility or the national grid where:
    - ~~a. The construction corridor did not exceed 3m in width; and~~
    - ~~b. All machinery used in construction is cleaned and made free of weed material and seeds prior to entering the site; and~~
    - ~~c. Rehabilitation of disturbed areas is undertaken following the completion of construction;~~~~
  - ~~x. It is cultural harvest undertaken by Poutini Ngāi Tahu; or~~
  - ~~xi. It is on MPZ – Māori Purpose Zoned land and undertaken in accordance with an Iwi/Papatipu Rūnanga Management Plan; or~~~~

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- ~~xii. It is within an area subject to a QEII National Trust Covenant or Ngā Whenua Rahui Kawaneta, a Reserves or Conservation Act covenant or a Heritage covenant under the Heritage New Zealand/Pouhere Taonga Act and the vegetation disturbance is authorised by that legal instrument;~~
- ~~4. Within the Grey District it is clearance outside of an Outstanding Natural Landscape identified in Schedule Five; or~~
- ~~5. Within the Buller and Westland Districts:~~
- ~~i. It is the removal or clearance of mānuka, kānuka and bracken only that is not part of any wetland and which is under 15 years old, not exceeding 5ha per site over any continuous three year period, subject to provision of notice to the relevant District Council at least 20 working days prior to the proposed clearance including:~~
- ~~a. Details of the location of the proposed clearance;~~
- ~~b. Area of the proposed clearance; and~~
- ~~c. Verification by documentary, photographic or other means that the vegetation is less than 15 years old and not part of any wetland; or~~
- ~~ii. It is a maximum area of 5000m<sup>2</sup> per site, in total, over any continuous three year period.~~

### **Advice Notes:**

- ~~1. Where clearance of mānuka, kānuka or bracken is proposed under Standard 5 (i) of this rule, if proof that the vegetation is less than 15 years old or that the site is not a wetland, is unavailable, then a resource consent will be required.~~
- ~~2. Where indigenous vegetation clearance is proposed within the riparian margins of a waterbody refer to these sections of the Plan for the Rules around this clearance.~~
- ~~3. Where indigenous vegetation clearance is proposed in or on a site or area of significance to Māori then Rule SASM R4 will also apply.~~
- ~~4. Where indigenous vegetation clearance is proposed within a wetland this is also subject to rules within the NES Freshwater which is administered by the West Coast Regional Council.~~
- ~~5. This rule also applies to plantation forestry activities, where this provision is more stringent than the NES PF in relation to significant natural areas.~~

### **Activity status where compliance not achieved:**

~~Discretionary where standard 1 or 4 is not achieved.~~

~~Refer Natural Character and Margins of Waterbodies Chapter where standard 2 is not achieved.~~

~~Within the Grey District refer standard 4 where standard 3 is not achieved.~~

~~Within the Buller and Westland Districts Controlled or Restricted Discretionary (depending on activity type) where standard 5 is not achieved.~~

~~ECO – R2 – Indigenous Vegetation Clearance in the Coastal Environment~~

~~Activity Status Permitted~~

~~Where:~~

~~1. This is for:~~

- ~~i. Walking/cycling tracks, roads, farm tracks or fences;~~
- ~~ii. Operation, maintenance, repair, upgrading and installation of new network utility infrastructure and renewable electricity generation activities; or~~
- ~~iii. Establishment of a building platform and access to a building site in an approved subdivision or where there is no existing residential building on the site;~~

~~2. The extent of indigenous vegetation disturbed and/or cleared per site did not exceed an area of 500m<sup>2</sup> in area per site in any three year period;~~

~~3. The indigenous vegetation clearance did not disturb, damage or destroy nesting areas or habitat of protected species; and~~

~~4. The indigenous vegetation clearance did not occur in any area identified as a Significant Natural Area in Schedule Four.~~

~~Advice Notes:~~

~~1. Where indigenous vegetation clearance is proposed within the riparian margins of a waterbody refer to these sections of the Plan for the Rules around this clearance.~~

~~2. Where indigenous vegetation clearance is proposed in or on a site or area of significance to Māori then Rule SASM R4 will also apply.~~

~~3. Where indigenous vegetation clearance is proposed within a wetland this is also subject to rules within the NES – Freshwater which is administered by the West Coast Regional Council.~~

~~4. This rule also applies to plantation forestry activities, where this provision is more stringent than the NES – PF.~~

~~Activity status where compliance not achieved: Restricted Discretionary~~

~~ECO – R1 – General Standards~~

~~Permitted activities standards outside Significant Natural Areas:~~

~~1. Within the coastal environment:~~

- ~~a. Any indigenous vegetation clearance is a maximum of 500m<sup>2</sup> per site, or a maximum of 20m<sup>2</sup> on any individual infrastructure work site, or 20m<sup>2</sup> per linear 100 metre length for linear infrastructure; except that indigenous vegetation clearance is a maximum of~~

**500m<sup>2</sup> per site in the Hartmount Place and Ross Place subdivision, provided that at least an equivalent amount is retained on the site;**<sup>183</sup>

- b. **The indigenous vegetation clearance will not disturb, damage or destroy nesting areas or habitat of protected threatened or at risk species; and**
  - c. **The indigenous vegetation clearance will not occur in an area of land within category one or two of the Threatened Environment Classification; and**
2. **Within the riparian margin of a waterbody:**
- a. **It is a maximum of 25m<sup>2</sup> per linear 200 metre length of riparian margin; and**
3. **In all other locations:**
- a. **A maximum of 2,000m<sup>2</sup> on any site that has not had a Significant Natural Area assessment undertaken in accordance with Policy ECO – P1; or**
  - b. **A maximum of 5,000m<sup>2</sup> on any site that has had a Significant Natural Area assessment in accordance with Policy ECO – P1 or within the Grey District has a Significant Natural Area included within Schedule Four that is located on the same property; or**
  - c. **Is a maximum of 20m<sup>2</sup> on any individual infrastructure work site, or 20m<sup>2</sup> per linear 100 metre length for linear infrastructure; and**
4. **Except where carried out by a statutory agency, or authorised contractor acting on its behalf, responsible for natural hazard mitigation, the clearance is located within areas used and identified for natural hazard mitigation structures that are owned or managed by a statutory agency.**

**Except that the maximum vegetation clearance provisions in these general standards do not apply where:**

- a. **Specific to clause 3 in this rule, it is necessary to provide for the ongoing safe and efficient operation, maintenance and repair of the National Grid, electricity distribution and telecommunications lines; or**
- b. **For all clauses in this rule, the indigenous vegetation clearance is for network utility operations within any RESZ – Residential Zone, COMZ – Commercial and Mixed Use Zone, PORTZ – Port Zone, or IND – Industrial Zone property within the towns of Greymouth, Hokitika or Westport;**
- c. **For all clauses in this rule, the indigenous vegetation clearance is of vegetation planted and managed:**
  - i. **As part of a domestic or public garden for amenity purposes; or**
  - ii. **As a shelterbelt; or**
  - iii. **For the purpose of harvesting plantation forestry.**

<sup>183</sup> Marie Elder S352.014 from Settlement Zone Chapter Recommendation Report

**Activity status where compliance not achieved: Restricted Discretionary**

**ECO – R2**      **Indigenous Vegetation Clearance for Network Utility Operations, Renewable Electricity Generation Activities and the National Grid outside of Significant Natural Areas**

**Activity Status Permitted**

**Where:**

1. **It is for the maintenance, operation, repair or upgrade of lawfully established activities and structures; or**
2. **It is for the installation of temporary network or electricity generation activities following a regional or local state of emergency declaration; or**
3. **It is necessary to remove vegetation that endangers human life or existing buildings or structures; or**
4. **It is for construction of new network utility infrastructure, renewable electricity generation activities or the National Grid where:**
  - a. **The construction corridor for linear infrastructure such as pipes and lines will not exceed 10 metres in width; and**
  - b. **All machinery used in construction is cleaned and made free of weed materials and seeds prior to entering the site; and**
  - c. **Rehabilitation of disturbed areas is undertaken following completion of construction; and**
  - d. **Within a riparian margin of a waterbody, new network utilities and connections are underground or located within a legal road or attached to an existing bridge.**

**Activity status where compliance not achieved: Restricted Discretionary**

**ECO – R3**      **Indigenous vegetation clearance for maintenance and repair of lawfully established structures and activities outside of Significant Natural Areas not provided for in Rule ECO – R1**

**Activity Status Permitted**

**Where:**

1. **The clearance is for the maintenance and repair of lawfully established activities and structures including tracks, accessways, fences, pipelines, drains, natural hazard mitigation structures, shelterbelts and woodlots, environmental monitoring facilities and infrastructure; or**
2. **The clearance is for the maintenance of improved pasture for farming.**

**Advice Note:**

1. In relation to standard 1 of this rule, the reference to infrastructure applies where the infrastructure is not regulated by Rule ECO – R2.

Activity status where compliance not achieved: Restricted Discretionary

**ECO – R4** Indigenous vegetation clearance in urban areas outside of Significant Natural Areas not provided for in Rule ECO – R1 or ECO – R2

Activity Status Permitted

Where:

1. It is undertaken on a RESZ – Residential Zone, COMZ – Commercial and Mixed Use Zone, PORTZ – Port Zone, or IND – Industrial Zone property within the towns of Reefton, Greymouth, Hokitika or Westport;

Activity status where compliance not achieved: Restricted Discretionary

**ECO – R5** Indigenous vegetation clearance on Māori Purpose Zoned Land, Poutini Ngāi Tahu Land for Poutini Ngāi Tahu Activities or on Specified Māori Land outside of Significant Natural Areas

Activity Status Permitted

Where:

1. It is cultural harvest undertaken by Poutini Ngāi Tahu; or
2. It is on Māori Purpose Zoned land or Poutini Ngāi Tahu land and undertaken in accordance with an Iwi/Papatipu Rūnanga Management Plan; or
3. It is on Specified Māori Land and complies with ECO-R1 and ECO-R3.

Activity status where compliance not achieved: Restricted Discretionary

**ECO – R6** Indigenous vegetation clearance outside of Significant Natural Areas not provided for in another Permitted Activity Rule

Activity Status Permitted

Where this is:

1. For the construction of new fences and traplines associated with Conservation Activities or to exclude stock or pest animals from indigenous vegetation or the margins of waterbodies, or the coast; or
2. Necessary to remove vegetation that endangers human life or existing buildings or structures; or
3. For the construction of parks facilities, parks furniture or public access points within an Open Space and Recreation Zone; or

4. For installation of an environmental monitoring and extreme weather event monitoring facility; or
5. For the establishment of a river crossing point up to 3 metres wide; or
6. For new natural hazard mitigation structures undertaken by a statutory agency or their authorised contractor acting on its behalf; or
7. Unavoidable in the course of removing pest plants and pest animals in accordance with any regional pest management plan or the Biosecurity Act 1993, or is removal of unwanted organisms declared under the Biosecurity Act 2015; or
8. To comply with section 43 of the Fire and Emergency Act 2017; or
9. To upgrade public walking or cycling tracks up to 3 metres in width undertaken by the Council or its authorised contractor acting on its behalf; or
10. Within an area subject to a QEII National Trust Covenant or Ngā Whenua Rahui Kawaneta, a Reserves or Conservation Act covenant or a Heritage covenant under the Heritage New Zealand/Pouhere Taonga Act and the vegetation disturbance is authorised by that legal instrument; or
11. For the establishment of a building platform and access to a building site in an approved subdivision, or where there is no existing residential building on the site that will not exceed 500m<sup>2</sup> clearance per allotment, and where this is not located within a riparian margin of a waterbody; or
12. For mineral exploration or prospecting activities within the MINZ - Mineral Extraction Zone or BCZ – Buller Coalfield Zone; or
13. Outside of the coastal environment or riparian margins of waterbodies, it is removal of windthrow timber through:
  - i. Use of helicopter recovery methods; or
  - ii. Ground-based recovery, where this is only undertaken from areas adjacent to existing vehicle tracks; or
14. For any other purpose, where this is not located within a riparian margin of a waterbody or the coastal environment, and will not exceed 2,000m<sup>2</sup> clearance per property.

Activity status where compliance not achieved: Controlled Activity where this is indigenous vegetation clearance with an approved plan or permit issued under the Forests Act; otherwise, Restricted Discretionary

ECO – R7                      Indigenous Vegetation Clearance within a Significant Natural Area

Activity Status Permitted

Where this is:

1. **For the maintenance, operation and repair of lawfully established activities and structures including tracks, fences, drains, structures, infrastructure and renewable electricity generation activities where:**
  - a. **This is at the same or similar scale, character and intensity as at 14 July 2022; and**
  - b. **The clearance is within 3 metres of the lawfully established activity and is limited to a maximum area of 50m<sup>2</sup> per individual Significant Natural Area;**
2. **Necessary to remove vegetation that endangers human life or existing buildings or structures, where this is certified by a Council Approved Contractor;**
3. **For the safe and efficient operation (including maintenance and repair) of any formed public road, rail corridor or access where the removal is within 3 metres of the formed width of the road, rail corridor or access where this is undertaken by a Road or Rail Controlling Authority;**
4. **To comply with section 43 of the Fire and Emergency Act 2017;**
5. **To enable removal of unwanted organisms declared under the Biosecurity Act 2015.**

**Activity status where compliance not achieved: Discretionary**

**ECO – R38 Indigenous vegetation clearance or disturbance where this is in accordance with an approved plan or permit issued under the Forests Act 1949**

**Activity Status Controlled**

Where:

1. The indigenous vegetation clearance and disturbance is in accordance with an approved Sustainable Forest Management Plan or permit or personal use approval issued by the Ministry for Primary Industries under the Forests Act 1949;
2. The indigenous vegetation clearance is outside of ~~any Significant Natural Area identified in Schedule Four and outside of~~<sup>f184</sup> the Coastal Environment; and
3. The indigenous vegetation clearance is not located in an area of land environment of category one or two of the Threatened Environment Classification.

**Matters of control are:**

- a. The matters outlined in ~~Policies~~ ECO - P67, and ECO - P78 and where relevant NFL - P6;
- b. The protection of habitats of threatened or at risk species;
- c. **The management of impacts on Poutini Ngāi Tahu values as set out in the Tangata Whenua Chapter;**<sup>185</sup>

<sup>184</sup> Michael Orchard S583.002, Peter Langford S615.052, Karamea Lime Company S614.052, Koiterangi Lime Co Ltd S577.043, Catherine Smart-Simpson S564.036, William McLaughlin S567.182, Steve Croasdale S516.041, Geoff Volckman S563.030, Chris & Jan Coll S558.101, Chris J Coll Surveying Limited S566.101, Laura Coll McLaughlin S574.101

<sup>185</sup> Te Rūnanga o Ngāi Tau, Te Rūnanga of Ngāti Waewae and Te Rūnanga o Makaawhio S620.147

~~e.d.~~ Compliance with the terms of an approved Sustainable Forest Management Plan or permit or personal use approval issued by the Ministry for Primary Industries under the Forests Act 1949; and

~~d.e.~~ The measures to avoid, remedy, or mitigate any adverse effects on any significant indigenous vegetation and significant habitats of indigenous fauna.

**Advice Notes:**

1. Where indigenous vegetation clearance is proposed within the riparian margins of a waterbody **ECO-R1 or ECO-R10 apply**. ~~refer to these sections of the Plan for the rules around this clearance.~~
2. Where indigenous vegetation clearance is proposed in or on a site or area of significance to Māori then Rule SASM - R4 will also apply.
3. Where indigenous vegetation clearance is proposed within a wetland this is also subject to rules within the NES - Freshwater which is administered by the West Coast Regional Council.

**Activity status where compliance not achieved:** Restricted Discretionary

~~ECO - R4 Subdivision of Land to Create Allotments Containing an Area of Significant Indigenous Biodiversity~~

**Activity Status: Controlled**

Where:

- ~~1. One new allotment with a minimum lot size of 4,000m<sup>2</sup> is created from the parent title, provided that in the GRUZ - General Rural Zone there is a balance area remaining on the original title of at least 4 ha; and~~
- ~~2. The area of significant indigenous biodiversity is legally protected in perpetuity by way of a conservation covenant with an authorised agency and is contained within a single allotment;~~
- ~~3. The subdivision will not result in buildings or access ways being located within the identified area of significant indigenous biodiversity or the need for clearance of significant indigenous vegetation to provide for future access to any site; and~~
- ~~4. Subdivision standards S2-S11 are complied with.~~

**Matters of control are:**

- ~~a. Subdivision layout, access, design, location and proximity of building platforms to areas of significant indigenous biodiversity;~~
- ~~b. Management of earthworks, including earthworks for the location of building platforms and access ways;~~
- ~~c. The protection of habitats of threatened or at risk species; and~~
- ~~d. The measures to minimise any adverse effects on:~~

- i. The significant indigenous biodiversity;
- ii. The cultural significance to Poutini Ngāi Tahu.

**Advice Note:**

~~This rule does not apply to subdivisions to create allotments for network utilities, access or reserves which are subject to Rule SUB—R4. Activity status where compliance not achieved: Restricted Discretionary where standard 1 is not complied with. Discretionary where standards 2-4 are not complied with.~~<sup>186</sup>

**SUB – R7 Subdivision of Land to Create Allotments Containing an Area of Significant Indigenous Biodiversity Where Legal Protection of the Area of Significant Biodiversity is Proposed**<sup>187</sup>

**Activity Status: Controlled**

Where:

1. One new allotment with a minimum lot size of **41,000**<sup>188</sup> m<sup>2</sup> is created from the parent title, provided that in the GRUZ - General Rural Zone there is a balance area remaining on the original/parent title of at least 4 ha; and
2. **An assessment of the site against the significance criteria in the WCRPS Appendix 1 is provided with the application and this is undertaken by a suitably qualified ecologist, unless the site has already been identified as a Significant Natural Area as part of a district-wide Significant Natural Area assessment process; and**<sup>189</sup>
- 2.3. The **Any** areas<sup>190</sup> of significant indigenous biodiversity is **are**<sup>191</sup> legally protected in perpetuity by way of a conservation covenant with an authorised agency **or via consent notice on the title**<sup>192</sup> and is **are**<sup>193</sup> contained within a single allotment; **and**
- 3.4. The subdivision will not result in buildings or access ways being located within the identified area of significant indigenous biodiversity or the need for clearance **within the area**<sup>194</sup> of significant indigenous vegetation to provide for **a future building site or**<sup>195</sup> future access to any site; and
- 4.5. Subdivision standards S2-S11 are complied with.

**Matters of control are:**

<sup>186</sup> Director General of Conservation S602.077

<sup>187</sup> William McLaughlin S567.298, Chris & Jan Coll S558.228, Chris J Coll Surveying Limited S566.228, Laura Coll McLaughlin S574.228

<sup>188</sup> Davis Ogilvie & Partners Limited S602.017

<sup>189</sup> Royal Forest and Bird Protection Society of New Zealand Incorporated S560.219 and S560.269

<sup>190</sup> RMA Schedule 1, clause 16(2)

<sup>191</sup> RMA Schedule 1, clause 16(2)

<sup>192</sup> Buller District Council S538.211 and S538.260

<sup>193</sup> RMA Schedule 1, clause 16(2)

<sup>194</sup> Frida Inta S553.117 and Buller Conservation Group S552.117

<sup>195</sup> Royal Forest and Bird Protection Society of New Zealand Incorporated S560.219 and S560.269

- a. Subdivision layout, access, design, location and proximity of building platforms to areas of significant indigenous biodiversity and whether buffering of significant areas is also appropriate,<sup>196</sup>
- b. The design and provision of access;
- c. The provision of infrastructure and services for drinking water, wastewater, stormwater, telecommunications and energy/electricity**,<sup>197</sup>
- d. The adequacy of water supply for firefighting**,<sup>198</sup>
- e. Specification of the location of building sites and access through the use of consent notices**,<sup>199</sup>
- f. Management of potential reverse sensitivity effects on existing land uses, including network utilities and regionally significant infrastructure, rural activities or significant hazardous facilities**,<sup>200</sup>
- g. Measures to address any natural hazards or geotechnical constraints**,<sup>201</sup>
- e.h. Management of earthworks, including earthworks for the location of building platforms and access ways;
- ~~d.i.~~ The protection of habitats of threatened or at risk species; and
- e.j. The measures to ~~minimise~~ **avoid, remedy or mitigate**<sup>202</sup> any adverse effects on:
  - i. The significant indigenous biodiversity; **and**
  - ii. ~~The cultural significance to~~ Poutini Ngāi Tahu **values**.<sup>203</sup>

**Advice Notes:**

- 1.** This rule did not apply to subdivisions to create allotments for network utilities, access or reserves which are subject to **either of Rules SUB-R2 or**<sup>204</sup> SUB - R4.
- 2. When assessing resource consent applications under this rule, reference should also be made to the objectives and policies in the ECO Chapter.**<sup>205</sup>

**Activity status where compliance not achieved:**

Restricted Discretionary where standard 1 is not complied with.

Discretionary where standards 2-~~45~~<sup>206</sup> are not complied with.

<sup>196</sup> Consequential amendment Frida Inta S553.121 and Buller Conservation Group S552.121

<sup>197</sup> Grey District Council S608.637 and Westpower Limited S547.367

<sup>198</sup> Grey District Council S608.637

<sup>199</sup> Royal Forest and Bird Protection Society of New Zealand Incorporated S560.219 and S560.269

<sup>200</sup> Buller District Council S583.261 and Westpower Limited S547.367

<sup>201</sup> Buller District Council S583.254

<sup>202</sup> Royal Forest and Bird Protection Society of New Zealand Incorporated S560.219 and S560.269

<sup>203</sup> Te Rūnanga o Ngāi Tahu, Te Rūnanga of Ngāti Waewae and Te Rūnanga o Makaawhio S620.148

<sup>204</sup> Westpower Limited S547.268

<sup>205</sup> Consequential amendment Director General of Conservation S602.077

<sup>206</sup> Consequential amendment Royal Forest and Bird Protection Society of New Zealand Incorporated S560.219 and S560.269

## Restricted Discretionary Activities

### ECO – R59 Indigenous vegetation clearance not meeting Permitted or Controlled Activity Standards outside of a Significant Natural Area in the Grey District<sup>207</sup>

#### Activity Status Restricted Discretionary

Where:

1. This is not within:
  - i. ~~A Significant Natural Area identified in Schedule Four;~~<sup>208</sup>
  - ii. An area of land environment of category one or two of the Threatened Environment Classification; **or**
  - iii. An Outstanding Natural Landscape identified in Schedule Five; **or**
  - iv. An Outstanding Natural Feature identified in Schedule Six; **or**
  - v. An area of High Coastal Natural Character identified in Schedule Seven; or
  - vi. An area of Outstanding Coastal Natural Character identified in Schedule Eight.

#### Discretion is restricted to:

- ~~a. Whether there are other regulations impacting the site that have meant the land is unable to be used for economic rural uses;~~<sup>209</sup>
- a. Effects on indigenous biodiversity;**<sup>210</sup>
- ~~b. Constraints imposed by **Consideration of the need** or operational need of network utilities, **renewable electricity generation** and critical **regionally significant** infrastructure;~~<sup>211</sup>
- c. Effects on habitats of any threatened or ~~protected~~ **at risk (declining)**<sup>212</sup> species;
- d. Effects on the threat status of land environments in category one or two of the Threatened Environments Classification;
- e. Effects on ecological functioning and the life supporting capacity of air, water, soil and ecosystems;
- f. Effects on the intrinsic values of ecosystems;
- g. Effects on recreational values of public land; ~~and~~

<sup>207</sup> Royal Forest and Bird Protection Society of New Zealand Incorporated S560.010

<sup>208</sup> RMA Schedule 1, clause 16(2)

<sup>209</sup> Royal Forest and Bird Protection Society of New Zealand Incorporated S560.497

<sup>210</sup> Royal Forest and Bird Protection Society of New Zealand Incorporated S560.499, Director General of Conservation S602.078

<sup>211</sup> Director General of Conservation S602.078, Buller District Council S583.261 and Westpower Limited S547.272

<sup>212</sup> Director General of Conservation S602.078

**h. Effects on natural character, natural landscapes, and natural features in the coastal environment;**<sup>213</sup>

**i. Natural hazard management and geotechnical considerations; and**<sup>214</sup>

**j. Poutini Ngai Tahu values.**<sup>215</sup>

~~h. The matters outlined in Policies ECO—P6 and ECO—P7~~

**Advice Note:**

- ~~1. Where indigenous vegetation clearance is proposed within the riparian margin of a waterbody refer to this section of the Plan for the Rules around this clearance.~~<sup>216</sup>
2. Where indigenous vegetation clearance is proposed in or on a site or area of significance to Māori then Rule SASM - R4 will also apply.
3. Where indigenous vegetation clearance is proposed within a wetland this is also be subject to **additional**<sup>217</sup> rules within the NES - Freshwater and Regional Land and Water Plan which are administered by the West Coast Regional Council.
4. This rule also applies to ~~plantation~~ **commercial**<sup>218</sup> forestry activities, where this provision is more stringent than the NES - **PCF**<sup>219</sup> and the indigenous vegetation clearance is within the coastal environment.

**Activity status where compliance not achieved:** Discretionary

~~**ECO—R6—Subdivision of Land to create Allotments Containing an Area of Significant Indigenous Biodiversity not meeting Rule ECO—R4**~~

~~**Activity Status Restricted Discretionary**~~

~~Where:~~

- ~~1. Up to three allotments with a minimum lot size of 4,000m<sup>2</sup> are created from the parent title;~~
- ~~2. The area of significant indigenous biodiversity is legally protected in perpetuity by way of a conservation covenant with an authorised agency and is contained within a single allotment;~~
- ~~3. The subdivision will not result in buildings or access ways being located within any Significant Natural Area identified in Schedule Four; and~~
- ~~4. Subdivision standards S2-S11 are complied with. Discretion is restricted to:~~

<sup>213</sup> Coastal Environment Chapter Recommendation Report, Royal Forest and Bird Protection Society of New Zealand Incorporated S560.532

<sup>214</sup> Buller District Council S583.254

<sup>215</sup> Te Rūnanga o Ngāi Tau, Te Rūnanga of Ngāti Waewae and Te Rūnanga o Makaawhio S620.149

<sup>216</sup> Consequential amendment from Natural Character and Margins of Waterbodies Recommendation Report to address this in ECO rules.

<sup>217</sup> Director General of Conservation S602.078

<sup>218</sup> RMA Schedule 1, clause 16(2)

<sup>219</sup> RMA Schedule 1, clause 16(2)

- ~~a. Whether there are other regulations impacting the site that have meant the land is unable to be used for economic rural uses;~~
- ~~b. The extent to which the subdivision layout, access, allotment size and design and the location of building platforms may adversely impact the significant indigenous vegetation and/or significant habitat of indigenous fauna;~~
- ~~c. Management of earthworks including earthworks for the location of building platforms and access ways;~~
- ~~d. The protection of habitats of threatened or at risk species.~~
- ~~e. The measures to minimise any adverse effects on:
  - ~~i. The significant indigenous biodiversity; and~~
  - ~~ii. The particular cultural, spiritual and/or heritage values, interests or associations of importance to Poutini Ngāi Tahu as kaitiaki and mana whenua that are associated with the significant indigenous vegetation and/or significant habitats of indigenous fauna and the potential impact on those values, interests or association.~~~~

~~Activity status where compliance not achieved: Discretionary~~<sup>220</sup>

**SUB – R9      Subdivision of Land to create allotment(s) Containing an Area of Significant Indigenous Biodiversity, where Legal Protection of the Area of Significant Indigenous Biodiversity is Proposed,<sup>221</sup> not meeting Rule SUB-R7**

**Activity Status Restricted Discretionary**

Where:

1. Up to three allotments with a minimum lot size of 41,000<sup>222</sup>m<sup>2</sup> are created from the parent title;
- 2. An assessment of the site against the significance criteria in the WCRPS Appendix 1 is provided with the application and this is undertaken by a suitably qualified ecologist, unless the site has already been identified as an SNA as part of a district – wide Significant Natural Area assessment process;**<sup>223</sup>
- 2.3. The Any**<sup>224</sup> **areas**<sup>224</sup> of significant indigenous biodiversity **is** **are**<sup>225</sup> legally protected in perpetuity by way of a conservation covenant with an authorised agency **or via a consent notice on the title**<sup>226</sup> and **is are**<sup>227</sup> contained within a single allotment;
- 3.4.**The subdivision will not result in buildings or access ways being located within any Significant Natural Area identified in Schedule Four **or the need for clearance within the**

<sup>220</sup> Director General of Conservation S602.079

<sup>221</sup> Margaret Montgomery S446.055, Lara Kelly S421.007

<sup>222</sup> Davis Ogilvie & Partners Limited S602.018

<sup>223</sup> Royal Forest and Bird Protection Society of New Zealand Incorporated S560.221 and S560.270

<sup>224</sup> RMA Schedule 1, clause 16(2)

<sup>225</sup> RMA Schedule 1, clause 16(2)

<sup>226</sup> Buller District Council S538.213

<sup>227</sup> RMA Schedule 1, clause 16(2)

area of significant indigenous vegetation to provide for a future building site or future access to any site;<sup>228</sup> and

4-5. Subdivision standards S2-S11 are complied with.

Discretion is restricted to:

a. The extent to which the subdivision layout, access, allotment size and design and the location of building platforms may adversely impact the significant indigenous vegetation and/or significant habitat of indigenous fauna and whether buffering of significant areas is also appropriate;<sup>229</sup>

b. The provision of infrastructure and services for drinking water, wastewater, stormwater, telecommunications and energy/electricity;<sup>230</sup>

c. The adequacy of water supply for firefighting;<sup>231</sup>

d. Specification of the location of building sites and access through the use of consent notices;<sup>232</sup>

e. Management of potential reverse sensitivity effects on existing land uses, including network utilities and regionally significant infrastructure, rural activities or significant hazardous facilities;<sup>233</sup>

~~b.f.~~ Management of earthworks including earthworks for the location of building platforms and access ways;

~~e.g.~~ The protection of habitats of threatened or at risk species; and

~~d.h.~~ The measures to ~~minimise~~ avoid, remedy or mitigate<sup>234</sup> any adverse effects on:

i. The significant indigenous biodiversity; ~~and~~

ii. ~~The particular cultural, spiritual and/or heritage values, interests or associations of importance to Poutini Ngāi Tahu values as kaitiaki and mana whenua that are associated with the significant indigenous vegetation and/or significant habitats of indigenous fauna and the potential impact on those values, interests or association.~~<sup>235</sup>

**Activity status where compliance not achieved:** Discretionary

Advice Note: When assessing resource consent applications under this rule, the objectives and policies in the ECO Chapter should also be referred to.<sup>236</sup>

<sup>228</sup> Royal Forest and Bird Protection Society of New Zealand Incorporated S560.221 and S560.270

<sup>229</sup> Frida Inta S553.118 and Buller Conservation Group S552.118

<sup>230</sup> Grey District Council S608.639 and Westpower Limited S547.375

<sup>231</sup> Grey District Council S608.639

<sup>232</sup> Royal Forest and Bird Protection Society of New Zealand Incorporated S560.221 and S560.270

<sup>233</sup> Buller District Council S538.261, Westpower Limited S547.377

<sup>234</sup> Royal Forest and Bird Protection Society of New Zealand Incorporated S560.221 and S560.270

<sup>235</sup> Te Rūnanga o Ngāi Tahu, Te Rūnanga of Ngāti Waewae and Te Rūnanga o Makaawhio S620.150

<sup>236</sup> Consequential amendment Director General of Conservation S602.079

## Discretionary Activities

**ECO – R710** Indigenous vegetation clearance not meeting ~~ECO – R5~~ Permitted, Controlled or Restricted Discretionary Rules<sup>237</sup>

Activity Status Discretionary

### Where:

1. An ecological assessment undertaken by a suitably qualified ecologist identifies that the indigenous vegetation clearance will not adversely affect an area of significant indigenous biodiversity using the WCRPS, Appendix 1; and
2. Adverse effects of the clearance on indigenous biodiversity are managed by applying the effects management hierarchy to achieve Objective ECO-O1.

OR

3. An ecological assessment undertaken by a suitably qualified ecologist identifies that the indigenous vegetation clearance is within an area of significant indigenous biodiversity using the WCRPS, Appendix 1, and avoid any of the following:
  - a. Loss of ecosystem representation and extent; or
  - b. Disruption to sequences, mosaics or ecosystem function; or
  - c. Fragmentation of areas of significant indigenous biodiversity or the loss of buffers or connections with areas of significant indigenous biodiversity; or
  - d. A reduction in the function of the area of significant indigenous biodiversity as a buffer or connection to important habitats or ecosystems; or
  - e. A reduction in the population size or occupancy of any threatened or at risk (declining) species that use the area of significant indigenous biodiversity.

OR

### 4. In the case of:

- a. Mineral extraction that provides significant national public benefit that could not otherwise be achieved using resources within New Zealand, and it can be demonstrated that there is a functional need or operational need to be in that particular location, and there are no practicable alternative locations; or
- b. Aggregate extraction that provides significant national or regional public benefit that could not otherwise be achieved using resources within New Zealand, and it can be demonstrated that there is a functional need or operational need to be in that particular location, and there are no practicable alternative locations; or

<sup>237</sup> Consequential amendment to reflect changes to the rule numbering and structure

- c. A single residential dwelling on an allotment created before 4 August 2023, and there is no practicable alternative location on the allotment for the dwelling and essential associated onsite infrastructure; or
- d. This is for a commercial forestry activity and is required for the commercial forestry activity to continue; and

The adverse effects on areas of significant indigenous biodiversity are managed by applying the effects management hierarchy, including demonstrating how each step is applied, and if biodiversity offsetting and biodiversity compensation is applied, having regard to the principles in Appendix Fourteen and Appendix Fifteen.<sup>238</sup>

**Advice Notes:**

1. Where assessing resource consents for indigenous vegetation clearance under this rule, assessment against the relevant objectives and<sup>239</sup> policies of both the Ecosystems and Indigenous Biodiversity Chapter, and Natural Features and Landscapes Chapter, the Coastal Environment Chapter, the Energy, Infrastructure and Transport Chapters and the MINZ and BCZ zone Chapters<sup>240</sup> will may be required.
2. In relation to Significant Natural Areas, this rule also applies to plantation commercial<sup>241</sup> forestry activities, where this provision is more stringent than the NES - PCF.<sup>242</sup>
3. When assessing resource consents for indigenous vegetation clearance on Specified Māori Land under this rule, the provisions of the NPSIB in relation to Specified Māori Land must be taken into account.<sup>243</sup>
4. When assessing resource consents for indigenous vegetation clearance within the riparian margins of waterbodies under this rule, the objectives and policies of the Natural Character and the Margins of Waterbodies must be taken into account.<sup>244</sup>

**Activity status where compliance not achieved:**

**N/A where standard 1, 2 or 4 is complied with**

**Non-complying where standard 3 is not complied with**<sup>245</sup>

**ECO - R11 Indigenous vegetation clearance for regionally significant infrastructure, the National Grid and renewable electricity generation activities**

**Activity Status Discretionary**

**Activity Status where compliance not achieved: N/A**<sup>246</sup>

<sup>238</sup> Royal Forest and Bird Protection Society of New Zealand Incorporated S560.010, Director General of Conservation S602.079

<sup>239</sup> Westpower Limited S547.274

<sup>240</sup> Bathurst Resources Limited and BT Mining Limited S491.020

<sup>241</sup> RMA Schedule 1, clause 16(2)

<sup>242</sup> RMA Schedule 1, clause 16(2)

<sup>243</sup> Consequential amendment to adding definition for 'Specified Māori Land'.

<sup>244</sup> Consequential amendment from relocating the vegetation clearance rules in riparian margins from the Natural Character and Margins of Waterbodies Chapter.

<sup>245</sup> Royal Forest and Bird Protection Society of New Zealand Incorporated S560.010 and S560.504

<sup>246</sup> Transpower New Zealand Limited S299.078,

~~ECO – R8 – Subdivision of Land to Create Allotments Containing an Area of Significant Indigenous Biodiversity not meeting Rule ECO – R6~~

~~Activity Status Discretionary~~

~~Where:~~

- ~~1. The area of significant indigenous biodiversity is legally protected in perpetuity by way of a conservation covenant with an authorised agency and is contained within a single allotment;~~
- ~~2. The subdivision will not result in buildings or accessways being located within any Significant Natural Area identified in Schedule Four; and~~
- ~~3. Subdivision Standards S2 – S11 are complied with.~~

~~Activity status where compliance not achieved: Non-complying<sup>247</sup>~~

**Non-complying Activities**

**SUB – R15      Subdivision of Land to Create Allotments containing an Area of Significant Indigenous Biodiversity that does not meet ~~Controlled or Restricted Discretionary Activity Standards~~ SUB-R9<sup>248</sup>**

**Activity Status Discretionary**

Where:

1. An assessment of the site against the significance criteria in the WCRPS Appendix 1 is provided with the application and this is undertaken by a suitably qualified ecologist, unless the site has already been identified as an Significant Natural Area as part of a district-wide Significant Natural Area assessment process using the NPSIB Appendix 1 criteria; and<sup>249</sup>
2. Any adverse effects on ~~the area of significant indigenous biodiversity or SNA~~ is legally protected in perpetuity by way of a conservation covenant with an authorised agency and is contained within a single allotment; ~~are managed by applying the effects management hierarchy, including demonstrating how each step of the effects management hierarchy will be applied, and if biodiversity offsetting or biodiversity compensation is applied, having regard to principles in Appendix 14 and 15; and~~<sup>250</sup>
3. The subdivision will not result in buildings or accessways being located within any Significant Natural Area identified in Schedule Four; and any of the following:
  - a. Loss of ecosystem representation and extent; or
  - b. Disruption to sequences, mosaics or ecosystem function; or

<sup>247</sup> Director General of Conservation S602.081

<sup>248</sup> Consequential amendment to reflect changes to the rule structure

<sup>249</sup> Royal Forest and Bird Protection Society of New Zealand Incorporated S560.219 and S560.269

<sup>250</sup> Straterra S536.019, Inger Perkins S462.009, Lynley Hargreaves S481.002, John Caygill S290.008, Royal Forest and Bird Protection Society of New Zealand Incorporated S560.028

- c. Fragmentation of areas of significant indigenous biodiversity or the loss of buffers or connections with areas of significant indigenous biodiversity; or
- d. A reduction in the function of the area of significant indigenous biodiversity as a buffer or connection to important habitats or ecosystems; or
- e. A reduction in the population size or occupancy of any threatened or at risk (declining) species that use the area of significant indigenous biodiversity; and<sup>251</sup>

4. Subdivision Standards S2 - S11 are complied with.<sup>252</sup>

Activity status where compliance not achieved: Non-complying

Advice Note: When assessing resource consent applications under this rule, the objectives and policies in the ECO Chapter should also be referred to.<sup>253</sup>

Non-complying Activities

**ECO – R12      Indigenous vegetation clearance not meeting ECO – R710**

Activity status Non-complying

Activity status where compliance not achieved: N/A

Advice Note:

- 1. This rule also applies to Plantation forestry activities, where this provision is more stringent than the NES - CF.<sup>254</sup>

~~**ECO – R9      Subdivision of Land within an Area of Significant Indigenous Biodiversity not meeting Rule ECO – R8**~~

~~Activity Status Non-complying~~

~~Activity status where compliance not achieved: N/A~~<sup>255</sup>

**SUB – R27      Subdivision of Land within an Area of Significant Indigenous Biodiversity not meeting Discretionary Activity Standards**

Activity Status Non-complying

Activity status where compliance not achieved: N/A

Advice Note: When assessing resource consent applications under this rule, reference should also be made to the objectives and policies in the ECO Chapter.<sup>256</sup>

<sup>251</sup> Inger Perkins S462.009, Lynley Hargreaves S481.002, John Caygill S290.008,

<sup>252</sup> Consequential amendment Director General of Conservation S602.081

<sup>253</sup> Consequential amendment Director General of Conservation S602.081

<sup>254</sup> Royal Forest and Bird Protection Society of New Zealand Incorporated S560.254 and S560.224

<sup>255</sup> Director General of Conservation S602.082

<sup>256</sup> Consequential amendment Director General of Conservation S602.082

<b>ECO – R103</b>	<b>Planting of Plant Pests identified in a West Coast Regional Pest Management Plan within an area of significant indigenous vegetation or <u>significant</u> habitat of <del>significant</del> <u>indigenous</u> fauna<sup>257</sup></b>
<b>Activity Status Non-complying</b>	
Activity status where compliance not achieved: N/A	
<b>ECO – R114</b>	<b>The intentional release or farming of Animal Pests identified in a West Coast Regional Pest Management Plan within an area of significant indigenous vegetation or <u>significant</u> habitat of <del>significant</del> <u>indigenous</u> fauna<sup>258</sup></b>
<b>Activity Status Non-complying</b>	
Activity status where compliance not achieved: N/A	
<b><u>Ecosystems and Indigenous Biodiversity Methods</u></b>	
<b><u>ECO – M1</u></b>	
<b><u>The TTPP Committee will</u></b>	
<p>a. <b><u>Identify in conjunction with Specified Māori Land owners how best to implement the NPSIB in relation to Specified Māori Land in accordance with the decision making principles in Appendix Thirteen of this Plan and the provisions of the NPSIB; and</u></b></p> <p>b. <b><u>Identify, in partnership with Poutini Ngāi Tahu, how best to fully implement the NPSIB in relation to the decision-making principles, tangata whenua provisions and the Ngāi Tahu Claims Settlement Act; and</u></b></p> <p>c. <b><u>As part of giving effect to the NPSIB, the TTPP Committee will consider a Plan Change to implement the actions of this method and Policy ECO-P1.I</u></b></p>	

#### **4.6. Ecosystems and Indigenous Biodiversity Schedule Four and Associated Mapping**

##### **Submissions and Further Submissions**

920. Twenty-seven submission points and 19 further submissions relating to **Schedule Four (as a whole)** were summarised in a Table on pages 232 - 235 of the s42A Report. Eleven submission points sought to retain Schedule Four as notified and 16 submissions sought amendments. Six further submissions opposed submissions that sought amendments, and 13 further submissions supported submissions that sought amendments.

921. Twenty-two submission points and 11 further submissions relating to **specific SNA in Schedule Four** were summarised in a Table on pages 237 - 239 of the s42A Report. Eleven submission points sought to retain specific SNA in Schedule Four as notified and eight submission points opposed specific SNA in Schedule Four. Three submissions sought

<sup>257</sup> RMA Schedule 1, clause 16(2)

<sup>258</sup> RMA Schedule 1, clause 16(2)

amendments. Seven further submissions opposed submissions, and four further submissions supported submissions.

### **Section 42A Report**

#### *Schedule Four (as a whole)*

922. Ms Easton acknowledged the submission points that sought to retain Schedule Four as notified. However, she noted her recommended changes to the schedule resulting from other submissions.
923. In response to similar submission points made by Transpower (S299.016) and John Caygill (S290.002) that sought that SNA be included and mapped for the whole of the West Coast, Ms Easton did not support the relief sought. This was because this exercise had not yet been undertaken for the whole West Coast and ECO-P1 sets out the timeframes for the work to be completed.
924. In response to the submission point made by Forest and Bird (S560.492) that sought that the map layers be amended to include the areas that are category one and category two under the Threatened Environment classification, Ms Easton supported the relief sought in part. She agreed that it was useful information and would assist in understanding where and when resource consents were required.
925. In response to the similar submission points<sup>259</sup> that sought for the Regionally Significant Wetlands from the RPS that are identified as SNA to be shown on the planning maps, Ms Easton supported the relief sought and agreed the information would be helpful for plan users.
926. In response to the submission point made by GDC (S608.840) that sought for the SNA overlays to be reassessed before being applied in the pTTPP, Ms Easton supported the relief sought to the extent that landowners have enabled access to check the accuracy of the mapping.
927. In response to the submission point made by Straterra (S536.003) that sought for the SNA to be reviewed in terms of size and extent, and that more information be provided with respect to the criteria used to define the areas, Ms Easton supported the relief sought in part. She noted the criteria used were set out in the s32 Report, as well as in Appendix 1 of the RPS. However, she noted the NPSIB Appendix 1 criteria that Councils must use to confirm existing SNA within four years. It is in this respect that Ms Easton supported the relief sought in the submission point.
928. In response to the submission points made by New Zealand Coal and Carbon Limited (S472.002 and S472.050) that sought to exclude the SNA overlays from the Roa Mining Company Limited, Francis Mining Co Limited and New Creek Mining Limited mining areas, including the full lawfully established and approved areas, Ms Easton did not support the relief sought. She noted that it was not entirely clear what SNA was being referred to, but she did not support removing any identified SNA that met the criteria on the grounds that the SNA could interfere with the intended use of the land.

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<sup>259</sup> Susan and Kevin Hall and Dunn (S218.001 and S218.002), Anne Chapman (S425.004) and Brian Anderson (S576.006)

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929. Ms Easton did not support the relief sought in the submission point from Coast Road Heritage Trust (S179.001) to make an addition to an area of an SNA because the district-wide process set out in ECO-P1 would be undertaken.
930. In response to the submission point from Amy Paterson (S128.002) that sought more information about SNA, Ms Easton supported the relief sought, but made no recommended amendments.
931. In response to the similar submission points made by the Director General (S602.237) and Forest and Bird (560.401) that sought additional text in the Explanation of the Schedule outlining the future process for identifying SNA, Ms Easton supported the relief sought in part. She considered the text should reflect the process set out in ECO-P1 and ECO-R1, rather than the text proposed by Forest and Bird and the Director General. Ms Easton did not support the relief sought by Forest and Bird to include a specific reference to a requirement for an ecological assessment for all mining activities.
932. Ms Easton supported the relief sought by Forest and Bird (S560.214) to include a reference to the spatial mapping of Schedule Four on the planning maps in the explanation because this was useful to the plan user.
933. The s42A Report recommended amending **Schedule Four** as follows:
- (a) That the SNA Mapping Overlay and Appendix Four be amended to include the Regionally Significant Wetlands identified in the RPS; and
  - (b) That the Threatened Environment Classification category one and category two be included on the maps and an information layer; and
  - (c) That the following text amendments be made to the explanatory text at the front of Schedule Four:

**A regionally consistent assessment against the criteria in the NPSIB to identify all areas of significant indigenous biodiversity has not yet been completed. Only previously identified areas within Grey District have been included in Schedule Four scheduled as Significant Natural Areas in and spatially identified on the planning maps as the Significant Natural Area overlay in Te Tai o Poutini Plan.**

**Within the Buller and Westland District and in the Grey District outside of Schedule Four areas an assessment of significance will be undertaken at the time any resource consents are applied for in relation to the Ecosystems and Biodiversity Rules a district – wide assessment to identify areas of significant indigenous vegetation and significant indigenous fauna habitat will be undertaken, with additional identified areas included in Schedule Four through a future Plan Change.**

**Significant Natural Areas in the form of Regionally Significant Wetlands are scheduled and identified in the West Coast Regional Land and Water Plan and are included in Schedule Four also.**

### Schedule Four (specific SNA)

934. Ms Easton acknowledged the various submission points<sup>260</sup> that supported specific SNA.

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<sup>260</sup> Craig Schwitzer (S96.010, S96.011), Riarnne Klempel (S67.001), Katherine Crick (S101.022)

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935. In response to the submission point made by Birchfield Coal Mines Limited (S601.116) that sought to delete BLA – P002, Ms Easton did not support the relief sought. The submitter considered that it was agreed with the Department of Conservation and GDC that this SNA would be removed on the basis that it covered an extensive mineral extraction resource and was an extensive area. Ms Easton confirmed that she has discussed the submission with the GDC and had reviewed the ecological review for the area. She was satisfied that the site met the criteria used by Grey District Council to be an SNA. She noted that any reassessment of the site would be undertaken in accordance with the NPSIB criteria as provided for in Policy ECO-P1.
936. In response to the submission points made by Nicholas Johnston (S14.002) that sought to have SNA DOC – 004 removed from his property, Ms Easton did not support the relief sought. She was satisfied that the site met the criteria used by Grey District Council to be an SNA. She noted that any reassessment of the site should be undertaken in accordance with the NPSIB Appendix 1 criteria as provided for in ECO-P1.
937. In response to the submission point made by GE and CK Coates (S415.013) that sought to have SNA DOC – 009 removed from their property, Ms Easton did not support the relief sought. She was satisfied that the site met the criteria used by Grey District Council to be an SNA. She also recorded the submitter did not give permission for planning staff to visit the property to check the SNA boundaries. She noted that any reassessment of the site should be undertaken in accordance with the NPSIB Appendix 1 criteria as provided for in Policy ECO-P1.
938. In response to the submission point made by Tony Barrett (S110.001) that supported SNA HOC – 093 subject to no further land he owns being made subject to the overlay, Ms Easton supported the relief sought in part. She noted the process for confirming the extent of the SNA would be required as part of the district-wide assessment using the NPSIB Appendix 1 criteria.
939. In response to the submission point made by GE and CK Coates (S415.005) that opposed the identification of PUN – 043 on their property, Ms Easton did not support the relief sought. She was satisfied that the site met the criteria used by Grey District Council to be an SNA. She also recorded the submitter did not give permission for planning staff to visit the property to check the SNA boundaries. She noted that any reassessment of the site would be undertaken in accordance with district-wide assessment using the NPSIB Appendix criteria as provided for in ECO-P1.
940. In response to the two submission points made by Katherine Crick (S101.020, S101.022, S101.023 and S101.024) that supported SNA PUN – 044, PUN – 049, PUN - 124 and PUN – W033 and sought to use the SNA to justify removing GRUZ-R12 and MINZ from land at Barrytown, Ms Easton noted these had been referred to the MINZ Chapter hearing.
941. In response to the similar submission points made by TiGa Minerals and Metals Limited (S493.127) and GE & CJ Coates (S415.012) that sought to amend the boundaries of PUN – W034 as part of it has been mapped over the coastal marine area, Ms Easton supported the submissions in part. She noted mapped PUN – W034 covered land within the legal title but aerial photography indicated that due to coastal erosion, some of the coastal wetland area was now in the sea. Ms Easton considered the district-wide assessment process set out in the Policy ECO-P1 would address any concerns regarding the mapping.

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942. In response to the submission point made by Springcreek Forestry (S52.001) that sought to remove the property with the legal description PT RS 6357 from an SNA, Ms Easton recorded that there was no SNA that affected this property.
943. In response to the submission point made by Gordon Bradley (S34.002) that sought that no restrictions be placed on the property he owns, Ms Easton did not support the submission point. She noted the district-wide assessment process required under Policy-P1 could result in some of the submitter's property meeting the NPSIB Appendix 1 criteria.
944. The s42A Report made no recommended amendments to the SNA in response to submissions.

### **Hearing and Submitter Evidence/Statements**

#### *Schedule Four (as a whole)*

945. Mr Brass, for the Director General, acknowledged and accepted the recommended wording for the explanatory text at the front of Schedule Four.
946. Ms Hunter, for Bathurst, noted the redrafted rules and the amendments to Schedule Four would likely trigger a requirement for a resource consent where indigenous vegetation removal was to be undertaken as part of existing mining operations because an area of the zone was identified as a Schedule 2 Regionally Significant Wetland in the West Coast Regional Land and Water Plan. Given this, she did not support the recommended amendments to Schedule Four that elevate the status of all scheduled regional wetlands to SNA.

#### *Schedule Four (specific SNAs)*

947. Mr Coates and Mrs Coates reiterated their submission point to have any SNA removed from their property at Barrytown. Their statement set out the history associated with assessing these areas. They disagreed with the s42A Report recommendation that a reassessment using the NPSIB Appendix 1 criteria was an appropriate next step.
948. Mr Nicholas Johnston spoke at the hearing in relation to his land at Kiwi Point near Dobson and the effect of the rules on his ability to maintain old tracks and skid sites given the regrowth of vegetation. He noted he had a consent to harvest trees but was unsure how this would be affected by the Plan. He requested reassessment of the identified SNA under the NPSIB criteria to ground truth the SNA assessment undertaken.

### **Reporting Officer Reply Evidence**

#### *Schedule Four*

949. Ms Easton's right of reply revisited the submission point made by Springcreek Forestry and includes the map that confirms that there is no natural environment overlay that affects the property.

### **Hearing Panel's Evaluation**

950. The NPSIB definition for SNA includes any SNA already identified in a policy statement or plan as an area of significant indigenous vegetation or significant habitat of indigenous fauna (regardless of how it is described); and these SNA must remain an SNA unless or until

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a suitably qualified ecologist engaged by the relevant local authority determines that it is not an area of significant indigenous vegetation or significant habitat of indigenous fauna, using the Appendix 1. The TTPP does not 'elevate' the Schedule 2 Regionally Significant Wetlands in the West Coast Regional Land and Water Plan, the NPSIB confirms them. The Panel accepts it has no ability to not include these identified regionally significant wetlands or the SNA identified in the Grey District Plan unless the further steps indicated in the NPSIB are undertaken.

951. The Panel notes the NPSIB clause 1.3 specifically states that provisions relating to promoting restoration and increasing indigenous vegetation cover extend to include natural inland wetlands (see clauses 3.21 and 3.2); and if an SNA contains a natural inland wetland, the wetland may be treated as part of the SNA it is located in. It is clear that integration of the protection and restoration of significant wetlands with terrestrial SNA is expected by the national direction. We accept the recommended approach to include the Schedule 2 Regionally Significant Wetlands in the West Coast Regional Land and Water Plan is consistent with this anticipated integration.
952. As part of the hearing process the Panel sought further advice in relation to Mt Buckley (Johnston property; DOC-004), Mt Davy (BLA-P002), and the two SNA on the Mr and Mrs Coates' property the Barrytown Flats. Two reports were prepared by Wildlands.
953. The first report, dated 20 December 2024, was a desktop exercise which concluded:
- *The Barrytown flats SNAs should be maintained as SNAs as they represent strongly reduced habitat types. Minor boundary adjustment is required to remove slivers of pasture and to better align with indigenous vegetation and habitats.*
  - *The Mt Davy SNA boundary could be changed so that it doesn't coincide with state coal reserves in the west, but the eastern area of state coal reserves intersects with multiple significant values, and the SNA boundary should be maintained in this area.*
  - *The Mt Buckley SNA warrants a field visit to determine its boundaries.*
954. The second report, dated 9 June 2025, involved field work associated with the Mt Buckley site only and concluded that:
- *The field investigation of the Mt Buckley SNA found that there were areas of the site that do not meet the SNA criteria and should not have been included in the SNA. These are habitats that have regenerated post (historical) clearance and contain and mixture of exotic and indigenous trees in the canopy. The forest in these areas is also heavily impacted by ungulate browse and other pests and therefore is unlikely to regenerate into an ecologically significant forest type without considerable intervention. The suggested areas for removal are minor in the overall context and are not considered to compromise the integrity of the SNA or its ecological context.*
955. The Panel accepts the recommendations from Wildlands and acknowledges that they are suitably qualified ecologists and were engaged by the relevant local authority (being the Hearings Panel under delegation). We therefore recommend that the amendments to the SNA identified in the Wildlands Reports are made on the Planning Maps. We note no changes are required to Schedule Four as none of the SNA are to be deleted.

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956. In terms of the issues raised by Mr Johnston, the Panel also notes that the permitted activity rules provide for the ongoing maintenance of lawfully established activities including tracks and skid sites.
957. Other than the above amendments, the Panel accepts Ms Easton’s reasoning and recommendations to not change any SNA and agree that any concerns raised will be addressed by completing the district-wide assessment required under Policy ECO-01, using the NPSIB Appendix 1 criteria.
958. The Panel accepts Ms Easton’s recommended amendments to Schedule Four, as shown in Appendix 1 of the Right of Reply.

### Hearing Panel’s Recommendation

959. For the reasons outlined above, and subject to our consideration of Part 2 of the RMA, the Panel recommends accepting or accepting in part the submission points identified in the footnotes below, and recommend the following changes to **Schedule Four: Significant Natural Areas**:

<b>Schedule Four: Significant Natural Areas</b>		
<p><b><u>A regionally consistent assessment against the criteria in the NPSIB Appendix 1 to identify all areas of significant indigenous biodiversity has not yet been completed.</u></b><sup>261</sup> Only <b><u>Previously identified</u></b> areas within Grey District have been <b><u>included in Schedule Four</u></b> <del>scheduled as Significant Natural Areas</del> <b><u>and spatially identified on the planning maps as the Significant Natural Area overlay</u></b><sup>262</sup> in Te Tai o Poutini Plan.</p> <p>Within the Buller and Westland District <b><u>and in the Grey District outside of Schedule Four areas</u></b> an assessment of significance will be undertaken at the time any resource consents are applied for in relation to the Ecosystems and Biodiversity Rules <b><u>a district-wide assessment to identify areas of significant indigenous vegetation and significant habitat of indigenous fauna will be undertaken, with additional identified areas included in Schedule Four through a future plan change.</u></b><sup>263</sup></p> <p>Significant Natural Areas in the form of Regionally Significant Wetlands are scheduled and identified in the West Coast Regional Land and Water Plan <b><u>and are also included in Schedule Four.</u></b><sup>264</sup></p>		
<b>SCHED4 - SCHEDULE OF SIGNIFICANT NATURAL AREAS</b>		
<b>Unique Identifier</b>	<b>Location</b>	<b>Site Type and Values</b>
PUN – WO33	Punakaiki/Barrytown Flats Punakaiki Ecological District	Flax dominated wetland and some coastal forest that extends from Nikau Scenic Reserve to the northern tip of Barrytown Flats. The wetland supports a brown mudfish population which are nationally threatened.

<sup>261</sup> Director General of Conservation S602.237, Royal Forest and Bird Protection Society of New Zealand Incorporated S560.401

<sup>262</sup> Royal Forest and Bird Protection Society of New Zealand Incorporated S560.401

<sup>263</sup> Royal Forest and Bird Protection Society of New Zealand Incorporated S560.401

<sup>264</sup> Susan Hall and Kevin Dunn S218.001 and S218.002, Anne Chapman S425.004 and Brian Anderson S576.006

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PUN – W034	Punakaiki/Barrytown Punakaiki Ecological District	Punakaiki Lagoon and Coastal Wetland sequence. A lagoon and series of small lakes bordered by flax wetlands and coastal forest. Significant vegetation and ecosystem sequence.
PUN - 123	Punakaiki/Barrytown Punakaiki Ecological District	Large area of broadleaved and rimu forest with occasional northern rata and hard beech. Serves as an ecological corridor between Paparoa National Park and Mayer Swamp.
PUN - 124	Punakaiki/Barrytown Punakaiki Ecological District	Coastal forest dominated by broadleaves and rimu with occasional nikau. This is an important breeding site for the Westland petrel.
PUN – 044	Punakaiki/Barrytown Punakaiki Ecological District	Lowland forest and wetland adjoining Maher Swamp with adjacent coastal hill forest. Mix of kahikatea forest with northern rata and sparse rimu in places, but also extensive areas of flax and sedgeland. Provides an ecological corridor between the Maher Swamp and the forested land to the east of the road.
PUN - 049	Barrytown Punakaiki Ecological District	Lowland kahikatea forest with some wetland character and scrub on the fringes. Provides a connecting stepping stone between the coast and the forested ranges.
DOC - 004	Mt Buckley Blackball Ecological District	Paparoa Range to Kaiata Range Ecological Linkage across the Grey Valley. Significant ecological corridor and vegetation sequence.
HOC - 083	Ahaura Hochstetter Ecological District	Lowland forest lower terrace remnant dominated by red beech but with kahikatea in the fringes. Sits within the M1.1a land environment which is under-represented in the ecological district and the wider West Coast.
HOC - 087	Lake Haupiri Hochstetter Ecological District	Large area of flax dominated and rush/sedge dominated wetland with Lepidothamnus intermedius (yellow silver pine), mānuka and kahikatea on the fringes. Provides high quality habitat for numerous native bird species including bittern, some native fish including giant kokopu and the threatened plants Carex termuiculmis and Deschampsia cespitosa. Important wetland sequences and peat dome.
HOC – 089	Nelson Creek Settlement Hochstetter Ecological District	Riparian kanuka and bog pine shrubland remnants. Significant vegetation sequence.
HOC - 091	Red Jacks	Lowland red beech and kahikatea forest and wetland remnant. Occupies the M2.1a land

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	Hochstetter Ecological District	environment which is under-represented in the ecological district and the wider West Coast.
HOC - 093	Kamaka/Reeves Creek Hochstetter Ecological District	Kahikatea swamp forest lying between red beech covered hills on either side. Occupies the M2 land environment which is under-represented in the ecological district and the wider West Coast.
HOC - 094	Arnold River Hochstetter Ecological District	Forest terraces dominated by red beech with areas of kahikatea on the fringes. Occupies the M2.1a land environment which is under-represented in the ecological district and the wider West Coast.
HOC – 095	Arnold River Hochstetter Ecological District	Large area of forest dominated by red beech and rimu with wetland terrace. Provides connectivity across the Arnold Valley.
HOC – 096	Arnold River Hochstetter Ecological District	Large area of forest dominated by red beech with areas of kahikatea on the fringes with shrubland along its length. Occupies the M2.1a land environment which is under-represented in the ecological district and the wider West Coast.
HOC – P03	Ngahere Hochstetter Ecological District	Permanently wet wetland remnant located between railway line and road. Contains a range of native wetland and shrubland plant species.
BLA/MAI - QEII	Atarau Maimai Ecological District	Lowland forest ecological terrace sequences of red beech with scattered rimu, kahikatea and totara. Large remnants on the Grey River terraces are an uncommon ecosystem type and the presence of kahikatea and totara further raises the significance of this remnant.
BLA – P002	Mt Davey Blackball Ecological District	Extensive Hill Country Coal Measure Forest, Kiwi and ‘Rewanui snail’ habitat.
MAI – 065	Atarau Maimai Ecological District	Lowland Forest terrace edges with scarce matai, totara and kahikatea remnants.
TOT – P004	Ahaura Totara Ecological District	Lowland forest terrace edge associations. Red beech dominates the terrace scarp and the terrace above the scarp but there are considerable areas of kahikatea forest also present further away from the scarp. Some of the remnants are within the M2.1a land environment which is under-represented in the ecological district and the wider West Coast.

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TOT – 079	Waipuna Totara Ecological District	Lowland forest with two surfaces – the younger dominated by red beech but with abundant kahikatea which forms dense stands in places. The older surface is dominated by red beech, with rimu in places. Predominantly within the under-represented M2.1a land environment, on a young surface created by the Waipuna Creek.
TOT - 112	Waipuna Totara Ecological District	Lowland forest dominated by red beech with remnant kahikatea in the fringes. Covers two terraces and includes a small amount of riparian forest. Adjacent to conservation land. Some of the remnant is in the under-represented M2.1a land environment.
TOT - 131	Waipuna Totara Ecological District	Lowland forest dominated by red beech but also including totara and kahikatea. The presence of totara and rimu add to its significance as they were once a widespread forest type that has largely been cleared by farming.
TOT – 134	Waipuna Totara Ecological District	Large area of mature tall indigenous lowland forest and streamside vegetation along Grey River edge. Has a number of rare ecological associations.
SNA - 2	Lake Brunner Brunner Ecological District	Crooked River delta. Includes a large flax dominated wetland in good condition in the north and several areas of kahikatea forest and associated wetland around the lake margin, especially from Pah Point to Iveagh Bay. A particularly good example of tall kahikatea forest is present adjacent to the railway and on paper road between the settlement of Te Kinga and the northern wetland. One of the best remaining examples of floodplain kahikatea forest and wetland in the ecological district. Important riparian zone around lake and includes several small bays and minor streams draining into the lake. Although a narrow lake-fringe in places, the large wetland in the north is largely self-contained and likely to have good viability. Provided that grazing is kept out, the lake side vegetation should also have good viability. Other comments: This area contains the last remnants of the Crooked River delta forest-wetland complex.
SNA – 3	Tube Creek	Lowland kahikatea forest with scattered matai and rimu over a dense understory with wineberry and Coprosma species and small

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SNA – 4	Brunner Ecological District	wetland. This is an under-represented vegetation type in the ecological district. Linkages to forest on hill slope to north.
	Kangaroo Lake Brunner Ecological District	Regenerating rimu and kahikatea forest and wetland along the north-eastern side of Kangaroo Lake. Old growth forest is present at the northern end. Swampy areas throughout the SNA with flax and Sphagnum dominant. This is an under-represented vegetation type and includes the lake-forest sequence. Bittern and fernbird are present, both of which prefer the wide swamp margin. Probably also supports mudfish. This area connects with the hill forests to the north of the lake and enhances the overall values of the area as well as forming part of the lake margin thus playing a role in the ecology of the lake itself. This area abuts public conservation land to the north.
SNA – 5	Kangaroo Lake Brunner Ecological District	Lowland mixed beech - podocarp forest. The majority of the bush is dominated by species typical of less fertile forest including rimu, kaikawaka, silver pine and celery pine, with rohotu and Leucopogon fasciculatus (mingimingi) common in the understorey, and Sphagnum moss on the ground in places. This is an rare ecosystem variant of the alluvial floodplain vegetation and probably occurs here because the area has not been affected by recent river flooding. The bush appears largely unaffected by grazing in recent years and there is very good regeneration in the disturbed areas along the formed road. The presence of red beech, and a single tree of mountain beech, is of considerable interest. One of the distinctive features of the Brunner Ecological District is that it lies at the southern extent of beech forest in central Westland (with beech not present again until south of Fox Glacier). However the Brunner Ecological District lacks extensive beech forest with a scattering of small beech forest patches or enclaves among other forest types, especially kahikatea forest. Thus the presence of both red beech and mountain beech here is of significant value.
SNA – 6	Lady Lake Brunner Ecological District	Kahikatea forest and wetland remnants south of public conservation land at Lady Lake. This vegetation type is under-represented in the Ecological District.

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SNA – 7	Lake Poerua Brunner Ecological District	Enhances the habitat quality of Lake Creek which still comprises native vegetation for most of its length. Key seasonal food resource for forest birds such as kereru, tui and bellbird. Flax wetland at the northern end of Lake Poerua (part of the alluvial kahikatea forest and wetland system). The wetland is a good example of a fertile wetland, an under-represented vegetation type of alluvial surfaces in the Brunner Ecological District and appears to have good viability because of its location adjacent to the lake and the main hydrological influences being associated with the lake and its outlet. The wetland is also likely to provide habitat for mudfish and bittern. A very under-represented vegetation type in the Ecological District. Part of the Poerua River system – potentially important habitat for threatened native fish.
SNA – 9	Taramakau Brunner Ecological District	Lowland forest remnant. Red beech forest with occasional kahikatea – 200-400 years old. Good understorey and regeneration. Best example of the very few red beech remnants in the ecological district.
SNA – 10	Inchbonnie Brunner Ecological District	Lowland Forest and Shrubland. Kahikatea forest with abundant kanuka grading to more complex forest including kaikawaka, tanekaha and kahikatea with a understorey dominated by rohutu and Spagnum moss common at the southern end. Contains a rare ecosystem type variant of alluvial kahikatea forest with dominant kaikawaka.
SNA – 11	Orangipuku River Mouth, Lake Brunner Brunner Ecological District	Kahikatea forest and wetland with a small area of red beech. Example of under-represented alluvial valley kahikatea forest and wetlands. Provides important connectivity between the Hohonu Range and Te Kinga and provides buffering to Lake Brunner. This area is located between two similar sized areas of public conservation land on alluvial surfaces and then more extensive hill forest beyond and provides an important ecological connection.
DOC – 009	Crooked River Brunner Ecological District	Wetland and surrounding lowland forest edge association. Important vegetation sequence.
DOC – 010	Deep Creek Brunner Ecological District	Large pakihi wetlands adjacent Souters Creek and contiguous with other protected areas and ecological corridors. Significant ecological linkages and high value vegetation.

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DOC – 011	Lake Brunner Foreshore Brunner Ecological District	Lake edge wetland and forest associations. Important vegetation sequence.
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960. The Panel recommends that the SNA Mapping Overlay and Appendix Four be amended to include the Regionally Significant Wetlands identified in the Schedule 1 of Regional Land and Water Plan.
961. The Panel also recommends that Threatened Environment Classification category one and category two land is included on the planning maps and an information layer.

**Dean Chrystal**  
**Hearings Panel - Chair**

**Sharon McGarry**  
**Hearings Panel Member**

**Anton Becker**  
**Hearings Panel Member**

**Maria Bartlett**  
**Hearings Panel Member**

**Paul Rogers**  
**Hearings Panel Member**

**Date: 12 October 2025TBC**

## APPENDIX 1 – RECOMMENDATIONS ON PLAN PROVISIONS

### Definitions

#### SIGNIFICANT NATURAL AREA

means

- ~~a. areas that have been assessed as an area of significant indigenous vegetation or significant habitat of indigenous fauna in accordance with the criteria set out in the West Coast Regional Policy Statement;~~
- ~~b. areas that have been identified as Significant Natural Areas in any West Coast Regional or District Plan.~~
- a. any area that, after the commencement date (4 August 2023), is notified or included in a district plan as an SNA following an assessment of the area in accordance with Appendix 1 of the National Policy Statement for Indigenous Biodiversity 2023; and**
- b. any area that, on the commencement date (4 August 2023), is already identified in a policy statement or plan as an area of significant indigenous vegetation or significant habitat of indigenous fauna (regardless of how it is described); in which case it remains as an SNA unless or until a suitably qualified ecologist engaged by the relevant local authority determines that it is not an area of significant indigenous vegetation or significant habitat of indigenous fauna.**

#### AREA OF SIGNIFICANT INDIGENOUS BIODIVERSITY

means, in relation to the Subdivision Rules,

- a. an area identified as a Significant Natural Area in Schedule Four; or
- b. an area identified through an ecological assessment process undertaken by an ecologist as meeting the criteria for a Significant Natural Area **significant indigenous biological diversity** as set out in the West Coast Regional Council Policy Statement, Appendix ~~One~~**1**.

#### INDIGENOUS VEGETATION CLEARANCE

means the clearing, **damage, destruction** or removal of indigenous vegetation by any means, including **felling**, cutting, crushing, **smothering**, **mob-stocking** cultivation, irrigation, chemical application, drainage, stopbanking, overplanting, or burning, **but excluding and the clearance of indigenous vegetation forming an understorey within an exotic plantation forest.**

#### POUTINI NGĀI TAHU ACTIVITIES

means the use of land and/or buildings for traditional Māori activities and includes making and/or creating cultural goods, textiles and art, medicinal and food gathering, waka ama, events, management and activities that recognise and provide for the special relationship between Poutini Ngāi Tahu and places of cultural importance.

#### POUTINI NGĀI TAHU LAND

**Means land owned by Poutini Ngāi Tahu.**

### CULTURAL HARVEST

Cultural harvest means indigenous vegetation clearance for cultural use and in accordance with tikanga and kaitiakitanga, mahinga kai and collection of cultural materials where this is undertaken by Poutini Ngāi Tahu.

### SPECIFIED MĀORI LAND

means land that is any of the following:

- a. Māori customary land and Māori freehold land (as defined in Te Ture Whenua Māori Act 1993):
- b. land set apart as a Māori reservation under Part 17 of Te Ture Whenua Māori Act 1993 or its predecessor, the Māori Affairs Act 1953:
- c. land held by or on behalf of an iwi or a hapū if the land was transferred from the Crown, a Crown body, or a local authority with the intention of returning the land to the holders of mana whenua over the land:
- d. land vested in the Māori Trustee that is constituted as a Māori reserve by or under the Māori Reserved Land Act 1955, and remains subject to that Act:

and in the context of implementing the National Policy Statement on Indigenous Biodiversity, also means:

- e. Treaty settlement land, being land held by a post-settlement governance entity (as defined in the Urban Development Act 2020) where the land was transferred or vested and held (including land held in the name of a person such as a tipuna of the claimant group, rather than the entity itself):
  - i. as part of redress for the settlement of Treaty of Waitangi claims; or
  - ii. by the exercise of rights under a Treaty settlement Act or Treaty settlement deed.

### ECOLOGICAL DISTRICT

means the ecological districts as shown in McEwen, W Mary (ed), 1987. Ecological regions and districts of New Zealand. Wellington: Department of Conservation.

### EFFECTS MANAGEMENT HIERARCHY

means an approach to managing the adverse effects of an activity on indigenous biodiversity that requires that:

- a. adverse effects are avoided where practicable; then
- b. where adverse effects cannot be avoided, they are minimised where practicable; then
- c. where adverse effects cannot be minimised, they are remedied where practicable; then

- d. where more than minor residual adverse effects cannot be avoided, minimised, or remedied, biodiversity offsetting is provided where possible; then
- e. where biodiversity offsetting of more than minor residual adverse effects is not possible, biodiversity compensation is provided; then
- f. if biodiversity compensation is not appropriate, the activity itself is avoided.

#### THREATENED ENVIRONMENTS CLASSIFICATION

means the threatened environments as shown in Walker S, Cieraad E, Barringer J 2015, The Threatened Environment Classification for New Zealand 2012: a guide for users, Landcare Research Report LC2184.

#### THREATENED OR AT RISK AND THREATENED OR AT RISK (DECLINING)

have, at any time, the meaning given in the New Zealand Threat Classification System Manual 2022 Jeremy Rolfe, Rod Hitchmough, Pascale Michel, Troy Makan, Jerry A. Cooper, Peter J. de Lange, Andrew J. Townsend, Colin M. Miskelly and Janice Molloy (available at [www.doc.govt.nz/tcs](http://www.doc.govt.nz/tcs)), or its current successor publication.

#### BIODIVERSITY COMPENSATION

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

#### BIODIVERSITY OFFSET

means a measurable conservation outcome that meets the requirements in Appendix 3 of the National Policy Statement for Indigenous Biodiversity and results from actions that are intended to:

- a. redress any more than minor residual adverse effects on indigenous biodiversity after all appropriate avoidance, minimisation, and remediation measures have been sequentially applied; and
- b. achieve a net gain in type, amount, and condition of indigenous biodiversity compared to that lost.

#### NET GAIN

This principle reflects a standard of acceptability for demonstrating, and then achieving, a net gain in indigenous biodiversity values. Net gain is demonstrated by a like-for-like quantitative loss/gain calculation of the following, and is achieved when the indigenous biodiversity values at the offset site are equivalent to or exceed those being lost at the impact site:

- a. types of indigenous biodiversity, including when indigenous species depend on introduced species for their persistence; and
- b. amount; and
- c. condition (structure and quality).

**INDIGENOUS BIODIVERSITY**

**means the living organisms that occur naturally in New Zealand, and the ecological complexes of which they are part, including all forms of indigenous flora, fauna, and fungi, and their habitats.**

**INDIGENOUS VEGETATION**

**means vascular and non-vascular plants that, in relation to a particular area, are native to the ecological district in which that area is located.**

**IMPROVED PASTURE**

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

**PARENT TITLE**

**means a record of title in existence on 14 July 2022.**

**Natural Environment Values - Title Page**

This section ~~will~~includes the provisions for ecosystems and indigenous biodiversity, natural character **and the margins of waterbodies**, natural features and landscapes and public access. It ~~will~~identifys the specific features and places on the West Coast that are important to those values, including any Outstanding **Natural** Landscapes and **Outstanding Natural Features** ~~or~~ **and** Significant Natural Areas. It ~~will~~also includes the Objectives, Policies and any Rules for the management of these areas.

**Ecosystems and Biodiversity Chapter**

**Overview**

Biological diversity, or biodiversity, describes the variety and diversity of all life forms and the ecosystems they inhabit. Indigenous biodiversity is **living organisms that occur naturally in New Zealand, and the ecological complexes of which they are part, including all forms of indigenous flora, fauna, and fungi, and their habitats** biodiversity that is native to New Zealand/Aotearoa me Te Waipounamu and relates to individual birds, plants, insects and other species and also includes the ecosystems where these **living organisms** species live, such as forests and sand dunes.

The West Coast/Te Tai o Poutini contains a significant amount of intact natural diversity by comparison with other parts of New Zealand/Aotearoa me Te Waipounamu. Continuous tracts of lowland and coastal forests and freshwater as well as coastal wetlands cover large areas. In ~~many~~ places, indigenous ecosystems and habitats extend unbroken from the mountains to the sea. 84% of the land area is under the management of the Department of Conservation. In total an estimated 90% of the West Coast/Te Tai o Poutini is covered in indigenous vegetation - compared with 24% nationally.

While the West Coast/Te Tai o Poutini is fortunate to have a wide range of diverse and intact ecosystems and vegetation types, there are some ecosystems and vegetation types not well represented in the protected areas network. These are generally ecosystems found in the lowland areas of the West Coast/Te Tai o Poutini. Alongside this, parts of the West Coast/Te Tai o Poutini include the last habitats or strongholds of some indigenous native species threatened with extinction. Without the identification and protection of areas of significant indigenous vegetation and the significant habitats of indigenous fauna, there is a risk of further degradation and the extinction of threatened and at risk indigenous biodiversity. Well-functioning ecosystems also provide resilience to climate change and can provide protection to communities from natural hazards.

Under the RMA, the district and regional councils share responsibility for maintaining indigenous biodiversity. ~~Te Tai o Poutini Plan is~~ District Councils are responsible for protecting and maintaining terrestrial (land-based) ecosystems, including in the margins of the coastal wetlands and waterbodies, and the The West Coast Regional Council is responsible for protecting and maintaining the non-terrestrial ecosystems (rivers, lakes, wetlands and the coast below mean high water springs). Poutini Ngāi Tahu also have cultural responsibilities as mana whenua and kaitiaki. Schedule 97 of the Ngāi Tahu Claims Settlement Act 1998 identifies some Taonga Species, along with Department of Conservation Documents and Iwi/Papatipu Rūnanga Management Plans.

The RMA requires ~~Te Tai o Poutini Plan~~ district councils to recognise and provide for the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna by managing indigenous biodiversity in two particular ways, including. Firstly, the control of any actual or potential effects of the subdivision, use, development, or protection of land, for the purpose of maintaining indigenous biodiversity. Secondly, it is required to recognise and provide for and the identification and protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna.

The National Policy Statement for Indigenous Biodiversity (NPSIB) came into force on 4 August 2023 and TTPP is required to give effect to this. The objective of the NPSIB is to maintain indigenous biodiversity across Aotearoa New Zealand so that there is at least no overall loss in indigenous biodiversity after 4 August 2023. This is to be achieved by:

- i. recognising the mana of tangata whenua as kaitiaki of indigenous biodiversity; and
- ii. recognising people and communities, including landowners, as stewards of indigenous biodiversity; and
- iii. protecting and restoring indigenous biodiversity as necessary to achieve the overall maintenance of indigenous biodiversity;

while providing for the social, economic, and cultural wellbeing of people and communities now and in the future.

The NPSIB, as amended October 2024, must be given effect to as soon as reasonably practicable. The TTPP was notified prior to the commencement of the NPSIB and therefore gives effect to it as much as possible within the scope of submissions made on the Plan, and utilising clause 4.4 of the NPSIB to ensure consistent terminology.

**The NPSIB does not apply to the development, operation, maintenance or upgrade of renewable electricity generation assets and activities, and electricity transmission network assets and activities, however, the requirements of the RMA and the RPS apply.**

**The RPS is yet to be updated to give effect to the NPSIB. However, this Plan must give effect to the RPS, which contains provisions for managing ecosystems and indigenous biodiversity. The RPS includes ecological criteria for identifying significant terrestrial and freshwater indigenous biological diversity. It requires that all areas meeting one or more of these criteria, whether mapped or not, are to be known as Significant Natural Areas or SNA. The RPS criteria in Appendix 1 are equivalent to NPSIB Appendix, however, the NPSIB criteria provide clearer guidance.**

Because of the extremely large land ~~extensive~~ **extensive** area covered by indigenous vegetation on the West Coast/Te Tai o Poutini, ~~detailed a comprehensive assessment of each piece of vegetation for identification of ecological significance using the RPS Appendix 1 criteria for the purpose of mapping Significant Natural Areas~~ its significance has not yet been undertaken **completed**.

In the Grey District, an evaluation process ~~has been underway for a~~ **was undertaken** a number of years ~~ago,~~ and this has enabled ~~This identified~~ **37** Significant Natural Areas to be identified within the Grey District. ~~The list of these Significant Natural Areas can be found~~ **which were previously included in the Grey District Plan. These are included** in Schedule Four and they are also shown on the ~~planning~~ **maps**. **These SNA are included under the NPSIB definition of an SNA, regardless of how they are described, and will require reassessment under the NPSIB criteria in Appendix 1.**

In the Buller and Westland Districts, where Significant Natural Areas have not yet been mapped, ~~and in Grey District for areas outside of mapped Significant Natural Areas included in Schedule Four,~~ Te Tai o Poutini Plan has general vegetation clearance rules, ~~with an expectation that an assessment against the regionally consistent significance criteria will be undertaken at the time of any resource consent.~~ **Where there is uncertainty as to whether an area may meet the RPS Appendix 1 criteria, or in the absence of an ecological assessment, precaution and protection should be favoured and a resource consent process will enable ecological assessment to be undertaken.**

Te Tai o Poutini Plan ~~also~~ encourages integrated management of indigenous biodiversity and supports landowners, local government, Poutini Ngāi Tahu and other biodiversity partners working together on a voluntary basis to maintain and enhance indigenous biodiversity, including methods such as legal protection and good land management.

**Te Mana o te Taiao – Aotearoa New Zealand Biodiversity Strategy 2020 provides national strategic direction to address the complex issues causing biodiversity loss and places the Treaty partnership at the centre of biodiversity work. It provides a framework for action and guiding principles.**

**There is a considerable network of electricity generation, distribution and transmission activities and infrastructure, on the West Coast, including within areas of indigenous vegetation and biodiversity. Given the topography and extent of natural ecosystems and indigenous biodiversity on the West Coast, practical management solutions are required to ensure maintenance and enhancement of the supply of renewable electricity generation to, and between, communities for the benefit of those communities and the wider environment from the use and development of renewable electricity generation.**

**The Ecosystems and Indigenous Biodiversity Chapter contains objectives, policies, and rules for managing effects on indigenous biodiversity, including for the assessment and identification of significant indigenous vegetation and significant habitats of indigenous fauna. This chapter contains rules relating to vegetation clearance that apply throughout the district. There are also specific rules that apply within significant natural areas, areas of high natural character, outstanding natural features and landscapes and the coastal environment.**

**Indigenous vegetation clearance in the Coastal Environment or adjacent to waterbodies**

**Te Tai o Poutini Plan must also give effect to Policy 11 of the NZCPS 2010 and the RPS which include specific provisions for protection of indigenous biological diversity in the coastal environment. This chapter includes provisions for protection of significant indigenous biodiversity within the coastal environment (above mean high water springs) as shown on the Planning maps. This chapter also includes provisions for** ~~Where indigenous vegetation clearance is proposed within riparian margins next to rivers, lakes and coastal wetlands, refer to the Natural Character and Margins of Waterbodies chapter of the Plan for the Rules around this clearance.~~

### **Plantation/Commercial Forestry**

Plantation forestry is principally regulated by the Resource Management (National Environmental Standard for ~~Plantation~~ **Commercial** Forestry) Regulations 2017 **2023** (NES-~~PCF~~). However the NES ~~PCF~~ allows that district plans can be more stringent to protect ~~s~~**Significant** ~~n~~**Natural** ~~a~~**Areas** and significant indigenous biodiversity within the coastal environment as provided for in the NZCPS Policy 11. Where provisions within this chapter **are more stringent, they** over-rule the requirements of the NES – ~~PCF~~ **and** an advice note to that effect is included within the **relevant** ~~r~~**Rule**.

### **Strategic Objectives**

~~The Strategic Objectives are particularly relevant when assessing matters under the Ecosystems and Indigenous Biodiversity Chapter. The Natural Environment, Mineral Extraction and Connections and Resilience Strategic Objectives are particularly relevant.~~

### **Wetlands on the West Coast**

**The Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (NESF) includes regulations of activities within, and within setbacks from, natural wetlands. These activities are managed by the West Coast Regional Council under the NESF. It should be noted that the setbacks for activities within those regulations may be different to those set out in this Plan and may require resource consent to be sought from the Regional Council.** The West Coast Regional Council Land and Water Plan identifies a list of Regionally Significant Wetlands, **in Schedule 1**. In accordance with the West Coast Regional Policy Statement, these areas are known as Significant Natural Areas and have specific Rules around their management in the Regional Land and Water Plan. ~~They are also subject to regulation by the West Coast Regional Council under the National Environmental Standard for Freshwater Management which also has regulations around how other wetlands can be managed.~~

### **Other relevant Te Tai o Poutini Plan provisions**

~~Strategic Objectives~~ **Directions**- The Strategic Objectives **and Policies** are particularly relevant when assessing matters under the Ecosystems and Indigenous Biodiversity Chapter. The Natural

Environment, Poutini Ngāi Tahu, Mineral Extraction and Connections – Climate Change and Resilience Strategic Objectives and Policies are relevant.

Coastal Environment - the Coastal Environment Chapter contains the objectives, policies and rules for activities within the coastal environment overlay - including buildings and structures and earthworks.

Natural Features and Landscapes – the Natural Features and Landscapes Chapter contains provisions in relation to the landscapes and natural features in Schedules Five and Six. Poutini Ngāi Tahu values are part of what makes these areas significant.

Natural Character and Activities Adjacent to Waterbodies - the Natural Character and the Margins of Waterbodies Chapter contains the objectives, policies and rules relating to activities adjacent to waterbodies, including buildings and structures and earthworks.

Activities on the Surface of Water – the Activities on the Surface of Water Chapter contains provisions for activities on the surface of waterbodies.

Historic Heritage - the Historic Heritage Chapter contains the provisions in relation to the sites and areas identified in Schedule One.

Notable Trees - the Notable Trees Chapter contains the provisions in relation to the trees identified in Schedule Two. Some trees are listed in this schedule due to their botanical values.

Also where relevant refer to policies in the Energy, Infrastructure and Transport Chapters.

#### ECO – 015

To identify, map and protect in consultation with landowners areas of significant indigenous vegetation and significant habitats of indigenous fauna on the West Coast/Te Tai o Poutini.

#### ECO – 02

To provide for appropriate subdivision, use and development within areas of significant indigenous vegetation and significant habitats of indigenous fauna where the values of the area can be maintained or enhanced.

To protect areas of significant indigenous vegetation and significant habitats of indigenous fauna.

#### ECO – 03

To manage the adverse effects of subdivision, use and development on significant indigenous vegetation and significant habitats of indigenous fauna.

#### ECO – 034

To provide for tino rangatiratanga in relation to management of areas of significant indigenous vegetation and significant habitats of indigenous fauna where these are located on Poutini Ngāi Tahu and Te Rūnanga o Ngāi Tahu land.

#### ECO – 041

To maintain the range and **indigenous biodiversity** of ecosystems and indigenous species found on the across West Coast/Te Tai o Poutini **so there is at least no overall loss in indigenous biodiversity, while providing for the social, economic, and cultural wellbeing of people and communities now and in the future.**

**Maintaining indigenous biodiversity requires:**

1. **the maintenance and at least no overall reduction of all the following:**
  - a. **the size of populations of indigenous species:**
  - b. **indigenous species occupancy across their natural range:**
  - c. **the properties and function of ecosystems and habitats used or occupied by indigenous biodiversity:**
  - d. **the full range and extent of ecosystems and habitats used or occupied by indigenous biodiversity:**
  - e. **connectivity between, and buffering around, ecosystems used or occupied by indigenous biodiversity:**
  - f. **the resilience and adaptability of ecosystems; and**
2. **where necessary, the restoration and enhancement of ecosystems and habitats.**

**ECO – P1** Identify areas of significant indigenous vegetation and fauna habitat **significant natural areas and include these in Schedule Four through a Plan Change introduced no later than August 2028. The Significant Natural Area identification process will be undertaken in accordance with the criteria and process set out in the National Policy Statement for Indigenous Biodiversity and as outlined in Appendix Thirteen and will include:**

1. ~~In the Grey District these areas are identified in Schedule Four;~~
  1. ~~In the Grey, Buller and Westland Districts-~~**wide assessment, identification and mapping of Significant Natural Areas, which will be undertaken and completed by June 2027; and**
  2. **Confirming that areas already identified in Schedule Four, as well as Regionally Significant Wetlands identified in Schedule 1 of the West Coast Regional Land and Water Plan meet the National Policy Statement for Indigenous Biodiversity criteria.**
2. ~~The criteria set out in Appendix 1 of the West Coast Regional Policy Statement will be used to assess significance;~~
  - i. ~~Areas of significant indigenous vegetation and fauna habitat will be identified through the resource consent process until such time as district~~

~~wide identification and mapping of significant natural areas is undertaken;~~

- ~~ii. Buller and Westland district wide assessment, identification and mapping of significant natural areas will be undertaken and completed by June 2027; and~~
- ~~iii. Identified areas of significant indigenous vegetation and fauna habitat will be added to Schedule Four through a Plan Change.~~

**ECO – P2**

Allow **Provide for** activities within areas of significant indigenous vegetation or significant habitats of indigenous fauna **biodiversity** where:

- a. This is for a lawfully established activity **and the adverse effects are no greater in intensity, scale or character over time than at 4 August 2023, and do not result in the loss of ecosystem representation and extent or degradation of ecological integrity;** or
- b. **This is for maintenance of improved pasture as part of a regular cycle of periodic maintenance;** or
- c. It is for a Poutini Ngāi Tahu **Activities** cultural purpose; or
- d. This is undertaken on Poutini Ngāi Tahu or Te Rūnanga o Ngāi Tahu land in accordance with an Iwi/Papatipu Rūnanga Management Plan **or on specified Māori land;** or
- e. **This is for the construction or upgrade of regionally significant infrastructure.**
- f. The activity has a functional need to be located in the area;
- g. The activity has no more than minor adverse effects on the significant indigenous vegetation or fauna habitat.

**ECO – P3**

**Provide for activities within Significant Natural Areas within Schedule Four where the adverse effects of the activity on the significant natural area are managed in accordance with the effects management hierarchy, the activity has a functional need or operational need to be located within the area and there is no practicable alternative location, and it is for the purpose of:**

- a. **Construction or upgrade of regionally significant infrastructure; or**
- b. **Mineral extraction that provides significant national public benefit that could not otherwise be achieved using resources within New Zealand; or**
- c. **Aggregate extraction that provides significant national or regional public benefit that could not otherwise be achieved using resources within New Zealand.**

- ECO – P34** Encourage the protection, enhancement and restoration of significant indigenous biodiversity **and the protection of significant habitat for indigenous fauna** by:
- a. ~~Allowing~~ **Providing for up to three** additional ~~subdivision rights~~ **bonus allotments and reduced minimum allotment sizes when subdividing** if ~~an~~ **areas** of significant indigenous vegetation or significant habitat of indigenous fauna within the same property ~~is~~ **are** legally protected as part of the subdivision;
  - b. Promoting the creation of connections and ecological corridors between areas of significant indigenous biodiversity;
  - c. Promoting the use of eco-sourced species from the relevant ecological district;
  - d. Supporting opportunities for Poutini Ngāi Tahu to exercise their cultural rights and responsibilities as mana whenua and kaitiaki in restoring, protecting and enhancing areas of significant indigenous biodiversity; ~~and~~
  - e. Supporting initiatives by landowners, community groups and others to protect, restore and maintain areas of significant indigenous biodiversity;
  - f. **Promoting site and landscape scale biodiversity programmes to manage plant and animal pests; and**
  - g. **Supporting any other measures to protect, enhance and restore indigenous biodiversity.**
- ECO – P45** Provide for eco-tourism activities that complement the protection and/or enhancement of areas of significant indigenous vegetation or significant habitats of indigenous fauna and contribute to the vitality and resilience of the economy and wellbeing of the community.
- ECO – P56** Enable the use of Māori Purpose Zoned land with areas of indigenous vegetation and indigenous fauna habitat, where land use and subdivision is consistent with tikanga and mātauranga Māori and ~~minimises~~ **manages** adverse effects on any significant values of the vegetation or fauna habitat.
- ECO – P67** **In relation to all indigenous biodiversity,** ~~When assessing consents~~ **providing** for subdivision, use and development, avoid activities ~~which~~ **that** will:
- a. Prevent an indigenous species or community being able to persist in their habitats within their natural range in the Ecological District;
  - b. Result in a degradation of the threat status, further measurable loss of indigenous cover or disruption to ecological processes, functions or connections in land environments in category one or two of the Threatened Environment Classification at the Ecological District level; ~~and~~

c. Result in a ~~reasonably measurable~~ reduction in the local population size or occupancy of Threatened or At Risk (Declining) species of threatened taxa in the Department of Conservation Threat Categories 1—3a nationally critical, nationally endangered and nationally vulnerable or in the population or occupancy of locally endemic species; and

d. Within a Significant Natural Area, result in:

i. disruption to sequences, mosaics or ecosystem function;

ii. fragmentation or the loss of buffers or connections; or

iii. reduction in the function of the Significant Natural Area as a buffer or connection to important habitats or ecosystems.

**Advice Note:**

**Information on the Threat Classification status of individual species can be found on the New Zealand Threat Classification System database at <https://nztc.org.nz>.**

**ECO – P78**

When assessing resource consents in areas of significant indigenous **biodiversity** ~~vegetation and significant habitats of indigenous fauna~~, consider the following matters:

a. The necessity for the activity to provide for ~~critical~~ **regionally significant infrastructure or renewable electricity generation;**

**b. The functional need or operational need of regionally significant infrastructure, mineral extraction of significant national public benefit, or aggregate extraction of significant regional or national public benefit to locate in that area, and whether there are any practicable alternative locations for those activities;**

**c. Whether the adverse effects are minor or transitory;**

~~b.d.~~ **Whether formal protection and/or active management of measures to restore or improve** all or part of any area of significant indigenous vegetation or habitat will occur as part of the subdivision, use or development;

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

~~d.f.~~ **The cumulative adverse effects of activities on biodiversity** within ~~or adjacent to~~ any area of significant indigenous vegetation or habitat;

~~e.g.~~ **The effects the activity may have on the introduction or spread of exotic weed species and pest animals,** both terrestrial and aquatic;

~~f.h.~~ **The impacts on mahinga kai;**

~~g.i~~ The impact of the activity on the values of any area of significant indigenous vegetation or habitat, or threatened species, and how any potential impact could be avoided, remedied or mitigated, **including by applying the effects management hierarchy**; and

~~h.j~~ The appropriateness of any biodiversity offsetting or compensation in accordance with **the principles in Appendix Fourteen and Appendix Fifteen from the NPSIB Policy 9** to offset **address** any **more than minor** residual adverse effects that remain after avoiding, remedying and mitigating measures have been applied; **and**

**k. The extent of net gain in indigenous biodiversity values achieved by biodiversity offsetting or compensation.**

**ECO -P89**

Maintain indigenous habitats and ecosystems across the West Coast/Te Tai o Poutini by:

a. ~~Maintaining~~**Protecting**, and where appropriate enhancing or restoring, **indigenous biodiversity, including** the functioning of ecological corridors, linkages, dunes and indigenous coastal vegetation and wetlands;

b. Minimising adverse effects on, and providing access to, areas of indigenous biodiversity which are significant to Poutini Ngāi Tahu;

c. Restricting the modification or disturbance of coastal indigenous vegetation, dunes, estuaries and wetlands;

d. ~~Preserving~~**Protecting the significant habitats of indigenous fauna, protected wildlife including threatened and at-risk species**; and

**e. Encouraging and enabling site and landscape scale biosecurity programmes to manage plant and animal pests; and**

~~e.f~~ Recognising the benefits of **Encouraging and enabling** active **conservation** management of indigenous biodiversity, including voluntary animal and plant pest and stock control and/or formal legal protection;

**Except in relation to the National Grid and Renewable Electricity Generation Activities.**

~~**ECO -P9**~~

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

~~a. The goal of the biodiversity offsets is no net loss and, preferably, a net gain of biodiversity;~~

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

~~c. The biodiversity offsets or compensation are in accordance with best practice, including but not limited to NZ Government guidance on biodiversity offsetting.~~

- ECO - P10** Protect indigenous biodiversity in the coastal environment from inappropriate subdivision, use and development by:
- a. **Avoiding adverse effects on:**
    - i. **indigenous species that are listed as threatened or at risk in the New Zealand Threat Classification System lists;**
    - ii. **species that are listed by the International Union for Conservation of Nature and Natural Resources as threatened;**
    - iii. **indigenous ecosystems and vegetation types that are threatened in the coastal environment, or are naturally rare;**
    - iv. **habitats of indigenous species where the species are at the limit of their natural range, or are naturally rare;**
    - v. **areas containing nationally significant examples of indigenous community types;**
    - vi. **areas set aside for full or partial protection of indigenous biological diversity under other legislation; and**
  - b. Avoiding adverse effects on significant indigenous biodiversity; and
  - c. **Using the effects management hierarchy to** ~~Avoiding, remedying or mitigating other~~ **significant** adverse effects on indigenous vegetation, **dunes, estuaries, coastal wetlands,** habitats and species within the coastal environment.
- ECO – P11** **In relation to the National Grid and renewable electricity generation activities, the adverse effects on indigenous biodiversity will be managed:**
- a. **In relation to the National Grid by:**
    - i. **Recognising and providing for the operation, maintenance and upgrade of existing National Grid assets, and in areas of significant indigenous biodiversity and SNA identified in Schedule Four, avoiding, remedying or mitigating adverse effects to the extent practicable;**
    - ii. **Where appropriate, using substantial upgrades as an opportunity to reduce existing adverse effects;**
    - iii. **For new activities, seeking to avoid adverse effects on areas of significant indigenous biodiversity and SNA identified in Schedule Four and where, having regard to the route, site and method selection and functional need or operational need, it is not practicable to avoid all adverse effects, to remedy or mitigate any residual adverse effects to the extent practicable;**
    - iv. **For new activities within the coastal environment seeking to avoid significant adverse effects on indigenous biodiversity values that**

meet the criteria in Policy 11 (b) of the NZCPS 2010, and where adverse effects cannot be avoided, remedy or mitigate any residual adverse effects to the extent practicable;

- b. In relation to renewable electricity generation activities by:
- v. Recognising and providing for the operation, maintenance, repair and upgrade of existing renewable electricity generation activities, and in areas of significant indigenous biodiversity and SNA identified in Schedule Four, avoiding, remedying or mitigating adverse effects to the extent practicable;
  - vi. Where appropriate, using substantial upgrades as an opportunity to reduce existing adverse effects;
  - vii. Seeking to avoid adverse effects on areas of significant indigenous biodiversity and SNA identified in Schedule Four and where it is not practicable to avoid because of functional need or operational need, remedy or mitigate any residual adverse effects to the extent practicable;
  - viii. Within the coastal environment, seeking to avoid significant adverse effects on indigenous biodiversity values that meet the criteria in Policy 11 (b) of the NZCPS 2010, and where adverse effects cannot be avoided, remedy or mitigate any residual adverse effects to the extent practicable;
- c. By considering the net gain for biodiversity values of biodiversity offsetting or compensation where this is offered.

**ECO- P12** To promote the resilience of indigenous biodiversity to climate change and recognise its role in mitigating the effects of climate change.

## Ecosystems and Indigenous Biodiversity Rules

### Permitted Activities

#### ~~ECO – R1 – Indigenous vegetation clearance and disturbance outside of the coastal environment~~

- ~~6. It is outside of a scheduled Significant Natural Area as identified in Schedule Four;~~
- ~~7. It is clearance permitted by the Natural Character and the Margins of Waterbodies Rule NC-R1; or~~
- ~~8. It is necessary for one of the following purposes:~~
  - ~~i. It is the removal of windthrown timber through:~~
    - ~~a. Use of helicopter recovery methods; or~~

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- ~~b. Where ground based recovery is only undertaken from areas adjacent to existing vehicle tracks; or~~
  - ~~ii. The maintenance, operation and repair of lawfully established tracks, fences, structures, buildings, critical infrastructure, network utilities, renewable electricity generation activities or natural hazard mitigation activities;~~
  - ~~iii. For the installation of temporary network activities following a regional or local state of emergency declaration;~~
  - ~~iv. To prevent a serious threat to people, property, structures or services;~~
  - ~~v. To ensure the safe and efficient operation (including maintenance and repair) of any formed public road, rail corridor or access;~~
  - ~~vi. For the construction of new fences and traplines associated with Conservation Activities or to exclude stock or pest animals;~~
  - ~~vii. To upgrade or create new public walking or cycling tracks up to 3m in width undertaken by the Council or its approved contractor;~~
  - ~~viii. To comply with section 43 of the Fire and Emergency Act 2017;~~
  - ~~ix. For construction or operation of an above ground or below ground network utility or the national grid where:
    - ~~a. The construction corridor did not exceed 3m in width; and~~
    - ~~b. All machinery used in construction is cleaned and made free of weed material and seeds prior to entering the site; and~~
    - ~~c. Rehabilitation of disturbed areas is undertaken following the completion of construction;~~~~
  - ~~x. It is cultural harvest undertaken by Poutini Ngāi Tahu; or~~
  - ~~xi. It is on MPZ – Māori Purpose Zoned land and undertaken in accordance with an Iwi/Papatipu Rūnanga Management Plan; or~~
  - ~~xii. It is within an area subject to a QEII National Trust Covenant or Ngā Whenua Rahui Kawaneta, a Reserves or Conservation Act covenant or a Heritage covenant under the Heritage New Zealand/Pouhere Taonga Act and the vegetation disturbance is authorised by that legal instrument;~~
- ~~9. Within the Grey District it is clearance outside of an Outstanding Natural Landscape identified in Schedule Five; or~~
- ~~10. Within the Buller and Westland Districts:
  - ~~i. It is the removal or clearance of mānuka, kānuka and bracken only that is not part of any wetland and which is under 15 years old, not exceeding 5ha per site over any continuous~~~~

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~~three year period, subject to provision of notice to the relevant District Council at least 20 working days prior to the proposed clearance including:~~

- ~~a. Details of the location of the proposed clearance;~~
  - ~~b. Area of the proposed clearance; and~~
  - ~~c. Verification by documentary, photographic or other means that the vegetation is less than 15 years old and not part of any wetland; or~~
- ~~ii. It is a maximum area of 5000m<sup>2</sup> per site, in total, over any continuous three year period.~~

### **Advice Notes:**

- ~~6. Where clearance of mānuka, kānuka or bracken is proposed under Standard 5 (i) of this rule, if proof that the vegetation is less than 15 years old or that the site is not a wetland, is unavailable, then a resource consent will be required.~~
- ~~7. Where indigenous vegetation clearance is proposed within the riparian margins of a waterbody refer to these sections of the Plan for the Rules around this clearance.~~
- ~~8. Where indigenous vegetation clearance is proposed in or on a site or area of significance to Māori then Rule SASM R4 will also apply.~~
- ~~9. Where indigenous vegetation clearance is proposed within a wetland this is also subject to rules within the NES – Freshwater which is administered by the West Coast Regional Council.~~
- ~~10. This rule also applies to plantation forestry activities, where this provision is more stringent than the NES – PF in relation to significant natural areas.~~

### **Activity status where compliance not achieved:**

~~Discretionary where standard 1 or 4 is not achieved.~~

~~Refer Natural Character and Margins of Waterbodies Chapter where standard 2 is not achieved.~~

~~Within the Grey District refer standard 4 where standard 3 is not achieved.~~

~~Within the Buller and Westland Districts Controlled or Restricted Discretionary (depending on activity type) where standard 5 is not achieved.~~

## **ECO – R2 – Indigenous Vegetation Clearance in the Coastal Environment**

### **Activity Status Permitted**

Where:

5. This is for:

- iv. Walking/cycling tracks, roads, farm tracks or fences;
- v. Operation, maintenance, repair, upgrading and installation of new network utility infrastructure and renewable electricity generation activities; or

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- vi. ~~Establishment of a building platform and access to a building site in an approved subdivision or where there is no existing residential building on the site;~~
6. ~~The extent of indigenous vegetation disturbed and/or cleared per site did not exceed an area of 500m<sup>2</sup> in area per site in any three year period;~~
7. ~~The indigenous vegetation clearance did not disturb, damage or destroy nesting areas or habitat of protected species; and~~
8. ~~The indigenous vegetation clearance did not occur in any area identified as a Significant Natural Area in Schedule Four.~~

### **Advice Notes:**

5. ~~Where indigenous vegetation clearance is proposed within the riparian margins of a waterbody refer to these sections of the Plan for the Rules around this clearance.~~
6. ~~Where indigenous vegetation clearance is proposed in or on a site or area of significance to Māori then Rule SASM R4 will also apply.~~
7. ~~Where indigenous vegetation clearance is proposed within a wetland this is also subject to rules within the NES Freshwater which is administered by the West Coast Regional Council.~~
8. ~~This rule also applies to plantation forestry activities, where this provision is more stringent than the NES PF.~~

~~Activity status where compliance not achieved: Restricted Discretionary~~

### **ECO – R1      General Standards**

#### **Permitted activities standards outside Significant Natura Areas:**

##### **1. Within the coastal environment:**

- a. **Any indigenous vegetation clearance is a maximum of 500m<sup>2</sup> per site, or a maximum of 20m<sup>2</sup> on any individual infrastructure work site, or 20m<sup>2</sup> per linear 100 metre length for linear infrastructure; except that indigenous vegetation clearance is a maximum of 500m<sup>2</sup> per site in the Hartmount Place and Ross Place subdivision, provided that at least an equivalent amount is retained on the site;**<sup>265</sup>
- b. **The indigenous vegetation clearance will not disturb, damage or destroy nesting areas or habitat of protected threatened or at risk species; and**
- c. **The indigenous vegetation clearance will not occur in an area of land within category one or two of the Threatened Environment Classification; and**

##### **2. Within the riparian margin of a waterbody:**

- a. **It is a maximum of 25m<sup>2</sup> per linear 200 metre length of riparian margin; and**

##### **3. In all other locations:**

<sup>265</sup> Marie Elder S352.014 from Settlement Zone Chapter Recommendation Report

- a. A maximum of 2,000m<sup>2</sup> on any site that has not had a Significant Natural Area assessment undertaken in accordance with Policy ECO – P1; or
  - b. A maximum of 5,000m<sup>2</sup> on any site that has had a Significant Natural Area assessment in accordance with Policy ECO – P1 or within the Grey District has a Significant Natural Area included within Schedule Four that is located on the same property; or
  - c. Is a maximum of 20m<sup>2</sup> on any individual infrastructure work site, or 20m<sup>2</sup> per linear 100 metre length for linear infrastructure; and
4. Except where carried out by a statutory agency, or authorised contractor acting on its behalf, responsible for natural hazard mitigation, the clearance is located within areas used and identified for natural hazard mitigation structures that are owned or managed by a statutory agency.

Except that the maximum vegetation clearance provisions in these general standards do not apply where:

- a. Specific to clause 3 in this rule, it is necessary to provide for the ongoing safe and efficient operation, maintenance and repair of the National Grid, electricity distribution and telecommunications lines; or
- b. For all clauses in this rule, the indigenous vegetation clearance is for network utility operations within any RESZ – Residential Zone, COMZ – Commercial and Mixed Use Zone, PORTZ – Port Zone, or IND – Industrial Zone property within the towns of Greymouth, Hokitika or Westport;
- c. For all clauses in this rule, the indigenous vegetation clearance is of vegetation planted and managed:
  - i. As part of a domestic or public garden for amenity purposes; or
  - ii. As a shelterbelt; or
  - iii. For the purpose of harvesting plantation forestry.

Activity status where compliance not achieved: Restricted Discretionary

<b>ECO – R2</b>	<b><u>Indigenous Vegetation Clearance for Network Utility Operations, Renewable Electricity Generation Activities and the National Grid outside of Significant Natural Areas</u></b>
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Activity Status Permitted

Where:

1. It is for the maintenance, operation, repair or upgrade of lawfully established activities and structures; or
2. It is for the installation of temporary network or electricity generation activities following a regional or local state of emergency declaration; or

3. It is necessary to remove vegetation that endangers human life or existing buildings or structures; or
4. It is for construction of new network utility infrastructure, renewable electricity generation activities or the National Grid where:
  - a. The construction corridor for linear infrastructure such as pipes and lines will not exceed 10 metres in width; and
  - b. All machinery used in construction is cleaned and made free of weed materials and seeds prior to entering the site; and
  - c. Rehabilitation of disturbed areas is undertaken following completion of construction; and
  - d. Within a riparian margin of a waterbody, new network utilities and connections are underground or located within a legal road or attached to an existing bridge.

Activity status where compliance not achieved: Restricted Discretionary

**ECO – R3**      Indigenous vegetation clearance for maintenance and repair of lawfully established structures and activities outside of Significant Natural Areas not provided for in Rule ECO – R1

Activity Status Permitted

Where:

1. The clearance is for the maintenance and repair of lawfully established activities and structures including tracks, accessways, fences, pipelines, drains, natural hazard mitigation structures, shelterbelts and woodlots, environmental monitoring facilities and infrastructure; or
2. The clearance is for the maintenance of improved pasture for farming.

Advice Notes:

1. In relation to standard 1 of this rule, the reference to infrastructure applies where the infrastructure is not regulated by Rule ECO – R2.

Activity status where compliance not achieved: Restricted Discretionary

**ECO – R4**      Indigenous vegetation clearance in urban areas outside of Significant Natural Areas not provided for in Rule ECO – R1 or ECO – R2

Activity Status Permitted

Where:

1. It is undertaken on a RESZ – Residential Zone, COMZ – Commercial and Mixed Use Zone, PORTZ – Port Zone, or IND – Industrial Zone property within the towns of Reefton, Greymouth, Hokitika or Westport;

**Activity status where compliance not achieved: Restricted Discretionary**

**ECO – R5**      **Indigenous vegetation clearance on Māori Purpose Zoned Land, Poutini Ngāi Tahu Land for Poutini Ngāi Tahu Activities or on Specified Māori Land outside of Significant Natural Areas**

**Activity Status Permitted**

**Where:**

1. **It is cultural harvest undertaken by Poutini Ngāi Tahu; or**
2. **It is on Māori Purpose Zoned land or Poutini Ngāi Tahu land and undertaken in accordance with an Iwi/Papatipu Rūnanga Management Plan; or**
3. **It is on Specified Māori Land and complies with ECO-R1 and ECO-R3.**

**Activity status where compliance not achieved: Restricted Discretionary**

**ECO – R6**      **Indigenous vegetation clearance outside of Significant Natural Areas not provided for in another Permitted Activity Rule**

**Activity Status Permitted**

**Where this is:**

1. **For the construction of new fences and traplines associated with Conservation Activities or to exclude stock or pest animals from indigenous vegetation or the margins of waterbodies, or the coast; or**
2. **Necessary to remove vegetation that endangers human life or existing buildings or structures; or**
3. **For the construction of parks facilities, parks furniture or public access points within an Open Space and Recreation Zone; or**
4. **For installation of an environmental monitoring and extreme weather event monitoring facility; or**
5. **For the establishment of a river crossing point up to 3 metres wide; or**
6. **For new natural hazard mitigation structures undertaken by a statutory agency or their authorised contractor acting on its behalf; or**
7. **Unavoidable in the course of removing pest plants and pest animals in accordance with any regional pest management plan or the Biosecurity Act 1993, or is removal of unwanted organisms declared under the Biosecurity Act 2015; or**
8. **To comply with section 43 of the Fire and Emergency Act 2017; or**
9. **To upgrade public walking or cycling tracks up to 3 metres in width undertaken by the Council or its authorised contractor acting on its behalf; or**

10. Within an area subject to a QEII National Trust Covenant or Ngā Whenua Rahui Kawaneta, a Reserves or Conservation Act covenant or a Heritage covenant under the Heritage New Zealand/Pouhere Taonga Act and the vegetation disturbance is authorised by that legal instrument; or
11. For the establishment of a building platform and access to a building site in an approved subdivision, or where there is no existing residential building on the site that will not exceed 500m<sup>2</sup> clearance per allotment, and where this is not located within a riparian margin of a waterbody; or
12. For mineral exploration or prospecting activities within the MINZ - Mineral Extraction Zone or BCZ – Buller Coalfield Zone; or
13. Outside of the coastal environment or riparian margins of waterbodies, it is removal of windthrow timber through:
  - i. Use of helicopter recovery methods; or
  - ii. Ground-based recovery, where this is only undertaken from areas adjacent to existing vehicle tracks; or
14. For any other purpose, where this is not located within a riparian margin of a waterbody or the coastal environment, and will not exceed 2,000m<sup>2</sup> clearance per property.

Activity status where compliance not achieved: Controlled Activity where this is indigenous vegetation clearance with an approved plan or permit issued under the Forests Act; otherwise, Restricted Discretionary

**ECO – R7      Indigenous Vegetation Clearance within a Significant Natural Area**

**Activity Status Permitted**

**Where this is:**

1. For the maintenance, operation and repair of lawfully established activities and structures including tracks, fences, drains, structures, infrastructure and renewable electricity generation activities where:
  - a. This is at the same or similar scale, character and intensity as at 14 July 2022; and
  - b. The clearance is within 3 metres of the lawfully established activity and is limited to a maximum area of 50m<sup>2</sup> per individual Significant Natural Area;
2. Necessary to remove vegetation that endangers human life or existing buildings or structures, where this is certified by a Council Approved Contractor;
3. For the safe and efficient operation (including maintenance and repair) of any formed public road, rail corridor or access where the removal is within 3 metres of the formed width of the road, rail corridor or access where this is undertaken by a Road or Rail Controlling Authority;
4. To comply with section 43 of the Fire and Emergency Act 2017;

**5. To enable removal of unwanted organisms declared under the Biosecurity Act 2015.**

**Activity status where compliance not achieved: Discretionary**

**ECO – R38 Indigenous vegetation clearance or disturbance where this is in accordance with an approved plan or permit issued under the Forests Act 1949**

**Activity Status Controlled**

Where:

1. The indigenous vegetation clearance and disturbance is in accordance with an approved Sustainable Forest Management Plan or permit or personal use approval issued by the Ministry for Primary Industries under the Forests Act 1949;
2. The indigenous vegetation clearance is outside of ~~any Significant Natural Area identified in Schedule Four and outside of~~ the Coastal Environment; and
3. The indigenous vegetation clearance is not located in an area of land environment of category one or two of the Threatened Environment Classification.

**Matters of control are:**

- a. The matters outlined in Policies ~~ECO - P67, and ECO - P78~~ and where relevant NFL - P6;
- b. The protection of habitats of threatened or at risk species;
- c. The management of impacts on Poutini Ngāi Tahu values as set out in the Tangata Whenua Chapter;**
- ~~d.~~ d. Compliance with the terms of an approved Sustainable Forest Management Plan or permit or personal use approval issued by the Ministry for Primary Industries under the Forests Act 1949; and
- ~~e.~~ e. The measures to avoid, remedy, or mitigate any adverse effects on any significant indigenous vegetation and significant habitats of indigenous fauna.

**Advice Notes:**

1. Where indigenous vegetation clearance is proposed within the riparian margins of a waterbody **ECO-R1 or ECO-R10 apply**, ~~refer to these sections of the Plan for the rules around this clearance.~~
2. Where indigenous vegetation clearance is proposed in or on a site or area of significance to Māori then Rule SASM - R4 will also apply.
3. Where indigenous vegetation clearance is proposed within a wetland this is also subject to rules within the NES - Freshwater which is administered by the West Coast Regional Council.

**Activity status where compliance not achieved: Restricted Discretionary**

**~~ECO – R4 Subdivision of Land to Create Allotments Containing an Area of Significant Indigenous Biodiversity~~**

**Activity Status: Controlled**

Where:

1. One new allotment with a minimum lot size of 4,000m<sup>2</sup> is created from the parent title, provided that in the GRUZ – General Rural Zone there is a balance area remaining on the original title of at least 4 ha; and
2. The area of significant indigenous biodiversity is legally protected in perpetuity by way of a conservation covenant with an authorised agency and is contained within a single allotment;
3. The subdivision will not result in buildings or access ways being located within the identified area of significant indigenous biodiversity or the need for clearance of significant indigenous vegetation to provide for future access to any site; and
4. Subdivision standards S2-S11 are complied with.

**Matters of control are:**

- a. Subdivision layout, access, design, location and proximity of building platforms to areas of significant indigenous biodiversity;
- b. Management of earthworks, including earthworks for the location of building platforms and access ways;
- c. The protection of habitats of threatened or at risk species; and
- d. The measures to minimise any adverse effects on:
  - i. The significant indigenous biodiversity;
  - ii. The cultural significance to Poutini Ngāi Tahu.

**Advice Note:**

This rule does not apply to subdivisions to create allotments for network utilities, access or reserves which are subject to Rule SUB – R4. Activity status where compliance not achieved: Restricted Discretionary where standard 1 is not complied with. Discretionary where standards 2-4 are not complied with.

**SUB – R7 Subdivision of Land to Create Allotments Containing an Area of Significant Indigenous Biodiversity Where Legal Protection of the Area of Significant Biodiversity is Proposed**

**Activity Status: Controlled**

Where:

1. One new allotment with a minimum lot size of **41,000m<sup>2</sup>** is created from the parent title, provided that in the GRUZ - General Rural Zone there is a balance area remaining on the original/parent title of at least 4 ha; and
2. An assessment of the site against the significance criteria in the WCRPS Appendix 1 is provided with the application and this is undertaken by a suitably qualified ecologist, unless

**the site has already been identified as a Significant Natural Area as part of a district-wide Significant Natural Area assessment process; and**

**2.3.** The **Any** areas of significant indigenous biodiversity is **are** legally protected in perpetuity by way of a conservation covenant with an authorised agency **or via consent notice on the title** and is **are** contained within a single allotment; **and**

**3.4.** The subdivision will not result in buildings or access ways being located within the identified area of significant indigenous biodiversity or the need for clearance **within the area** of significant indigenous vegetation to provide for **a future building site or** future access to any site; and

**4.5.** Subdivision standards S2-S11 are complied with.

**Matters of control are:**

a. Subdivision layout, access, design, location and proximity of building platforms to areas of significant indigenous biodiversity **and whether buffering of significant areas is also appropriate;**

b. The design and provision of access;

**c. The provision of infrastructure and services for drinking water, wastewater, stormwater, telecommunications and energy/electricity;**

**d. The adequacy of water supply for firefighting;**

**e. Specification of the location of building sites and access through the use of consent notices;**

**f. Management of potential reverse sensitivity effects on existing land uses, including network utilities and regionally significant infrastructure, rural activities or significant hazardous facilities;**

**g. Measures to address any natural hazards or geotechnical constraints;**

~~e.~~**h.** Management of earthworks, including earthworks for the location of building platforms and access ways;

~~d.~~**i.** The protection of habitats of threatened or at risk species; ~~and~~

~~e.~~**j.** The measures to ~~minimise~~ **avoid, remedy or mitigate** any adverse effects on:

i. The significant indigenous biodiversity; **and**

ii. ~~The cultural significance to Poutini Ngāi Tahu~~ **values.**

**Advice Notes:**

**1.** This rule did not apply to subdivisions to create allotments for network utilities, access or reserves which are subject to **either of** Rules **SUB-R2 or** SUB - R4.

**2. When assessing resource consent applications under this rule, reference should also be made to the objectives and policies in the ECO Chapter.**

**Activity status where compliance not achieved:**

Restricted Discretionary where standard 1 is not complied with.

Discretionary where standards 2-4~~5~~ are not complied with.

**Restricted Discretionary Activities**

**ECO – R59 Indigenous vegetation clearance not meeting Permitted or Controlled Activity Standards outside of a Significant Natural Area in the Grey District**

**Activity Status Restricted Discretionary**

Where:

1. This is not within:
  - i. ~~A Significant Natural Area identified in Schedule Four;~~
  - ii. An area of land environment of category one or two of the Threatened Environment Classification; or
  - iii. An Outstanding Natural Landscape identified in Schedule Five; or
  - iv. An Outstanding Natural Feature identified in Schedule Six; or
  - v. An area of High Coastal Natural Character identified in Schedule Seven; or
  - vi. An area of Outstanding Coastal Natural Character identified in Schedule Eight.

**Discretion is restricted to:**

- ~~a. Whether there are other regulations impacting the site that have meant the land is unable to be used for economic rural uses;~~
- a. Effects on indigenous biodiversity;**
- ~~b. Constraints imposed by Consideration of the need or operational need of network utilities, renewable electricity generation and ~~critical~~ regionally significant infrastructure;~~
- c. Effects on habitats of any threatened or ~~protected~~ at risk (declining) species;
- d. Effects on the threat status of land environments in category one or two of the Threatened Environments Classification;
- e. Effects on ecological functioning and the life supporting capacity of air, water, soil and ecosystems;
- f. Effects on the intrinsic values of ecosystems;
- g. Effects on recreational values of public land; ~~and~~

h. Effects on natural character, natural landscapes, and natural features in the coastal environment;

i. Natural hazard management and geotechnical considerations; and

j. Poutini Ngai Tahu values.

~~h. The matters outlined in Policies ECO - P6 and ECO - P7~~

**Advice Note:**

- ~~1. Where indigenous vegetation clearance is proposed within the riparian margin of a waterbody refer to this section of the Plan for the Rules around this clearance.~~
2. Where indigenous vegetation clearance is proposed in or on a site or area of significance to Māori then Rule SASM - R4 will also apply.
3. Where indigenous vegetation clearance is proposed within a wetland this is also be subject to **additional** rules within the NES - Freshwater and Regional Land and Water Plan which are administered by the West Coast Regional Council.
4. This rule also applies to ~~plantation~~ **commercial** forestry activities, where this provision is more stringent than the NES - **PCF** and the indigenous vegetation clearance is within the coastal environment.

**Activity status where compliance not achieved:** Discretionary

~~**ECO - R6 Subdivision of Land to create Allotments Containing an Area of Significant Indigenous Biodiversity not meeting Rule ECO - R4**~~

~~**Activity Status Restricted Discretionary**~~

~~Where:~~

- ~~1. Up to three allotments with a minimum lot size of 4,000m<sup>2</sup> are created from the parent title;~~
- ~~2. The area of significant indigenous biodiversity is legally protected in perpetuity by way of a conservation covenant with an authorised agency and is contained within a single allotment;~~
- ~~3. The subdivision will not result in buildings or access ways being located within any Significant Natural Area identified in Schedule Four; and~~
- ~~4. Subdivision standards S2-S11 are complied with. Discretion is restricted to:~~
  - ~~a. Whether there are other regulations impacting the site that have meant the land is unable to be used for economic rural uses;~~
  - ~~b. The extent to which the subdivision layout, access, allotment size and design and the location of building platforms may adversely impact the significant indigenous vegetation and/or significant habitat of indigenous fauna;~~
  - ~~c. Management of earthworks including earthworks for the location of building platforms and access ways;~~

- d. ~~The protection of habitats of threatened or at risk species.~~
- e. ~~The measures to minimise any adverse effects on:~~
  - i. ~~The significant indigenous biodiversity; and~~
  - ii. ~~The particular cultural, spiritual and/or heritage values, interests or associations of importance to Poutini Ngāi Tahu as kaitiaki and mana whenua that are associated with the significant indigenous vegetation and/or significant habitats of indigenous fauna and the potential impact on those values, interests or association.~~

~~Activity status where compliance not achieved:~~ Discretionary

**SUB – R9      Subdivision of Land to create allotment(s) Containing an Area of Significant Indigenous Biodiversity, where Legal Protection of the Area of Significant Indigenous Biodiversity is Proposed, not meeting Rule SUB-R7**

**Activity Status Restricted Discretionary**

Where:

1. Up to three allotments with a minimum lot size of **41,000m<sup>2</sup>** are created from the parent title;
- 2. An assessment of the site against the significance criteria in the WCRPS Appendix 1 is provided with the application and this is undertaken by a suitably qualified ecologist, unless the site has already been identified as an SNA as part of a district – wide Significant Natural Area assessment process; Any**
- 2-3. The Any areas of significant indigenous biodiversity is are legally protected in perpetuity by way of a conservation covenant with an authorised agency or via a consent notice on the title and is are contained within a single allotment;**
- 3-4. The subdivision will not result in buildings or access ways being located within any Significant Natural Area identified in Schedule Four or the need for clearance within the area of significant indigenous vegetation to provide for a future building site or future access to any site; and**
- 4-5. Subdivision standards S2-S11 are complied with.**

**Discretion is restricted to:**

- a. The extent to which the subdivision layout, access, allotment size and design and the location of building platforms may adversely impact the significant indigenous vegetation and/or significant habitat of indigenous fauna **and whether buffering of significant areas is also appropriate;**
- b. The provision of infrastructure and services for drinking water, wastewater, stormwater, telecommunications and energy/electricity;**
- c. The adequacy of water supply for firefighting;**

**d. Specification of the location of building sites and access through the use of consent notices;**

**e. Management of potential reverse sensitivity effects on existing land uses, including network utilities and regionally significant infrastructure, rural activities or significant hazardous facilities;**

**b.f.** Management of earthworks including earthworks for the location of building platforms and access ways;

**e.g.** The protection of habitats of threatened or at risk species; **and**

**d.h.** The measures to ~~minimise~~ **avoid, remedy or mitigate** any adverse effects on:

- i. The significant indigenous biodiversity; and
- ii. ~~The particular cultural, spiritual and/or heritage values, interests or associations of importance to Poutini Ngāi Tahu~~ **values** ~~as kaitiaki and mana whenua that are associated with the significant indigenous vegetation and/or significant habitats of indigenous fauna and the potential impact on those values, interests or association.~~

**Activity status where compliance not achieved:** Discretionary

**Advice Note: When assessing resource consent applications under this rule, the objectives and policies in the ECO Chapter should also be referred to.**

#### Discretionary Activities

**ECO – R710** Indigenous vegetation clearance not meeting **ECO – R5 Permitted, Controlled or Restricted Discretionary Rules**

**Activity Status Discretionary**

#### **Where:**

- 1. An ecological assessment undertaken by a suitably qualified ecologist identifies that the indigenous vegetation clearance will not adversely affect an area of significant indigenous biodiversity using the WCRPS, Appendix 1; and**
- 2. Adverse effects of the clearance on indigenous biodiversity are managed by applying the effects management hierarchy to achieve Objective ECO-O1.**

**OR**

- 3. An ecological assessment undertaken by a suitably qualified ecologist identifies that the indigenous vegetation clearance is within an area of significant indigenous biodiversity using the WCRPS, Appendix 1, and avoid any of the following:**
  - a. Loss of ecosystem representation and extent; or**
  - b. Disruption to sequences, mosaics or ecosystem function; or**

- c. Fragmentation of areas of significant indigenous biodiversity or the loss of buffers or connections with areas of significant indigenous biodiversity; or
- d. A reduction in the function of the area of significant indigenous biodiversity as a buffer or connection to important habitats or ecosystems; or
- e. A reduction in the population size or occupancy of any threatened or at risk (declining) species that use the area of significant indigenous biodiversity.

**OR**

**4. In the case of:**

- a. Mineral extraction that provides significant national public benefit that could not otherwise be achieved using resources within New Zealand, and it can be demonstrated that there is a functional need or operational need to be in that particular location, and there are no practicable alternative locations; or
- b. Aggregate extraction that provides significant national or regional public benefit that could not otherwise be achieved using resources within New Zealand, and it can be demonstrated that there is a functional need or operational need to be in that particular location, and there are no practicable alternative locations; or
- c. A single residential dwelling on an allotment created before 4 August 2023, and there is no practicable alternative location on the allotment for the dwelling and essential associated onsite infrastructure; or
- d. This is for a commercial forestry activity and is required for the commercial forestry activity to continue; and

The adverse effects on areas of significant indigenous biodiversity are managed by applying the effects management hierarchy, including demonstrating how each step is applied, and if biodiversity offsetting and biodiversity compensation is applied, having regard to the principles in Appendix Fourteen and Appendix Fifteen.

**Advice Notes:**

1. Where assessing resource consents for indigenous vegetation clearance under this rule, assessment against the relevant objectives and policies of both the Ecosystems and Indigenous Biodiversity Chapter, and Natural Features and Landscapes Chapter, the Coastal Environment Chapter, the Energy, Infrastructure and Transport Chapters and the MINZ and BCZ Zone Chapters will may be required.
2. In relation to Significant Natural Areas, tThis rule also applies to ~~plantation~~ commercial forestry activities, where this provision is more stringent than the NES - PCF.
3. When assessing resource consents for indigenous vegetation clearance on Specified Māori Land under this rule, the provisions of the NPSIB in relation to Specified Māori Land must be taken into account.

4. **When assessing resource consents for indigenous vegetation clearance within the riparian margins of waterbodies under this rule, the objectives and policies of the Natural Character and the Margins of Waterbodies must be taken into account.**

Activity status where compliance not achieved:

N/A where standard 1, 2 or 4 is complied with

Non-complying where standard 3 is not complied with

**ECO - R11 Indigenous vegetation clearance for regionally significant infrastructure, the National Grid and renewable electricity generation activities**

Activity Status Discretionary

Activity Status where compliance not achieved: N/A

~~ECO – R8 Subdivision of Land to Create Allotments Containing an Area of Significant Indigenous Biodiversity not meeting Rule ECO – R6~~

~~Activity Status Discretionary~~

~~Where:~~

- ~~1. The area of significant indigenous biodiversity is legally protected in perpetuity by way of a conservation covenant with an authorised agency and is contained within a single allotment;~~
- ~~2. The subdivision will not result in buildings or accessways being located within any Significant Natural Area identified in Schedule Four; and~~
- ~~3. Subdivision Standards S2 – S11 are complied with.~~

~~Activity status where compliance not achieved: Non-complying~~

**Non-complying Activities**

**SUB – R15 Subdivision of Land to Create Allotments containing an Area of Significant Indigenous Biodiversity that does not meet ~~Controlled or Restricted~~ Discretionary Activity Standards SUB-R9**

Activity Status Discretionary

Where:

1. **An assessment of the site against the significance criteria in the WCRPS Appendix 1 is provided with the application and this is undertaken by a suitably qualified ecologist, unless the site has already been identified as an Significant Natural Area as part of a district-wide Significant Natural Area assessment process using the NPSIB Appendix 1 criteria; and**
2. **Any adverse effects on ~~the~~ the area of significant indigenous biodiversity ~~or SNA~~is legally protected in perpetuity by way of a conservation covenant with an authorised agency and is contained within a single allotment; ~~are managed by applying the effects management~~**

**hierarchy, including demonstrating how each step of the effects management hierarchy will be applied, and if biodiversity offsetting or biodiversity compensation is applied, having regard to principles in Appendix 14 and 15; and**

3. The subdivision will not result in ~~buildings or accessways being located within any Significant Natural Area identified in Schedule Four;~~ and **any of the following:**
  - a. **Loss of ecosystem representation and extent; or**
  - b. **Disruption to sequences, mosaics or ecosystem function; or**
  - c. **Fragmentation of areas of significant indigenous biodiversity or the loss of buffers or connections with areas of significant indigenous biodiversity; or**
  - d. **A reduction in the function of the area of significant indigenous biodiversity as a buffer or connection to important habitats or ecosystems; or**
  - e. **A reduction in the population size or occupancy of any threatened or at risk (declining) species that use the area of significant indigenous biodiversity; and**
4. **Subdivision Standards S2 - S11 are complied with.**

Activity status where compliance not achieved: Non-complying

**Advice Note: When assessing resource consent applications under this rule, the objectives and policies in the ECO Chapter should also be referred to.**

Non-complying Activities

**ECO – R12      Indigenous vegetation clearance not meeting ECO – R710**

**Activity status Non-complying**

**Activity status where compliance not achieved: N/A**

**Advice Note:**

1. **This rule also applies to Plantation forestry activities, where this provision is more stringent than the NES - CF.**

~~**ECO – R9      Subdivision of Land within an Area of Significant Indigenous Biodiversity not meeting Rule ECO – R8**~~

~~**Activity Status Non-complying**~~

~~**Activity status where compliance not achieved: N/A**~~

**SUB – R27      Subdivision of Land within an Area of Significant Indigenous Biodiversity not meeting Discretionary Activity Standards**

**Activity Status Non-complying**

**Activity status where compliance not achieved: N/A**

**Advice Note: When assessing resource consent applications under this rule, reference should also be made to the objectives and policies in the ECO Chapter.**

**ECO – R103** Planting of Plant Pests identified in a West Coast Regional Pest Management Plan within an area of significant indigenous vegetation or significant habitat of ~~significant~~ indigenous fauna

**Activity Status Non-complying**

Activity status where compliance not achieved: N/A

**ECO – R114** The intentional release or farming of Animal Pests identified in a West Coast Regional Pest Management Plan within an area of significant indigenous vegetation or significant habitat of ~~significant~~ indigenous fauna

**Activity Status Non-complying**

Activity status where compliance not achieved: N/A

**Ecosystems and Indigenous Biodiversity Methods**

**ECO – M1**

**The TTPP Committee will**

- a. Identify in conjunction with Specified Māori Land owners how best to implement the NPSIB in relation to Specified Māori Land in accordance with the decision making principles in Appendix Thirteen of this Plan and the provisions of the NPSIB; and
- b. Identify, in partnership with Poutini Ngāi Tahu, how best to fully implement the NPSIB in relation to the decision-making principles, tangata whenua provisions and the Ngāi Tahu Claims Settlement Act; and
- c. As part of giving effect to the NPSIB, the TTPP Committee will consider a Plan Change to implement the actions of this method and Policy ECO-P1.1

**Schedule Four: Significant Natural Areas**

**A regionally consistent assessment against the criteria in the NPSIB Appendix 1 to identify all areas of significant indigenous biodiversity has not yet been completed. Only Previously identified areas within Grey District have been included in Schedule Four scheduled as Significant Natural Areas and spatially identified on the planning maps as the Significant Natural Area overlay in Te Tai o Poutini Plan.**

Within the Buller and Westland District **and in the Grey District outside of Schedule Four areas** an assessment of significance will be undertaken at the time any resource consents are applied for in relation to the Ecosystems and Biodiversity Rules **a district-wide assessment to identify areas of significant indigenous vegetation and significant habitat of indigenous fauna will be undertaken, with additional identified areas included in Schedule Four through a future plan change.**

Significant Natural Areas in the form of Regionally Significant Wetlands are scheduled and identified in the West Coast Regional Land and Water Plan **and are also included in Schedule Four.**

## REGIONALLY SIGNIFICANT WETLAND TO BE ADDED TO SCHEDULE 4

SCHED4 - SCHEDULE OF SIGNIFICANT NATURAL AREAS		
Unique Identifier	Location	Site Type and Values
<u>HEAP 001</u>	<u>Heaphy River</u>	<u>Regionally Significant Wetland</u>
<u>KAMP 001</u>	<u>Otumahana Estuary</u>	<u>Regionally Significant Wetland</u>
<u>KAMP 002A</u>	<u>Kongahu Swamp North</u>	<u>Regionally Significant Wetland</u>
<u>KAMP 003</u>	<u>Kongahu South</u>	<u>Regionally Significant Wetland</u>
<u>FOUP004</u>	<u>Birchfield Swamp</u>	<u>Regionally Significant Wetland</u>
<u>FOUP006</u>	<u>Bradshaws Lagoon</u>	<u>Regionally Significant Wetland</u>
<u>FOUP007</u>	<u>Buller River Mouth Saltmarsh</u>	<u>Regionally Significant Wetland</u>
<u>FOUP009</u>	<u>Waimangaroa Swamp</u>	<u>Regionally Significant Wetland</u>
<u>REEP011</u>	<u>Palmers Road</u>	<u>Regionally Significant Wetland</u>
<u>PUN001</u>	<u>Barrytown Flats, Maher Swamp</u>	<u>Regionally Significant Wetland</u>
<u>HOCP005</u>	<u>Lake Haupiri</u>	<u>Regionally Significant Wetland</u>
<u>GREP005</u>	<u>Saltwater Creek</u>	<u>Regionally Significant Wetland</u>
<u>BRUP004</u>	<u>Kangaroo Lake</u>	<u>Regionally Significant Wetland</u>
<u>BRUP005</u>	<u>Lake Brunner Mitchells</u>	<u>Regionally Significant Wetland</u>
<u>BRUP006</u>	<u>Te Kinga Ruru</u>	<u>Regionally Significant Wetland</u>
<u>BRUP007</u>	<u>Te Kinga Iveagh Bay</u>	<u>Regionally Significant Wetland</u>
<u>HOKP011</u>	<u>Paynes Gully</u>	<u>Regionally Significant Wetland</u>
<u>HOKP020a,</u> <u>HOKP020b,</u> <u>HOKP020c</u>	<u>Mahinapua 1</u>	<u>Regionally Significant Wetland</u>
<u>HOKP020a,</u> <u>HOKP020b,</u> <u>HOKP020c</u>	<u>Mahinapua 2</u>	<u>Regionally Significant Wetland</u>
<u>HARP009</u>	<u>Shearer Swamp</u>	<u>Regionally Significant Wetland</u>
<u>HARP014</u>	<u>Waitangiroto River</u>	<u>Regionally Significant Wetland</u>
<u>WAIP007</u>	<u>Quinlin Creek</u>	<u>Regionally Significant Wetland</u>
<u>WAIP008</u>	<u>Sandfly Beach</u>	<u>Regionally Significant Wetland</u>

### Appendix Thirteen – Principles and Process for Significant Natural Area identification.

#### Existing Significant Natural Areas in Schedule Four

In the Grey District, some Significant Natural Areas (SNA) have already been identified, mapped and scheduled in Te Tai o Poutini Plan. The NPSIB provides for these to be confirmed as SNA meeting the NPSIB criteria without requiring a full new assessment. This will be undertaken primarily as a desk top exercise using existing ecological reports. Landowners will be advised, and if they would like a field re-assessment to confirm the boundaries and/or significance of their site, then this will be undertaken.

This process is restricted to existing sites scheduled in the Plan. No new SNA can be added through this process.

#### Existing Regionally Significant Wetlands

Regionally significant wetlands identified in the West Coast Regional Land and Water Plan, Schedule 1 are SNA under the NPSIB definition. No new regionally significant wetlands can be added through this process.

#### Identifying New Significant Natural Areas

- [1] New SNA will be identified through a district-wide assessment for each of the three districts. While the Grey District has previously undertaken an SNA identification exercise, it was with different criteria to RPS Appendix 1 or NPSIB Appendix 1, and it is expected that some more SNA could be identified.
- [2] In the Buller and Westland Districts, there has been no previous SNA identification process and it is expected that a range of new SNA will be identified.
- [3] The process that will be followed is that in the first instance a desk top study will be undertaken to identify potential SNA. Landowners will then be contacted to ask permission to undertake a field assessment to identify if the area, or part of the area, is an SNA, and what the boundaries are.
- [4] If the landowner refuses permission for a field assessment, then the Councils will use the best information available to determine the values of the potential SNA and map it accurately.
- [5] Both the desk top and field assessment will be undertaken using the criteria set out in Appendix 1 of the NPSIB and in accordance with the principles detailed below.
- [6] All landowners will be notified in writing – including with maps and information on the ecological values of the sites, if the district-wide assessment identifies an SNA on their property.
- [7] The Councils will keep landowners informed as to the timeframe and Plan Change process to introduce the identified SNA into Te Tai o Poutini Plan.

Through this process the principles required by Section 3.8 of the NPSIB and set out below will be followed:

- a. partnership: Councils engage early with tangata whenua and landowners and share information about indigenous biodiversity, potential management options, and any support and incentives that may be available;

- b. transparency: Councils clearly inform tangata whenua and landowners about how any information gathered will be used and make existing information, draft assessments and other relevant information available to tangata whenua and relevant landowners for review;
- c. quality: wherever practicable, the values and extent of natural areas are verified by physical inspection; but if a physical inspection is not practicable (because, for instance, the area is inaccessible, or a landowner did not give access) the local authority uses the best information available to it at the time;
- d. access: if a physical inspection is required, permission of the landowner is first sought and the powers of entry under section 333 of the Act are used only as a last resort;
- e. consistency: the criteria in NPSIB Appendix 1 are applied consistently, regardless of who owns the land; and
- f. boundaries: the boundaries of areas of significant indigenous vegetation or significant habitat of indigenous fauna are determined without regard to artificial margins (such as property boundaries) that would affect the extent or ecological integrity of the area identified.

#### What Rules Apply Until the Plan Change

Until a site has been assessed as to whether it contains a Significant Natural Area and a Plan Change introduced with the new SNA, the general indigenous vegetation clearance rules will apply across the three districts.

Once all SNA have been identified, the Ecosystems and Indigenous Biodiversity Chapter will also be reviewed as part of the Plan Change. This will implement the NPSIB and is expected to introduce a new set of indigenous vegetation clearance rules, and will also address whether regulation is still required for indigenous vegetation clearance outside of an SNA.

#### Appendix Fourteen - Principles for Biodiversity Offsetting

These principles apply to the use of biodiversity offsets for adverse effects on indigenous biodiversity.

- (1) Adherence to effects management hierarchy: A biodiversity offset is a commitment to redress more than minor residual adverse effects and should be contemplated only after steps to avoid, minimise, and remedy adverse effects are demonstrated to have been sequentially exhausted.
- (2) When biodiversity offsetting is not appropriate: Biodiversity offsets are not appropriate in situations where indigenous biodiversity values cannot be offset to achieve a net gain. Examples of an offset not being appropriate include where:
  - (a) residual adverse effects cannot be offset because of the irreplaceability or vulnerability of the indigenous biodiversity affected:
  - (b) effects on indigenous biodiversity are uncertain, unknown, or little understood, but potential effects are significantly adverse or irreversible:
  - (c) there are no technically feasible options by which to secure gains within an acceptable timeframe.

- (3) Net gain: This principle reflects a standard of acceptability for demonstrating, and then achieving, a net gain in indigenous biodiversity values. Net gain is demonstrated by a like-for-like quantitative loss/gain calculation of the following, and is achieved when the indigenous biodiversity values at the offset site are equivalent to or exceed those being lost at the impact site:**

  - (a) types of indigenous biodiversity, including when indigenous species depend on introduced species for their persistence; and**
  - (b) amount; and**
  - (c) condition (structure and quality).**
- (4) Additionality: A biodiversity offset achieves gains in indigenous biodiversity above and beyond gains that would have occurred in the absence of the offset, such as gains that are additional to any minimisation and remediation undertaken in relation to the adverse effects of the activity.**
- (5) Leakage: Biodiversity offset design and implementation avoids displacing harm to other indigenous biodiversity in the same or any other location.**
- (6) Long-term outcomes: A biodiversity offset is managed to secure outcomes of the activity that last at least as long as the impacts, and preferably in perpetuity. Consideration must be given to long-term issues around funding, location, management and monitoring.**
- (7) Landscape context: Biodiversity offsetting is undertaken where this will result in the best ecological outcome, preferably close to the impact site or within the same ecological district. The action considers the landscape context of both the impact site and the offset site, taking into account interactions between species, habitats and ecosystems, spatial connections, and ecosystem function.**
- (8) Time lags: The delay between loss of, or effects on, indigenous biodiversity values at the impact site and the gain or maturity of indigenous biodiversity at the offset site is minimised so that the calculated gains are achieved within the consent period or, as appropriate, a longer period (but not more than 35 years).**
- (9) Science and mātauranga Māori: The design and implementation of a biodiversity offset is a documented process informed by science and mātauranga Māori.**
- (10) Tangata whenua and stakeholder participation: Opportunity for the effective and early participation of tangata whenua and stakeholders is demonstrated when planning biodiversity offsets, including their evaluation, selection, design, implementation, and monitoring.**
- (11) Transparency: The design and implementation of a biodiversity offset, and communication of its results to the public, is undertaken in a transparent and timely manner.**

#### **Appendix Fifteen - Principles for Biodiversity Compensation**

**These principles apply to the use of biodiversity compensation for adverse effects on indigenous biodiversity:**

- (1) Adherence to effects management hierarchy: Biodiversity compensation is a commitment to redress more than minor residual adverse effects, and should be contemplated only after steps to avoid, minimise, remedy, and offset adverse effects are demonstrated to have been sequentially exhausted.**
- (2) When biodiversity compensation is not appropriate: Biodiversity compensation is not appropriate where indigenous biodiversity values are not able to be compensated for. Examples of biodiversity compensation not being appropriate include where:**

  - (a) the indigenous biodiversity affected is irreplaceable or vulnerable;**
  - (b) effects on indigenous biodiversity are uncertain, unknown, or little understood, but potential effects are significantly adverse or irreversible;**
  - (c) there are no technically feasible options by which to secure a proposed net gain within acceptable timeframes.**
- (3) Scale of biodiversity compensation: The indigenous biodiversity values lost through the activity to which the biodiversity compensation applies are addressed by positive effects to indigenous biodiversity (including when indigenous species depend on introduced species for their persistence), that outweigh the adverse effects.**
- (4) Additionality: Biodiversity compensation achieves gains in indigenous biodiversity above and beyond gains that would have occurred in the absence of the compensation, such as gains that are additional to any minimisation and remediation or offsetting undertaken in relation to the adverse effects of the activity.**
- (5) Leakage: Biodiversity compensation design and implementation avoids displacing harm to other indigenous biodiversity in the same or any other location.**
- (6) Long-term outcomes: Biodiversity compensation is managed to secure outcomes of the activity that last as long as the impacts, and preferably in perpetuity. Consideration must be given to long-term issues around funding, location, management, and monitoring.**
- (7) Landscape context: Biodiversity compensation is undertaken where this will result in the best ecological outcome, preferably close to the impact site or within the same ecological district. The action considers the landscape context of both the impact site and the compensation site, taking into account interactions between species, habitats and ecosystems, spatial connections, and ecosystem function.**
- (8) Time lags: The delay between loss of, or effects on, indigenous biodiversity values at the impact site and the gain or maturity of indigenous biodiversity at the compensation site is minimised so that the calculated gains are achieved within the consent period or, as appropriate, a longer period (but not more than 35 years).**
- (9) Trading up: When trading up forms part of biodiversity compensation, the proposal demonstrates that the indigenous biodiversity gains are demonstrably greater or higher than those lost. The proposal also shows the values lost are not to Threatened or At Risk (declining) species or to species considered vulnerable or irreplaceable.**
- (10) Financial contributions: A financial contribution is only considered if:**

  - (a) there is no effective option available for delivering biodiversity gains on the ground; and**

**(b) it directly funds an intended biodiversity gain or benefit that complies with the rest of these principles.**

**(11) Science and mātauranga Māori: The design and implementation of biodiversity compensation is a documented process informed by science, and mātauranga Māori. (12) Tangata whenua and stakeholder participation: Opportunity for the effective and early participation of tangata whenua and stakeholders is demonstrated when planning for biodiversity compensation, including its evaluation, selection, design, implementation, and monitoring.**

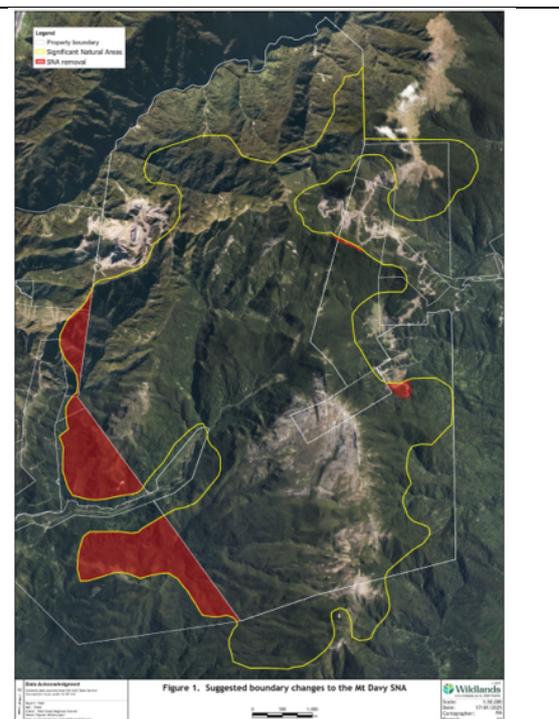
**(13) Transparency: The design and implementation of biodiversity compensation, and communication of its results to the public, is undertaken in a transparent and timely manner.**

### Amendments to Planning Maps

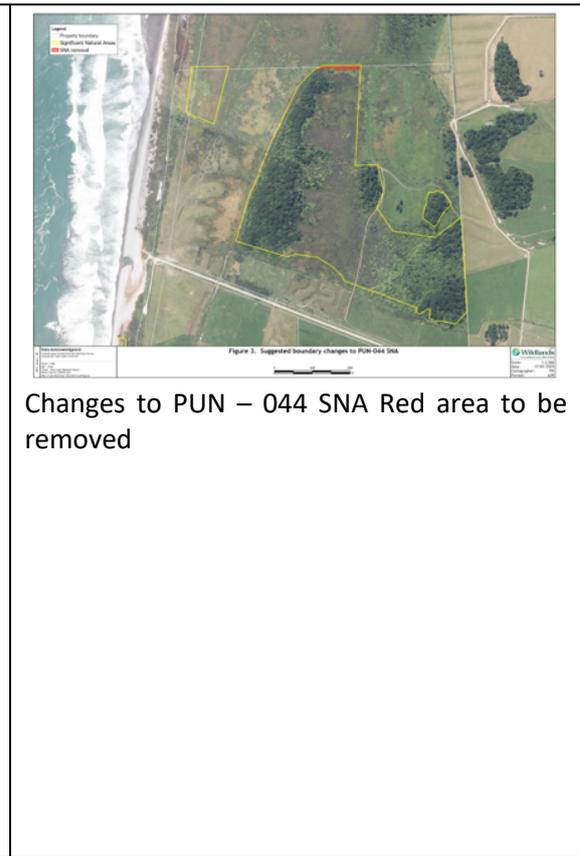
We recommend that the amendments to the SNA identified in the Wildlands Reports are made on the Planning Maps. These are shown below.



Changes to Mt Buckley SNA. Red areas to be removed,



Changes to Mt Davy SNA. Red areas to be removed



## APPENDIX 2 – MINORITY DECISION

1. Commissioner Becker considers the wording adopted in the recommendation at paragraph 213 gives the impression that the land clearance on the West Coast has been done inappropriately and without going through the proper consenting process. He considers there is no basis to this statement to show the clearance had been inappropriate or undertaken without having regard to the law.
2. Commissioner Becker considers the removal of the 3 year period for permitted clearance of 5000m<sup>2</sup> further restricts landowners and does not meet the Objectives outlined in the Resilient and Sustainable Communities Chapter of the RPS.

Objective 2 of the WCRPS in Section 4 states:

*The regions planning framework enables existing and new economic use, development and employment opportunities while ensuring sustainable environmental outcomes are achieved,*

Commissioner Becker considers the decision only relates to environmental outcomes and has no provision to meet the first part of the objective.

Further Policy 1 of the WCRPS in Section 4 states:

*To sustainably manage the West coasts natural and physical resources in a way that enables a range of existing and new economic activities to occur, including activities likely to provide substantial employment that benefits the long term sustainability of the regions communities.*

Commissioner Becker considers without an ongoing permitted land clearance rule of any scale that permits land development on the West Coast, the possibilities of new economic activities and employment will be further diminished.

Objective 3 of the WCRPS, Ecosystems and Indigenous Biological Diversity chapter states:

*Provide for sustainable subdivision, use and development to enable people and communities to maintain or enhance their economic, social and cultural wellbeing in areas of significant indigenous vegetation and significant habitats of indigenous fauna.*

Commissioner Becker considers that putting a one off permitted small clearance clause in the rules will prevent further development unless a consenting process is used. He considers with the time period it will entail to complete the SNA identification process this will be restrictive in the short term for enabling growth on the West Coast.